

THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB

Mailed: June 22, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board

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*In re Universal Secure Registry LLC*  
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Serial No. 87113726  
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Nathan Harris of Lando & Anastasi LLP,  
for Universal Secure Registry LLC.

Katrina J. Goodwin, Trademark Examining Attorney, Law Office 122,  
John Lincoski, Managing Attorney.

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Before Bergsman, Shaw and Pologeorgis,  
Administrative Trademark Judges.

Opinion by Pologeorgis, Administrative Trademark Judge:

Universal Secure Registry LLC (“Applicant”) seeks registration on the Principal Register of the mark USR ID (in standard characters; ID disclaimed) for the following goods and services:<sup>1</sup>

downloadable software for the purpose of authenticating personal identity and granting access to financial transactions, computers, computer networks and resources, and physical premises live, in International Class 9;

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<sup>1</sup> Application Serial No. 87113726, filed on July 22, 2016, based on an allegation of a bona fide intention to use the mark in commerce under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), as to all identified classes.

computer security services, namely, enforcing, restricting, and controlling access privileges of users of computing resources based on assigned credentials, in International Class 42; and

providing user authentication in e-commerce transactions; Identification verification services in the nature of providing mobile identity user authentication for restricting and controlling access privileges of users of computing resources and physical resources, in International Class 45.

The Trademark Examining Attorney refused registration of Applicant's mark under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that Applicant's mark is merely descriptive of the goods and services identified in its application.

When the refusal was made final, Applicant appealed. The appeal is fully briefed. We affirm the refusal to register.<sup>2</sup>

#### Mere Descriptiveness – Applicable Law

Section 2(e)(1) of the Trademark Act prohibits registration on the Principal Register of “a mark which, (1) when used on or in connection with the goods [or services] of the applicant is merely descriptive . . . of them.” 15 U.S.C. § 1052(e)(1). A term is “merely descriptive” within the meaning of Section 2(e)(1) if it “immediately conveys knowledge of a quality, feature, function, or characteristic of the goods or services with which it is used.” *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)). “On the other hand, if one must exercise

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<sup>2</sup> All TTABVUE and Trademark Status and Document Retrieval (“TSDR”) citations reference the docket and electronic file database for Application Serial No. 87113726. All citations to the TSDR database are to the downloadable PDF version of the documents.

mature thought or follow a multi-stage reasoning process in order to determine what product or service characteristics the term indicates, the term is suggestive rather than merely descriptive.” *In re Tennis in the Round, Inc.*, 199 USPQ 496, 498 (TTAB 1978); *see also, In re Shutts*, 217 USPQ 363, 364-65 (TTAB 1983); *In re Universal Water Systems, Inc.*, 209 USPQ 165, 166 (TTAB 1980).

A term need only describe a single feature or attribute of the goods or services to be descriptive. *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001). Moreover, a mark need not be merely descriptive of all recited goods or services in an application. A descriptiveness refusal is proper, “if the mark is descriptive of any of the goods [or services] for which registration is sought.” *In re Chamber of Commerce of the U.S.*, 102 USPQ2d at 1219 (quoting *In re Stereotaxis Inc.*, 429 F.3d 1039, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005)).

Descriptiveness of a term must be evaluated not in the abstract but “in relation to the particular goods [or services] for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods [or services] because of the manner of its use or intended use.” *In re Chamber of Commerce of the U.S.*, 102 USPQ2d at 1219 (quoting *In re Bayer AG*, 82 USPQ2d at 1831). “The question is not whether someone presented with only the mark could guess what the goods or services are. Rather, the question is whether someone who knows what the goods and services are will understand the mark to convey information about them.” *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (quoting *In re Tower*

*Tech Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002)).

The Examining Attorney argues that Applicant's USR ID mark is a novel spelling and the phonetic equivalent of the phrase "user ID."<sup>3</sup> Furthermore, the Examining Attorney contends that consumers would pronounce "USR" as "user" given the common pronunciation of a leading "U" as the [ju] diphthong or "yoo" in such words as "ubiquitous", "U-bolt" and "U-turn" and the pronunciation of "SR" as "sir" or "ser". As such, the Examining Attorney maintains that Applicant's mark is merely descriptive of a feature or characteristic of Applicant's software, security services, authentication services, and identification services that authenticate and assign credentials.<sup>4</sup>

In support of her Section 2(e)(1) refusal, the Examining Attorney submitted definitions of the components of Applicant's mark as follows:

USR is an abbreviation for "user" (*see* [www.allacronyms.com](http://www.allacronyms.com)).<sup>5</sup> ID is an abbreviation for "identification" or "identity" (*see* [en.oxforddictionaries.com](http://en.oxforddictionaries.com)).<sup>6</sup> The Examining Attorney also submitted the dictionary definition of "user ID" which is defined as "a unique identification code which allows a computer to recognize a user."<sup>7</sup>

Additionally, the Examining Attorney submitted the following evidence demonstrating that the phrase "user ID" is commonly used in connection with goods

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<sup>3</sup> Examining Attorney's Appeal Brief, p. 2, 6 TTABVUE 2.

<sup>4</sup> *Id.*

<sup>5</sup> August 15, 2017 Office Action, TSDR p. 12.

<sup>6</sup> *Id.*, TSDR p. 13.

<sup>7</sup> *Id.*, TSDR p. 24.

and services that authenticate and assign credentials. For example:

1. From the website [www.techopedia.com](http://www.techopedia.com): A “User ID is one of the most common authentication mechanisms used within computing systems, networks, applications and over the Internet. ... Typically, in an authentication process, user ID is used in conjunction with a password.”<sup>8</sup>
2. From the website <http://hitachi-id.com>: “A User ID is the code used by a User to identify himself when he logs into a system and starts a Login session. It is used by the system to uniquely identify the User. A User ID is one-half of a set of credentials.”<sup>9</sup>
3. From the website <https://uhhelpdesk.custhelp.com>: A “user ID” is defined as “an identification used by a person to access a computer system or network.”<sup>10</sup>
4. From [www.dictionary.com](http://www.dictionary.com): A “user ID” also called a username is defined as “a unique sequence of characters used to identify a user and allow access to a computer system, computer network, or online account.”<sup>11</sup>
5. From <http://folddoc.org>: A “user id” is defined as “a number or name which is unique to a particular user of a computer.”<sup>12</sup>
6. From [www.csgnetwork.com](http://www.csgnetwork.com): A “user ID” is defined as the “name by which you are identified by a particular network.”<sup>13</sup>
7. From the Academic Press Dictionary of Science and Technology ([www.credoreferenc.com](http://www.credoreferenc.com)): A “user id” is also known as a user identification as “a string of characters that uniquely identifies a user in a computer system.”<sup>14</sup>

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<sup>8</sup> February 10, 2017 Office Action, TSDR p. 4.

<sup>9</sup> *Id.*, TSDR p. 5.

<sup>10</sup> August 15, 2017 Office Action, TSDR p. 11.

<sup>11</sup> *Id.*, TSDR p. 12.

<sup>12</sup> *Id.*, TSDR p. 14.

<sup>13</sup> *Id.*, TSDR p. 15.

<sup>14</sup> *Id.*, TSDR p. 23.

In traversing the refusal, Applicant argues that (1) the omission of letter “E” in Applicant’s mark renders the mark unpronounceable;<sup>15</sup> (2) Applicant’s USR ID mark is not found in the dictionary;<sup>16</sup> (3) Applicant’s mark is a proprietary acronym of Applicant’s name, i.e., Universal Secure Registry LLC, and that the evidence submitted by the Examining Attorney’s demonstrates that USR is also an acronym of Applicant’s business name;<sup>17</sup> (4) Applicant’s mark is not merely descriptive of its identified services since such goods and services rely on a three factor authentication – a PIN/password, a token and a biometric – none of which constitutes a user ID;<sup>18</sup> and (5) even if consumers perceive USR ID as descriptive, the mark would nonetheless be registrable as a double entendre.<sup>19</sup>

We find Applicant’s arguments unpersuasive. With regard to pronunciation of the term USR, we initially note that it is well established that there is no correct pronunciation of a mark because it is impossible to predict how the public will pronounce a particular mark. *See Embarcadero Techs., Inc. v. RStudio, Inc.*, 105 USPQ2d 1825, 1835 (TTAB 2013) (quoting *In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012); *In re The Belgrade Shoe Co.*, 411 F.2d 1352, 1353, 162 USPQ 227, 227 (CCPA 1969)); *see also* Trademark Manual of Examination Procedure (“TMEP”) § 1207.01(b)(iv) (Oct. 2017). Notwithstanding, when viewing

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<sup>15</sup> Applicant’s Appeal Brief, p. 1, 4 TTABVUE 4.

<sup>16</sup> *Id.* at p. 5, 4 TTABVUE 8.

<sup>17</sup> Applicant’s Appeal Brief pp. 5-6, 4 TTABVUE 8; Applicant’s Reply Brief, pp. 1-2, 7 TTABVUE 2-3.

<sup>18</sup> Applicant’s Appeal Brief p. 6, 4 TTABVUE 9.

<sup>19</sup> *Id.* at p. 7; 4 TTABVUE 10.

Applicant's USR ID mark, as a whole, in relation to the identified goods and services, consumers are likely to likely to perceive the USR portion as of mark as a novel misspelling and phonetic equivalent of the word "user" and pronounce it as such. A novel spelling or an intentional misspelling that is the phonetic equivalent of a merely descriptive word or term is also merely descriptive if purchasers would perceive the different spelling as the equivalent of the descriptive word or term. *See In re Quik-Print Copy Shop, Inc.*, 616 F.2d 523, 526 & n.9, 205 USPQ 505, 507 & n.9 (CCPA 1980) (holding "QUIK-PRINT," a phonetic spelling of "quick-print," merely descriptive of printing and photocopying services); *In re Calphalon Corp.*, 122 USPQ2d 1153, 1163 (TTAB 2017) (holding "SHARPIN," a phonetic spelling of "sharpen," merely descriptive of cutlery knife blocks with built-in sharpeners); *In re Carlson*, 91 USPQ2d 1198, 1203 (TTAB 2009) (holding "URBANHOUSING," a phonetic spelling of "urban" and "housing," merely descriptive of real estate services); *see also* TMEP § 1209.03(j).

Moreover, Applicant's argument that the term USR is not found in a dictionary is contradicted by the evidence of record. As noted above, the Examining Attorney submitted a definition of the term USR from an acronym dictionary which defines the designation USR as "user."<sup>20</sup> Further, while Applicant incorrectly argues that no such word as USR exists in the dictionary, the presence of a term in the dictionary is not a condition precedent for a finding that a term is merely descriptive. *In re Gen'l Permanent Wave Corp.*, 118 F.2d 1020, 49 USPQ 184, 186 (CCPA 1941) ("Because

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<sup>20</sup> *See* n. 5, *supra*.

appellant has combined two common English words, which in combination are not found in the dictionaries, is wholly immaterial.”) (citation omitted); *In re Tower Tech, Inc.*, 64 USPQ2d 1314 (TTAB 2002) (SMARTTOWER merely descriptive, no dictionary definition of term as a whole); *In re Orleans Wines, Ltd.*, 196 USPQ 516, 517 (TTAB 1977) .

Applicant also argues that since the acronym dictionary definition of the term USR also defines the designation as Applicant’s business name the term cannot be descriptive of its goods and services. This argument is unavailing. While the designation USR may have other meanings in different contexts, including Applicant’s business name, that is irrelevant in our analysis since our descriptiveness inquiry is not conducted in the abstract but focuses on the description of goods and services in Applicant’s application, *see Magic Wand v. RDB Inc.* 940 F.2d 638, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991), and how consumers would perceive the mark in connection with those goods and services. *See, e.g., Remington-Prods. Inv. V. North Am. Philips Corp.*, 892 F.2d 1576, 13 USPQ2d 1444, 1448 (Fed. Cir. 1990) (assessing descriptiveness and genericness by looking at how a consumer would perceive the mark “in connection with the products”). Here, consumers viewing Applicant’s entire mark, i.e., USR ID, with the knowledge of Applicant’s goods and services are more likely to perceive the designation USR as “user.”

Applicant’s argument that its mark is not merely descriptive of its identified services since such goods and services rely on a three factor authentication – a PIN/password, a token and a biometric – none of which constitutes a user ID is also



without merit. The Examining Attorney submitted evidence demonstrating that biometric data is a “user ID” because it is a unique identifier of the user and allows a user to access restricted resources. For example:

1. Articles retrieved from Nexis/Lexis about entities that offer biometric-based verifications instead of PIN or password-based user identification to restrict access to resources;<sup>21</sup>
2. Article from the website [www.touchngoid.com](http://www.touchngoid.com) concerning entities that provide fingerprint verification and fingerprint identification software that authenticates and verifies a person’s identity in order to allow them to access funds or premises;<sup>22</sup>
3. A screenshot from the website [www.bioid.com](http://www.bioid.com), a cloud biometrics company, discussing its biometric identification and authentication products and services.<sup>23</sup>
4. A screenshot from the website [www.supremainc.com](http://www.supremainc.com) consisting of a press release from the company Suprema announcing that it will offer a product or services that performs “biometric and multi-factor authentication...and user ID management.”<sup>24</sup>

Moreover, while Applicant’s mark may only describe a feature or portion of Applicant’s “three factor authentication,” namely, biometrics, this does not render the mark distinctive. “A mark may be merely descriptive even if does not describe the ‘full scope and extent’ of the applicant’s goods or services.” *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (citing *In re Dial-A-Mattress Operating Corp.*, 57 USPQ2d at 1812); see TMEP § 1209.01(b). It is enough if a mark describes only one significant function, attribute, or property. *In re The*

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<sup>21</sup> August 15, 2017 Office Action, TSDR pp. 18-22.

<sup>22</sup> *Id.*, TSDR pp. 29-32.

<sup>23</sup> *Id.*, TSDR pp. 7-10.

<sup>24</sup> *Id.*, TSDR pp. 33-35.

*Chamber of Commerce of the U.S.*, 102 USPQ2d at 219; *see also Oppedahl & Larson LLP*, 71 USPQ2d at 1371; TMEP § 1209.01(b).

Finally, with regard to Applicant's double entendre argument, we note that the multiple meanings that make an expression a "double entendre" must be well-recognized by the public and readily apparent from the mark itself. *See In re Calphalon Corp.*, 122 USPQ2d at 1163-64 (quoting TMEP § 1213.05(c)) (finding SHARPIN not a double entendre in relation to cutlery knife blocks with built-in sharpeners and affirming descriptiveness refusal); *In re Brown-Forman Corp.*, 81 USPQ2d 1284, 1287 (TTAB 2006) (finding GALA ROUGE not a double entendre in relation to wines and affirming disclaimer of ROUGE); *In re The Place, Inc.*, 76 USPQ2d 1467, 1470-71 (TTAB 2005) (finding THE GREATEST BAR not a double entendre in relation to restaurant and bar services and affirming descriptiveness refusal). In this case, there is no evidence that the designation USR ID is well-recognized by the public as a "double entendre" and it is not readily apparent from the mark itself when viewed in connection with Applicant's identified goods and services.

In light of the above, we find that Applicant's mark USR ID, when viewed in relation to Applicant's identified goods and services, immediately describes a feature or characteristic of Applicant's software, security services, authentication services, and identification verification services in that the purpose of Applicant's goods and services is to provide a mechanism in which to authenticate personal identity and controlling access to computing resources, otherwise known as a "user ID."

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**Decision:** The refusal to register Applicant's USR ID mark under Section 2(e)(1) of the Trademark Act on the ground that the designation is merely descriptive of the identified goods and services is affirmed.