

This Opinion is Not a  
Precedent of the TTAB

Mailed: May 26, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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*In re Fast Slow Motion, LLC*

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Serial No. 98631466

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Josh Andrews of Gatehouse Law, LLC for  
Fast Slow Motion, LLC.

James Lovelace, Trademark Examining Attorney, Law Office 119,  
Brett Golden, Managing Attorney.

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Before Wellington, Thurmon, and Brock,  
Administrative Trademark Judges.

Opinion by Wellington, Administrative Trademark Judge:

Fast Slow Motion, LLC (“Applicant”) seeks registration on the Principal Register of the standard-character mark SCALABLE BUSINESS FRAMEWORK (“FRAMEWORK” disclaimed) for the following services:<sup>1</sup>

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<sup>1</sup> Application Serial No. 98631466 was filed on July 3, 2024, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), claiming first use of the mark in connection with the services anywhere on February 20, 2024 and first use in commerce since at least as early as June 14, 2024.

Computer software consulting; Consultation services relating to computer software; Consulting services for others in the field of design, planning, and implementation project management of computer software; Consulting services in the design and implementation of computer-based information systems for businesses; Consulting services in the field of software as a service (SAAS); Consulting in the field of IT project management, in International Class 42.

The Examining Attorney refused registration under Section 2(e)(1) of the Trademark Act (“the Act”), 15 U.S.C. § 1052(e)(1), on the ground that Applicant’s mark is merely descriptive of the recited services. After the Examining Attorney issued a final refusal, Applicant appealed and requested reconsideration. The Examining Attorney denied the request for reconsideration, and the appeal resumed. The appeal is fully briefed. We affirm the refusal to register.

### **I. Merely Descriptive – Applicable Law**

Section 2(e)(1) of the 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,” unless the mark has acquired distinctiveness under Section 2(f) of the Act.<sup>2</sup>

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 Com. of the U.S.*, 675 F.3d 1297, 1300 (Fed. Cir. 2012) (quoting *In re Bayer AG*, 488 F.3d 960, 963 (Fed. Cir.

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<sup>2</sup> Section 2(f) is not pertinent to our decision because Applicant does not claim the proposed mark is registrable because it has acquired distinctiveness.

2007)). “A mark need not recite each feature of the relevant goods or services in detail to be descriptive, it need only describe a single feature or attribute.” *Id.* (cleaned up; citation omitted).

“Descriptiveness must be evaluated ‘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.’” *Id.* (quoting *Bayer AG*, 488 F.3d at 963-64). Descriptiveness is not considered “in the abstract or on the basis of guesswork.” *In re Fat Boys Water Sports, LLC*, No. 86490930, 2016 TTAB LEXIS 150, at \*4 (citing *In re Abcor Dev. Corp.*, 588 F.2d 811, 814 (CCPA 1978)). “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 or services are will understand the mark to convey information about them.” *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254 (Fed. Cir. 2012) (citation omitted).

As applicable to Applicant’s mark in this appeal, “[w]here a mark consists of multiple words, the mere combination of descriptive words does not necessarily create a non-descriptive word or phrase.” *In re Zuma Array Ltd.*, No. 79288888, 2022 TTAB LEXIS 281, at \*8 (quoting *In re Omniome, Inc.*, No. 87661190, 2019 TTAB LEXIS 414, at \*12). “[I]f each component retains its merely descriptive significance in relation to the goods or services, the combination results in a composite that is itself merely descriptive.” *Omniome*, 2019 TTAB LEXIS 414, at \*12. Only where the

combination of merely descriptive terms creates a unitary mark, or a mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods or services is the mark registrable as suggestive. *Id.*

Lastly, “[w]hether a mark is merely descriptive or not is determined from the viewpoint of the relevant purchasing public.” *In re Stereotaxis, Inc.*, 429 F.3d 1039, 1043 (Fed. Cir. 2005) (citation omitted). We must “consider the commercial impression of a mark as a whole ... viewed through the eyes of a consumer.” *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 974 (Fed. Cir. 2018) (cleaned up, quoting *DuoProSS*, 695 F.3d at 1253) (emphasis in original omitted). Applicant’s services establish that the relevant consumers are individuals and businesses seeking consultation services in the field of computer software, information technology, and information systems.

## **II. Arguments and Analysis**

The Examining Attorney argues that:<sup>3</sup>

the individual components [of Applicant’s mark] and the composite result are descriptive of applicant’s services and do not create a unique, incongruous, or nondescriptive meaning in relation to the services. Specifically, the mark SCALABLE BUSINESS FRAMEWORK in its entirety merely describes a feature of applicant’s services, namely, consulting related to a basic conceptual structure for commercial enterprises that is capable of being easily expanded or upgraded on demand.

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<sup>3</sup> 8 TTABVUE 4. Citations to the briefs and other materials in the appeal record refer to the Board’s TTABVUE online docket system. Citations to the prosecution file refer to the USPTO’s Trademark Status & Document Retrieval (“TSDR”) system and identify the documents by title, date, and page in the downloadable .pdf version.

In support, the Examining Attorney points to the dictionary definitions for each of the component terms:<sup>4</sup>

- **Scalable:** “capable of being easily expanded or upgraded on demand ... [e.g.] Companies like Hometown, which cater to underserved markets while leveraging **scalable** solutions, represent ...”;
- **Business:** “a commercial or sometimes an industrial enterprise”; and
- **Framework:** “a basic conceptional structure (as of ideas).”

The Examining Attorney also points to Applicant’s website that shows “the descriptiveness of the combination of terms,” specifically where Applicant touts the following features of its services; for example:

“The three components of the Scalable Business Framework™ – Process, Automation, and Visibility – work together iteratively to build a **scalable** system for growth”<sup>5</sup>

“At Fast Slow Motion, we use the Scalable Business Framework™ to grow not only our own **business**, but the **businesses** of our clients as well”<sup>6</sup>

“They should be addressed in a specific order, providing an iterative model that allows the **Framework** to grow with your business. Here’s a brief overview of each component to help you grasp the power of the **Framework**.”<sup>7</sup>

“John Burdett is the founder [of Applicant], a consulting firm that helps **businesses scale** using CRM technology.”<sup>8</sup>

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<sup>4</sup> Definitions taken from Merriam-Webster online dictionary website, attached to first Office Action issued January 30, 2025, TSDR pp. 7-25.

<sup>5</sup> Screenshots attached to first Office Action issued January 30, 2025, TSDR pp. 27-29.

<sup>6</sup> Screenshots attached to first Office Action issued January 30, 2025, TSDR pp. 27-29.

<sup>7</sup> Screenshot attached to final Office Action issued May 1, 2025, TSDR p. 96.

<sup>8</sup> Screenshot attached to final Office Action issued May 1, 2025, TSDR p. 101.

“Michael Johnson is the Director of Growth at [Applicant] and a trusted expert in building **scalable business** systems.”<sup>9</sup>

“[Applicant] helps growing **businesses** build **scalable** systems on the Salesforce and HubSpot platforms. Combining expert consulting, real-world **business** experience... [Applicant] exists to be a blessing to **business** leaders as they grow their **businesses**.”<sup>10</sup>

The Examining Attorney also submitted evidence showing eight third-party uses of the entire phrase “scalable business framework” and argues that this phrase is “commonly used in the business industry to identify business models that are capable of being scaled to accommodate for growth.”<sup>11</sup> In his brief, the Examining Attorney highlighted the following language:

“Creating a **scalable business framework** can be the key to multiplying your reach, revenue, and impact.”, “Building a scalable business framework can help you expand your reach, build authority, and generate new revenue streams.”<sup>12</sup>

“**Scalable business frameworks** are designed to support growth without being hindered by the company's structure or available resources.”, “Scalable business frameworks are not one-size-fits-all solutions but tailored strategies that consider the unique aspects of each business.”<sup>13</sup>

“These common obstacles can make it difficult for contractors to transition from an individual labor-driven model to a **scalable business framework**.”<sup>14</sup>

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<sup>9</sup> Screenshot attached to final Office Action issued May 1, 2025, TSDR p. 101.

<sup>10</sup> Screenshot attached to final Office Action issued May 1, 2025, TSDR p. 102.

<sup>11</sup> 8 TTABVUE 4; evidence attached to final Office Action issued May 1, 2025, at TSDR pp. 32-90.

<sup>12</sup> From taralbryan.com podcast website.

<sup>13</sup> From fastercapital.com website.

<sup>14</sup> From Fox59.com website.

“By optimizing your pricing, reducing expenses, and implementing tiered options, you can enhance profits and build a **scalable business framework**.”<sup>15</sup>

“WorkNomads operates under a flexible and **scalable business framework** that allows companies to grow and adapt their teams as needed.”<sup>16</sup>

“Build a **Scalable Business Framework**: We establish streamlined operational workflows and CRM systems that allow you to manage customer relationships and grow efficiently.”<sup>17</sup>

“Entrepreneurial Operating System (EOS) for Success: One of Zac’s most impactful lessons was implementing EOS to create structure and accountability within his companies. He shares how this system helped him move from gut-driven decisions to a **scalable business framework**.”<sup>18</sup>

“Additional revenue is generated through premium services, such as design assistance, expedited production, and specialty finishes. By offering these varied services and fostering a robust online marketplace, Shapeways maintains a sustainable and **scalable business framework**.”<sup>19</sup>

The aforementioned evidence clearly shows that consumers of Applicant’s services will have no problem in immediately recognizing and understanding Applicant’s mark as conveying information regarding a feature or purpose of the services. Specifically, we have no doubt that, as the Examining Attorney concludes, the mark “merely describes a feature of applicant’s consulting services, namely, software and

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<sup>15</sup> From miraspaces.com blog website.

<sup>16</sup> From worknomads.com (FAQ) website.

<sup>17</sup> From silverleads.co website.

<sup>18</sup> From Apple.com podcast website.

<sup>19</sup> From vizologi.com website.

related project management consulting for establishing a business framework that can be scaled up to accommodate growth or expansion.”<sup>20</sup>

In reaching our determination regarding the descriptiveness of Applicant’s mark, we have given full consideration to Applicant’s various arguments and contentions. However, these are either not persuasive or Applicant is simply incorrect in its assertions. Specifically, without citing to any authority, Applicant contends that the Examining Attorney’s evidence is “untimely” to the extent the Internet evidence post-dates the application filing date.<sup>21</sup> This is incorrect. It is well-settled that we must consider all probative and properly introduced evidence to determine whether a mark is merely descriptive. Indeed, the fact that an applicant may be the first to adopt a term or phrase does not mean that the term or phrase is not merely descriptive, nor does it somehow render it distinctive. *See In re Fallon*, No. 86882668, 2020 TTAB LEXIS 464, at \*32-33 (“The fact that Applicant may be the first or only user of a term does not render that term distinctive’ if ... it has been shown to be merely descriptive of the goods identified in the application.”) (quoting *Fat Boys*, 2016 TTAB LEXIS 150, at \*10); *In re Swatch Grp. Mgmt. Servs. AG*, No. 85485359, 2014 TTAB LEXIS 131, at \*29 n.50 (“Being ‘the first and only one to adopt and use the mark sought to be registered does not prove that the mark is not descriptive.’”) (quoting *In re Bailey Meter Co.*, 102 F.2d 843, 844 (CCPA 1939)).

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<sup>20</sup> 8 TTABVUE 9.

<sup>21</sup> 6 TTABVUE 12-13.

Applicant also takes issue with certain evidence because “none of which contain the mark ‘SCALABLE BUSINESS FRAMEWORK,’” claiming that “the Examining Attorney’s entire argument shifts, claiming that ‘model’ is synonymous with ‘framework’ and that evidence for ‘scalable business model’ is therefore relevant.”<sup>22</sup> Evidence showing that the component terms of Applicant’s mark are descriptive of Applicant’s services is relevant and probative so long as each component term retains its descriptive significance in relation to the services, and our ultimate determination is whether the mark, as a whole, is merely descriptive. *Omniome*, 2019 TTAB LEXIS 414, at \*12. In any event, as discussed, the Examining Attorney did submit evidence showing the proposed mark, in its entirety, being used descriptively by third parties.

Applicant also argues that certain evidence is unreliable because it is “inaccessible.”<sup>23</sup> Specifically, Applicant identifies three websites that return a “404 error” and are no longer accessible.<sup>24</sup> The Examining Attorney counters that this argument “is not credible and should be ignored because the evidence has already been properly made of record, and each website was verified as accessible on the Internet as of the writing of this brief.”<sup>25</sup> Even if we are to disregard this objected-to evidence, there is ample evidence demonstrating the mark is merely descriptive of Applicant’s services. We disagree with Applicant that consumers must take “mental leaps” before understanding the descriptive significance of Applicant’s mark and we

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<sup>22</sup> 6 TTABVUE 13.

<sup>23</sup> 6 TTABVUE 14.

<sup>24</sup> 6 TTABVUE 14.

<sup>25</sup> 8 TTABVUE 8.

also disagree its assessment that there exists a “mixed record [that] creates reasonable doubt.”<sup>26</sup> Rather, as mentioned, the record demonstrates clearly that consumers of Applicant’s services will readily understand the mark as conveying information about these services—consulting in the field of software or information systems or IT project management for establishing a business framework that can be scaled up to accommodate growth or expansion.

### **III. Conclusion**

Upon consideration of the applicable law, the evidence of record, and the arguments of Applicant and the Examining Attorney, we find that Applicant’s mark SCALABLE BUSINESS FRAMEWORK immediately conveys to consumers a feature or purpose of Applicant’s services, and as such is merely descriptive of the services.

**Decision:** We affirm the refusal to register Applicant’s proposed mark SCALABLE BUSINESS FRAMEWORK under Section 2(e)(1) of the Trademark Act.

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<sup>26</sup> 6 TTABVUE 15, 17.