

Exhibits

TTAB

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513, ON THE DATE INDICATED BELOW.

BY A. Kupsch
DATE 5-6-02



05-08-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Trademark Application of Ravisent IP, Inc.	: Law Office 116 : :
Serial No.:	75/865,080	: Trademark Attorney : Michele Lynn Swain
Filed:	December 16, 1999	: : Attorney Docket
For:	IDVD	: No. 209127.0068

NOTICE OF APPEAL

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision of the examining Trademark Attorney dated November 7, 2001 finally refusing registration of the above-referenced trademark.

A check in the amount of \$100 is enclosed to cover the fee incurred in connection with the filing of this appeal.

Respectfully submitted,

Date: 5/6/02

By: Jordan A. LaVine
 Jordan A. LaVine
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05/16/2002 KGIBBONS 00000292 75865080

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ATTORNEYS FOR APPLICANT

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513, ON THE DATE INDICATED BELOW.

BY A. Krysosyph
DATE 5-6-02



05-08-2002

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Trademark Application of : Law Office 116
Ravisent I.P., Inc. :
Serial No.: 75/865,080 : Trademark Attorney
: Michele Lynn Swain
Filed: December 16, 1999 :
: Attorney Docket
For: IDVD : No. 209127.0068

SUPPLEMENTAL RESPONSE and REQUEST FOR RECONSIDERATION

This communication responds to the Office action issued on March 19, 2002 in connection with the above-identified trademark application.

The Examining Trademark Attorney has continued and maintained the final refusal to register the mark under Section 2(e)(1). Applicant submits this further communication and the accompanying affidavits and exhibits as evidence to be entered into the record. Additionally, Applicant has simultaneously filed a Notice of Appeal.

Evidence Submitted Herewith

Applicant requests that the following documents be entered into the record of evidence:

1. The Affidavit of Ned E. Barlas, Vice President of applicant, Ravisent I.P., Inc., attached hereto as Exhibit A.

2. Copies of trademark registrations for Registration No. 2,470,147 for "IBOOK;"
Registration No. 2,015,161 for "ITRADE;" Registration No. 2,075,149 for "IMALL;"

Registration No. 2,480,137 for "ICORNERS;" Registration No. 2,457,427 for "I-GUARDIAN;" and Registration No. 2,453,346 of "IGOLDEN," attached hereto as Exhibit B.

3. Copies of current status up-dates from the Patent and Trademark Office records for the following applications which have been *approved* for registration on the *Principal Register*: Application Serial No. 76/069,715 for "VDVD;" Application Serial No. 75/937,075 for "I2DVD;" Application Serial No. 78/009,922 for "ICONTROL;" and Application Serial No. 78/008,900 for "ITOWN," attached hereto as Exhibit C.

4. Internet printouts from various companies demonstrating use of the prefix "I" for non-Internet related goods and services where the letter "I" stands for something other than "Internet," attached hereto as Exhibit D.

Applicant's "IDVD" Mark is not Descriptive in its Entirety

Based upon the foregoing, and the arguments made in Applicant's prior responses, Applicant again submits that the subject "IDVD" mark is not descriptive or misdescriptive as applied to the *goods identified in the application*.

As stated in the attached affidavit of Applicant's Vice President, Applicant's "IDVD" goods have absolutely no Internet application. *See* Barlas Affidavit ¶¶ 4, 5. At the time Applicant's application was filed on December 16, 1999, Applicant's proposed products for the mark included products that may have had Internet applicability. *Id.* While it was *possible* at that time that the "IDVD" product would have some Internet application, the prefix "I" was never intended to stand for the term "Internet" with respect to the goods on which applicant is currently using the mark and for which are currently identified in the application. *Id.* Rather, the letter "I" was and is intended to be vague and suggestive of the many desirable and positive connotations of the letter "I" as applied to the product that was being developed. *Id.* For

example, "I" could indicate that the product is in *individual* or "personal" product not solely developed or directed to software experts. *Id.* The letter "I" could also be suggestive of the *interactive* nature of Applicant's product. *Id.*

After Applicant's product matured to development, Applicant's product in fact had no, and does not presently have, any Internet application. Rather, the product is a software product used to create videos on a personal computer. The Internet is not required to run Applicant's software or to create, edit, author or playback the video on a personal computer. *Id.* ¶ 4.

Accordingly, the letter "I" in Applicant's mark is clearly not an abbreviation or designation for the word "Internet." Rather, the "I" prefix in Applicant's "IDVD" mark is intended and has always been intended to be suggestive of any number of the relevant terms that begin with the letter "I," as noted in Applicant's prior responses. The attached materials, including the registrations previously cited, and the information attached as Exhibit D, clearly demonstrate that the letter "I" can designate any of the following terms, each of which has relevance and meaning as applied to Applicant's "IDVD" product: "*I*" as a pronoun, "*individual*," "*information*," "*integrity*," "*integrated*," "*interactive*" and "*intelligence*." There is absolutely no evidence that indicates that the public has come to recognize the letter "I" as always being the abbreviation for the term "Internet." Quite to the contrary, the materials submitted herewith underscore Applicant's argument that the letter "I," when used as a prefix, can indicate any number of possible words beginning with the letter.

Thus, as noted in Applicant's most recently filed response, the "IDVD" mark is either arbitrary or suggestive because a single meaning is not immediately apparent from the wording, relative to Applicant's goods. The term may evoke not just one, but multiple distinct commercial impressions. *See In re White Swan Ltd.*, 8 U.S.P.Q.2d 1534, 1536 (T.T.A.B. 1988) ("the fact that

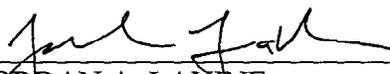
a descriptive word has a double meaning may indicate that the word is not merely descriptive of the goods or services); *In re Quick-Print Copy Shop, Inc.*, 616 F.2d 523 (C.C.P.A. 1980) ("Merely" means "only."); *In re Colonial Stores, Inc.*, 394 F.2d 549 (C.C.P.A. 1968) ("SUGAR & SPICE" for bakery products also reminiscent of nursery rhyme).

Additionally, where, as here, a mark consists of a term that may suggest a broad range of characteristics and qualities, the mark cannot be said to "describe" any of them and is therefore suggestive. See *In re Hutchinson Tech, Inc.*, 852 F.2d 552, 555 (Fed. Cir. 1988) (in finding the mark "HUTCHINSON TECHNOLOGY" not merely descriptive, the Federal Circuit stated that the term "technology" is suggestive because the term is not directly descriptive when used as part of a composite mark for electronic and mechanical computer components, reasoning that "technology" is a very broad term which includes many categories of goods); *The Money Store v. Harriscorp Finance, Inc.*, 689 F.2d 666, 673-74 (7th Cir. 1982) (holding "MONEY STORE" used in connection with money lending to be suggestive because the mark might also refer to 24-hour teller services, foreign currency or traveler's check services); *Holiday Inns, Inc. v. Monolith Enterprises*, 212 U.S.P.Q. 949 (T.T.A.B. 1981) (holding "AN AMERICAN CAFÉ" to be suggestive because of the wide range of foods which might be characterized as "American"); *Cullman Ventures v. Columbian Art Works, Inc.*, 13 U.S.P.Q.2d 1257, 1274 (holding "WEEK-AT-GLANCE" suggestive rather than descriptive of appointment books because the mark "suggests that a week of appointments or entries will be quickly viewed when the book is opened. It takes some thought and perception to reach this conclusion.")

Finally, as noted by the T.T.A.B., where there are doubts as to registrability of marks, particularly in "dealing with a fine and frequent subject line of demarcation between suggestive and the merely descriptive designation," doubts in such cases are to be resolved in favor of the Applicant. *In re Grand Metropolitan Foodservice, Inc.*, 30 U.S.P.Q.2d 1974, 1976 (T.T.A.B.

1994); *In re Officers' Organization for Economic Benefits, Ltd.*, 221 U.S.P.Q. 184, 186 (T.T.A.B. 1983). Resolution of this matter in favor of Applicant is even more compelling in this case, as we are not dealing with a fine line of demarcation between suggestive and merely descriptive. Applicant's mark is clearly not descriptive. In view of the above, refusal under Section 2(e) of the Trademark Act should be withdrawn.

Respectfully submitted,

By:  5/06/02

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RIYADH (AFFILIATE)



05-08-2002

U.S. Patent & TMOtc/TM Mail RcptDt. #11

May 6, 2002

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

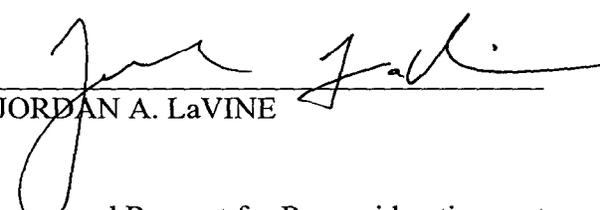
Dear Sir:

We are enclosing herewith the following documents set forth below, which are to be filed in the Patent and Trademark Office.

Notice of Appeal, Supplemental Response and Request for Reconsideration, return receipt card. A check in the amount of \$100.00 is enclosed to cover the fee incurred in connection with the filing of this document. Please charge any additional fees or credit overpayment to Miscellaneous Account 50-1017.

Respectfully submitted,

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.

By: 
JORDAN A. LaVINE

02 MAY 2002 AM 8:23
TRADemark TRIAL AND
APPEAL BOARD

Enclosures: Notice of Appeal; Supplemental Response and Request for Reconsideration, return receipt card

Application of: Ravisent I.P., Inc.

Fee: \$100.00

Registration/Serial No.: 75/865,080

Mark: IDVD

Attorney Docket No.: 209127.0068