

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/092228

APPLICANT: Intermedia Advertising Group, Inc.

CORRESPONDENT ADDRESS:

Francie R. Gorowitz
O MELVENY & MYERS
1999 AVE OF STARS STE 700
LOS ANGELES CA 90067-6035

RETURN ADDRESS:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513
ecom105@uspto.gov

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

MARK: REWARDTV

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:

N/A

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address..

RE: Serial Number 76/092228

Applicant is requesting reconsideration of a final refusal dated February 12, 2002.

The amended recitation of services is accepted

However, after careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration as to the Section 2(e)(1) descriptiveness refusal and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

As the applicant has aptly stated "the word 'TV' describes the subject matter..." and "the word 'rewards' broadly describes the prizes given..." A mark which combines descriptive terms may be registrable if the composite creates a unitary mark with a separate, nondescriptive meaning. *In re Sun Microsystems Inc.*, 59 USPQ2d 1084 (TTAB 2001); *In re Putman Publishing Co.*, 39 USPQ2d 2021 (TTAB 1996); *In re Copytele Inc.*, 31 USPQ2d 1540 (TTAB 1994); *In re Entenmann's Inc.*, 15 USPQ2d 1750 (TTAB 1990), *aff'd per curiam*, 928 F.2d 411 (Fed. Cir. 1991); *In re Serv-A-Portion Inc.*, 1 USPQ2d 1915 (TTAB 1986); *In re Wells Fargo & Co.*, 231 USPQ 95 (TTAB 1986); *In re Ampco Foods, Inc.*, 227 USPQ 331 (TTAB 1985). TMEP §1209.03(d). In this context, no separate, nondescriptive meaning is formed. The mere combination of descriptive words does not *automatically* create a non-descriptive new term. The combination of descriptive words often results in nothing more than the combination of descriptive words. The registration of a term created by combining two or more descriptive words depends on whether in combination, a new and different commercial impression is created, or the term so created imparts a bizarre or incongruous meaning as used in connection with the services. Where

the combination of descriptive words creates no incongruity, and no imagination is required to understand the nature of the services, the proposed mark remains merely descriptive.

The case is being returned to the Trademark Trial and Appeal Board for resumption of the appeal.

/Brian Rupp/
Brian A. Rupp
Trademark Attorney
Law Office 105
(703) 308-9105 ext. 223
Fax: (703) 872-9825
ecom105@uspto.gov