

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Premier Communications Corp.  
dba Pryme Radio Products

Trademark: PRYME

Serial No.: 76/606,109

Filed: August 06, 2004

Trademark Law Office

No. 107

Trademark Attorney: Midge F. Butler

Commissioner for Patents and Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
Attn: TTAB

**APPLICANT'S APPEAL BRIEF****Introduction**

The Applicant files this Appeal Brief to the Trademark Trial and Appeal Board in response to the Examining Attorney final ruling on March 02, 2005 refusing to register the above referenced mark.

The Examining Attorney stipulated his refusal on the views that under Trademark Act § 2(d), 15 U.S.C. § 1052(d), the mark for which registration is sought so resembles

  
10-30-2006

the mark shown in U.S. Registration No. 1686158 as to be likely, when used on the identified goods, to cause confusion, or to cause mistake, or to deceive.

Ensuing the reasons detailed below, the Applicant courteously believes that the Examining Attorney's contentions to be inaccurate and ask the Honorable TTAB reverse the aforementioned decision and allow the mark be passed for publication and registration.

### **1. Pertinent Facts**

The applicant filed its application to register the mark PRYME on August 06, 2004 for International Class 09 in the U.S. Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et seq.).

On March 11, 2005, the Examining Attorney in his first Office Action expressed his refusal to register Applicant's mark on the basis that there is a likelihood of confusion with U.S. Registration No. 1686158, and asked for an amendment on the identification of goods and noted his suggestions in relation to the wording of the goods depicted in the application. The Applicant accordingly amended the identification of goods to read as suggested.

The Examining Attorney mailed a subsequent non-final Office Action on July 27, 2005 and maintained his refusal based upon his previous arguments. The Applicant filed a response to the Examiner's refusal and request for reconsideration on January 27, 2006 and set down arguments as to why the Applicant's mark is not likely to be confused with registrant's mark.

In his Final Refusal on March 02, 2006, the Examining Attorney afresh rejected registration based upon a likelihood of confusion and found Applicant's argument unpersuasive. This appeal is respectfully presented in response to the Examining Attorney's Final Refusal.

## **2. Issue on Appeal**

The issue is whether there is a likelihood of confusion between the Applicant's mark and the cited registered mark?

## **3. Conclusion**

No, there is no likelihood of confusion between the Applicant's marks and the cited registered mark.

## **4. Overview**

The Examining Attorney declines Applicant's registration of the mark "PRYME" because the Examining Attorney believes the Applicant's mark is likely to be confused with the cited registered mark "PRIME".

First, the question of likelihood of confusion is one of facts when reaching a decision and each case should be decided on its own facts, and there can be "no litmus rule which can provide a ready guide to all cases."

The *DuPont* court set many factors which to be considered in a likelihood of confusion. Here, the Applicant believes that the cited mark is weak, the marks themselves are dissimilar in sound, appearance and connotation, the goods in question are different,

the channels of trade are unrelated, the lack of actual confusion, and the fact of Applicant's prior registration under the "expansion of trade" doctrine support registration of the Applicant's mark.

#### **5. The Cited Registered Mark is Categorically Weak and Insignificant**

Applicant trusts that the term "PRYME" has no meaning in any language. It is not geographically significant. The term appears immaterial in the related trades. Rather, the term "PRYME" is a distinctive term that causes a purposeful pause in the mind of the consumer. On the other hand, the word "PRIME" is an essentially weak surrounded by crowded art.

There are many references that incorporate the word PRIME in International Class 09, which is a good indication that the word PRIME has been diluted through extensive use. Thus, the Registrant's mark should not unduly impede other good faith uses of non-similar marks relative to the Registrant's PRIME.

Additionally, since there is evidence of widespread third-party use, consumers will be able to differentiate between Applicant's PRYME mark and Registrant's PRIME mark. The Registrants mark is crowded with use by others while the Applicant's PRYME is unique to the electronic industry to the best of its good faith belief. This factor supports a lack of confusion as to the source of the goods.

#### **6. The Marks are Different in Appearance and Connotation**

The *duPont* case makes it clear that when evaluating two marks, they must be looked at in their entirety.

Here, the appearance and connotation of the marks are different. The Applicant's mark contains a letter "Y" while the cited registered mark contains a letter "I" which in itself a material difference in look. Although, center letters are not more noticed as the first letters of the mark, however, the dissimilarity in appearance in any part of the word per se, depicts a significant peculiarity in the word which brings it to the attention of ordinary prudent consumers. That peculiarity portrays the difference in visual effect between the letters "I" and "Y". Letter "I" tends to depict one vertical line visually sharp and pointed, whereas the letter "Y" illustrates a vertical line which splits on the top traveling opposite diagonal directions.

This disparity imparts dictionary meaning to the Registrant's mark. The cited registered mark "PRIME" is a word in the English language as found in the Webster Dictionary that can stand for "first in time", "first in rank", "authority or significance", and the like. An ordinary prudent consumer can easily relate to the cited registered mark "PRIME".

The Applicant's mark, on the other hand, is meaningless, and even if phonetically alike, they effect unlike connotations within the minds of an average consumer.

Registrant's use of the term connotes the dictionary definition of "PR/ME" within the minds of an average consumer. On the contrary, the effect of the Applicant mark is to cause a mental pause in the average consumer. These ordinary consumers will primarily pause and recall the conspicuous letter "Y" within the term "PRYME" rather than the obvious meaning and connotation of the dictionary defined, "PRIME".

"Generally speaking, it is permissible to use identical marks on completely dissimilar goods, just as it is permissible to use completely different marks on identical

goods. The vast region between these two poles often proves difficult for courts to navigate or for practitioners to rationalize.” Applicant understands that the arguments above may not be influencing enough to counter a likelihood of confusion analysis, however, it is applicant’s purpose to constrain that these two marks does have its discernable dissimilarities and even marks that are identical but different in goods and services can be registered.

#### **7. The Marks are Different in Pronunciation and Sound**

As indicated, the Applicant’s mark is not a word that can be defined in any language and it rather appears in a 5 lettered mark that has a pronunciation of “PREE-ME”. Conversely, the cited registered mark is an important word found in the English language having an articulation of “PRIME”, a dominant feature which allows average consumers to differentiate between the applicant’s and registrant’s mark.

The word “PRIME” is a common English word that can be distinguished and understood in everyday places such as restaurants (as in, “PRIME RIB”), television (as for, “PRIME TIME”, in topography editorials (for instance, “PRIME MERIDIAN”), the word used in the political arenas (such as, “PRIME MINSTER”), and in mathematical terminologies (for example, the term “PRIME NUMBER”).

To this end, the ordinary consumer will recall the letter “P” in the word “PRIME” rather than the word “PRIME” and since the marks differ materially, the confusion is not likely.

#### **8. The Difference in the Sales Channel and Classes of Consumers**

In addition to the above stipulations the Applicant believes that the mark "PRYME" when used on or in connection with the amended identified goods, does not resemble the cited registered mark.

The Examiner in his analysis stated that "the Applicant should note that the goods of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source... Thus, it can be assumed that the same class of purchasers shop for these items and consumers are accustomed to seeing them sold under the same or similar marks."

While this observation is correct in principle, however, the Applicant believes after amending the goods which was acknowledged and accepted by the Examiner as well as other factors stated above a likelihood of confusion between the marks is less than likely.

Here, the goods in connection to the registered mark are functionally non-competitive with the Applicant's mark and are sold and marketed to consumers who specialize in the "audio" area such as amplifier, TVs, radio and so forth. The goods in relation to the Applicant's mark, however, are sold and marketed to consumers who are in the field of providing security services and surveillance services, such as law enforcement, fire fighting, emergency, security companies, government, casinos, hotels and the like.

The cited mark is also being used on electrical sound and speaker cables. Electrical sound and speaker cables are purchased by common people who need cables for connecting electronic devices, such as TV, radio, computer, and other music playing

devices, or to a speaker. The Applicant's goods on the contrary are purchased by professional in need of merchandises for security services and surveillance services.

It should now be clear that the goods of the applicant's are sold and marketed to a different class of consumers from those of the goods of the owner of the cited registered mark which should give no rise to the mistaken belief that goods of the parties come from a common source. This fails to supports a likelihood of confusion.

#### **9. The Diversity of the Retailers**

As mentioned supra, the Applicant's mark is used in connection to goods related to security and surveillance services, whereas the registered mark is used for the goods in the "audio" area. Even if the products of the two marks are to be sold in one same retail store, they would be placed in diverse departments. It would be unusual to imagine that goods of "PRIME", namely, "electrical sound and speaker cables" will be placed along side with the goods of "PRYME", namely, used for security and surveillance services.

#### **10. Issue of Crowded Art for the Word "PR/ME" in International Class 09**

Even if the Applicant concedes to phonetic equivalence to the extend that PRIME is used in International Class 09, nonetheless there is crowded art surrounding the cited registered mark. There is more than one "PRIME" registered marks and more than one registered mark comprises word "PRIME". This factor may be probative to the extend it evidences the use of identical or similar marks in the Registrant's industry. As each case must be decided of its independent merits, the marks cited below show the cited mark is

crowded and although the standard of its protection should not be lowered, nonetheless the bar should not be raised regarding the Applicant's dissimilar mark.

Registration number 1,110,831 "PRIME" was registered *prior* the cited registered mark and was used on goods including "computer components and accessories namely, processors, memories, disk drives, cables and computer programs in machine readable form. This application contained the products of "cable" nevertheless; it did not basis a bar for the registration of the cited registered mark.

Registration number 1,689,972 "PRIME IMAGE" was registered *after* the cited registered mark and was used on goods including "video signal processing equipment", which is also sold in electronic and department stores as suggested by the Examiner and was not barred from registration by the cited registered mark.

Registration number 2,249,869 "PRIMESITE" was registered *after* the cited registered mark and was used on goods including "...telecommunication apparatus and instruments, namely telephones, cellular telephones, antennas, apparatus for recording transmission or reproduction of sounds or images, namely video cassette recorders, television, video cameras..." which are also sold in electronic and department stores and was not barred from registration by the cited registered mark.

Registration number 2,391,910 "DATA PRIME" was registered *after* the cited registered mark and was used on goods including, "electronic apparatus, namely, a personal computer...", which was sold in electronic and department stores as suggested, and indeed was not barred from registration by the cited registered mark.

There are additional registrations that can be cited in reference to the question at bar. The following registered numbers also contain the word "PRIME" which were not barred from registration:

The U.S. registration numbers: "2,010,045"; "2,791,537"; "2,510,781"; "2,257,738"; "2,698,999"; "2,436,105"; "2,494,951", were also not barred from registration by the cited registered mark. Due to the apparent crowded art situation in connection to the word "PRIME" in International Class 09, the Applicant respectfully believes that the Applicant's mark "PRYME" distinguishes itself far more than any of the marks cited within the crowded art of the registered mark, as well as other registered marks containing the word 'PRIME" in International Class 09. After considering evidence showing open third party use of the mark similar the registrant's mark, the existence of such use weakened the mark and weighs strongly against a finding of a likelihood of confusion with the Applicant's mark which is dissimilar in its entirety.

#### **11. No Indication of Actual Confusion**

It is relatively imperative to mention that, the applicant's is applying to register a mark that has *already been established* in the applicant's prior registration 2,601,423 which has been in continuous use through commerce without any actual confusion between the two marks in question to the best of the Applicant's good faith belief and knowledge.

Applicant's mark and the cited registrant's mark have been recognized and accepted for a long period without any occurrences of actual confusion. Using their

marks in the commerce with no actual confusion would certainly support the Applicant's contention and would lend no support to a likelihood of confusion.

We believe in the notion that absence of confusion controls over the outcome of a likelihood of confusion arguments. "Absence of confusion weighs heavily against a finding of likelihood of confusion". *Barre-National, Inc. v. Barr Labs, Inc.*, 21 U.S.P.Q.2d 1755, 1762 (D.N.J. 1991).

The applicant's and registrant's marks have coexisted for an extensive period. The respective parties engaged in their respective uses without any instances of actual confusion. Accordingly, it is reasonable to believe that the customers of the Applicant and the Registrant have already accepted and accustomed to purchase their products while safely distinguishing between the two sources of origin.

Given that there is no actual instances of confusion between the two marks at bar, this factor weighs heavily in favor of the Applicant that there is no likelihood of confusion.

## **12. "Expansion of Trade" Doctrine**

Under the "expansion of trade" doctrine, it would be reasonable that a company in its economic pursuits to expand the use of its registered marks beyond that which was originally applied for and subsequently issued.

Here the Applicant has been in the electronic communication industry since 1998 when it was issued registration for the mark PRYME for "Hand held and mobile 2-way radios featuring transmitting and receiving functions; rechargeable battery packs, fast and slow charges specifically for 2-way radio battery packs, microphones, earphones,

headsets and speakers specifically used with two way hand held and mobile radio receivers and transmitters” in International Class 09. Since that time, Applicant has continually been doing business under this mark for all the goods listed and obviously has fomented years of goodwill, industry recognition and customer loyalty under this mark.

The Applicant simply wishes to expand protection for their consumer end users for goods within the same industry and of the same purpose. The goods listed in the above-mentioned application filed on August 6, 2004 are mainly for the purpose of use in conjunction with the Applicant’s now established electronic communication products. The Applicant expanded use of “audio accessories” which were already in the original PRYME registration. The Applicant expanded use in its “communication accessories” which were already apparent in its original PRYME registration. Furthermore, the Applicant expanded its use of the mark to Global Positioning System (GPS) goods which synergistically with the goods listed in its original PRYME registration. Under these circumstances, the Applicant respectfully believes that goods applied for in the case at bar, are but natural consequence of its livelihood within the specific industry.

The Applicant is in the business of “audio accessories”, “communications accessories”, and GPS products which are used or very closely related to its general two-way communication products listed in its original PRYME registration. Accordingly, customers will more than readily distinguish the Applicant’s goods used for electronic communications industry where the Applicant had built a consumer following predicted on these goods.

Contrastly, the Applicant in the case at bar is not in the business of selling the cited, “electrical sound and speaker cables” and ordinarily prudent consumers will clearly reach the same conclusion weighing against finding a likelihood of confusion.

### **13. Ending Comments**

In conclusion, the applicant respectfully believes that there is no likelihood of confusion between the parties’ mark due to the apparent difference of the marks’ appearance, the distinctive function of the goods and services, the sophistication of the purchasers, weakness of the mark, lack of actual confusion, and the different trade channels of the goods.

The applicant understands that it is the Examiner’s duty to resolve any doubts in favor of the registrant whenever there is a likelihood of confusion between the parties’ mark, however, Applicant respectfully believe that the differences of the parties mark and their respective goods and services out-weight any similarities.

Ordinary consumers will be able to make a distinction between the sources of the goods based on this difference. These different goods will travel through different channels of trade since they will be focused towards different consumers for different purposes and in different purchasing environments.

For such reasons, the Applicant respectfully appeals the Honorable TTAB to reverse the decision of the Examining Attorney and allow registration of the Applicant’s mark.

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:02:37 ET**

**Serial Number:** 73123025 Assignment Information

**Registration Number:** 1110831

**Mark (words only):** PRIME

**Standard Character claim:** No

**Current Status:** This registration has been renewed.

**Date of Status:** 1999-02-25

**Filing Date:** 1977-04-15

**Transformed into a National Application:** No

**Registration Date:** 1979-01-09

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

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**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2001-08-20

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. NCR CORPORATION

**Address:**

NCR CORPORATION  
1700 S. PATERSON BLVD.  
DAYTON, OH 454790001  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:**(NOT AVAILABLE)

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**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

COMPUTERS INCLUDING COMPONENTS AND ACCESSORIES THEREFOR-NAMELY, PROCESSORS, MEMORIES, INPUT AND OUTPUT TERMINALS, MAGNETIC TAPE DRIVES, DISK DRIVES, CARD READERS, CARD PUNCHERS, PRINTERS, PLOTTERS, POWER SUPPLIES, INTERFACE BOARDS, CABINETS, CHASSIS, CABLES, AND COMPUTER PROGRAMS IN MACHINE READABLE FORM

**Basis:** 1(a)

**First Use Date:** 1972-01-00

**First Use in Commerce Date:** 1972-01-00

**International Class:** 037

**Class Status:** Active

COMPUTER MAINTENANCE SERVICES

**Basis:** 1(a)

**First Use Date:** 1972-11-00

**First Use in Commerce Date:** 1972-11-00

**International Class:** 042

**Class Status:** Active

COMPUTER PROGRAM MAINTENANCE AND UPDATING SERVICES AND COMPUTER SYSTEMS ENGINEERING SERVICES

**Basis:** 1(a)

**First Use Date:** 1974-06-00

**First Use in Commerce Date:** 1974-06-00

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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1999-02-25 - First renewal 10 year

1999-01-11 - Section 9 filed/check record for Section 8

1996-08-08 - Cancellation terminated for Proceeding

1996-08-08 - Cancellation dismissed for Proceeding

1996-04-26 - Cancellation Instituted No. 999999

1985-09-26 - Section 7 amendment filed

1985-08-14 - Section 8 (6-year) accepted & Section 15 acknowledged

1984-12-13 - Section 8 (6-year) and Section 15 Filed

1984-10-22 - Section 7 amendment filed

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**CORRESPONDENCE INFORMATION**

---

**Correspondent**

FREDERICK P FISH  
FISH & RICHARDSON PC  
225 FRANKLIN ST  
BOSTON MA 02110-2804

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**This page was generated by the TARR system on 2006-10-30 14:06:20 ET**

**Serial Number:** 74176957 Assignment Information

**Registration Number:** 1689972

**Mark (words only):** PRIME IMAGE

**Standard Character claim:** No

**Current Status:** This registration has been renewed.

**Date of Status:** 2002-02-15

**Filing Date:** 1991-06-17

**Transformed into a National Application:** No

**Registration Date:** 1992-06-02

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 4

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**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2002-02-19

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. PRIME IMAGE, INC.

**Address:**

PRIME IMAGE, INC.  
6629 GIGUERE COURT, #C  
SAN JOSE, CA 95133  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** California

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**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

video signal processing equipment

**Basis:** 1(a)

**First Use Date:** 1985-09-01

**First Use in Commerce Date:** 1985-09-01

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2002-02-15 - First renewal 10 year

2002-02-15 - Section 8 (10-year) accepted/ Section 9 granted

2001-12-17 - Combined Section 8 (10-year)/Section 9 filed

1998-03-20 - Section 8 (6-year) accepted & Section 15 acknowledged

1998-02-17 - Section 8 (6-year) and Section 15 Filed

1992-06-02 - Registered - Principal Register

1992-03-10 - Published for opposition

1992-02-07 - Notice of publication

1991-09-27 - Approved for Pub - Principal Register (Initial exam)

1991-09-20 - Assigned To Examiner

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**CORRESPONDENCE INFORMATION**

---

**Correspondent**

MICHAEL J POLLOCK (Attorney of record)

MICHAEL J POLLOCK  
STALLMAN & POLLOCK LLP  
121 SPEAR ST SUITE 290  
SAN FRANCISCO CA 94105

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**This page was generated by the TARR system on 2006-10-30 14:24:50 ET**

**Serial Number:** 74731135 Assignment Information

**Registration Number:** 2249869

**Mark (words only):** PRIMESITE

**Standard Character claim:** No

**Current Status:** Section 8 and 15 affidavits have been accepted and acknowledged.

**Date of Status:** 2005-07-19

**Filing Date:** 1995-09-19

**Transformed into a National Application:** No

**Registration Date:** 1999-06-01

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 105

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**Current Location:** 830 -Post Registration

**Date In Location:** 2005-07-19

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. NOKIA CORPORATION

**Address:**

NOKIA CORPORATION  
KEILALAHDENTIE 4  
ESPOO 02150  
Finland

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Finland

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**GOODS AND/OR SERVICES**

---

**International Class:** 009

**Class Status:** Active

base stations for transmitting and relaying communications over cellular telephone networks; telecommunications apparatus and instruments, namely, telephones, cellular telephones, antennas; apparatus for the recording, transmission or reproduction of sounds or images, namely, video cassette recorders, televisions, video cameras; replacement parts for all of the aforesaid goods

**Basis:** 1(a)

**First Use Date:** 1995-11-21

**First Use in Commerce Date:** 1995-11-21

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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2005-07-19 - Section 8 (6-year) accepted & Section 15 acknowledged

2005-04-29 - Section 8 (6-year) and Section 15 Filed

2005-04-29 - Section 8 (6-year) and Section 15 Filed

2005-04-29 - PAPER RECEIVED

1999-06-01 - Registered - Principal Register

1999-04-09 - Allowed for Registration - Principal Register (SOU accepted)

1999-03-15 - Communication received from applicant

1998-09-09 - Non-final action mailed

1998-08-28 - Assigned To Examiner

1998-08-04 - Statement of use processing complete

1998-08-04 - Amendment to Use filed

1998-04-09 - Extension 1 granted

1998-03-02 - Extension 1 filed

1997-09-02 - Notice of allowance - mailed

1997-06-10 - Published for opposition

1997-05-09 - Notice of publication

1997-04-12 - Approved for Pub - Principal Register (Initial exam)

1997-04-10 - Assigned To Examiner

1997-03-11 - Reinstated

1997-02-04 - Abandonment - Failure To Respond Or Late Response

1996-04-13 - Non-final action mailed

1996-04-11 - Assigned To Examiner

1996-03-29 - Assigned To Examiner

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**CORRESPONDENCE INFORMATION**

---

**Correspondent**

MICHAEL B. LASKY (Attorney of record)

MICHAEL B. LASKY  
ALTERA LAW GROUP LLC  
6500 CITY WEST PARKWAY, SUITE 100  
MINEEAPOLIS, MN 553447704

**Domestic Representative**

Fross Zelnick Lehrman & Zissu, PC

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**This page was generated by the TARR system on 2006-10-30 14:11:20 ET**

**Serial Number:** 75387426 Assignment Information

**Registration Number:** 2391910

**Mark (words only):** DATA PRIME

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2000-10-03

**Filing Date:** 1997-11-10

**Transformed into a National Application:** No

**Registration Date:** 2000-10-03

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 114

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**Current Location:** L10 -TMEG Law Office 101

**Date In Location:** 2006-01-31

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. CINCINNATI TYROLIT, INC.

**Address:**

CINCINNATI TYROLIT, INC.

3013 DISNEY STREET

CINCINNATI, OH 45209

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

---

**GOODS AND/OR SERVICES**

---

**International Class:** 009

**Class Status:** Active

electronic apparatus, namely, a personal computer, sensors and interfaces for monitoring industrial grinding processes

**Basis:** 1(a)

**First Use Date:** 2000-01-04

**First Use in Commerce Date:** 2000-01-04

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#### ADDITIONAL INFORMATION

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**Disclaimer:** "DATA"

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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2006-01-23 - Case File In TICRS

2004-09-03 - TEAS Change Of Correspondence Received

2000-10-03 - Registered - Principal Register

2000-06-18 - Allowed for Registration - Principal Register (SOU accepted)

2000-04-04 - Assigned To Examiner

2000-03-31 - Statement of use processing complete

2000-03-31 - Extension 2 granted

2000-02-23 - Amendment to Use filed

2000-01-24 - Extension 2 filed

1999-10-04 - Extension 1 granted

1999-09-10 - Extension 1 filed

1999-04-13 - Notice of allowance - mailed

1998-12-01 - Published for opposition

1998-10-30 - Notice of publication

1998-08-27 - Approved for Pub - Principal Register (Initial exam)

1998-08-06 - Examiner's amendment mailed

1998-07-17 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

JOHN W GREGG (Attorney of record)

Martin P. Michael, Esq.

Sonnenschein, Nath &amp; Rosenthal LLP

Wacker Drive Station - Sears Tower

P. O. Box 061080

Chicago IL 60606-1080

**Phone Number:** 212-398-5280**Fax Number:** 212-768-6800

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**Serial Number:** 75008152 Assignment Information

**Registration Number:** 2010045

**Mark**

***PRIME  
CONTROLS, INC.***

**(words only):** PRIME CONTROLS, INC.

**Standard Character claim:** No

**Current Status:** Section 8 and 15 affidavits have been accepted and acknowledged.

**Date of Status:** 2002-02-08

**Filing Date:** 1995-10-20

**Transformed into a National Application:** No

**Registration Date:** 1996-10-22

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 103

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**Current Location:** 700 -Intent To Use Section

**Date In Location:** 2006-09-14

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Prime Controls, Inc.

**Address:**

Prime Controls, Inc.  
4551 Gateway Circle

Dayton, OH 454401793

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Ohio

---

**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

electronic sensors and controls for detecting the presence and thickness of metal

**Basis:** 1(a)

**First Use Date:** 1992-09-00

**First Use in Commerce Date:** 1992-11-00

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "CONTROLS, INC."

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2006-10-24 - PAPER RECEIVED

2006-06-19 - Case File In TICRS

2002-02-08 - Section 8 (6-year) accepted & Section 15 acknowledged

2001-12-11 - Section 8 (6-year) and Section 15 Filed

1996-10-22 - Registered - Principal Register

1996-07-30 - Published for opposition

1996-06-28 - Notice of publication

1996-05-09 - Approved for Pub - Principal Register (Initial exam)

1996-05-03 - Examiner's amendment mailed

1996-05-01 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

ROGER S DYBVIG (Attorney of record)

ROGER S DYBVIG  
DYBVIG & DYBVIG  
22 GREEN STREET  
DAYTON, OH 45402

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:13:23 ET**

**Serial Number:** 75178377 Assignment Information

**Registration Number:** 2791537

**Mark (words only):** PRIMEVOICE

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2003-12-09

**Filing Date:** 1996-10-08

**Transformed into a National Application:** No

**Registration Date:** 2003-12-09

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 114

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-05-25

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Network Equipment Technologies, Inc.

**Address:**

Network Equipment Technologies, Inc.  
6900 Paseo Padre Parkway  
Freemont, CA 945553658  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

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**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

communications processors; central processing units and cabinets therefor; computer programs for use in communications processing and management of digital information transmitted in a network; and user and instruction manuals sold as a unit

**Basis:** 1(a)

**First Use Date:** 1997-05-00

**First Use in Commerce Date:** 1997-05-00

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**ADDITIONAL INFORMATION**

---

(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2004-04-15 - Section 7 correction issued

2004-02-23 - Section 7 amendment filed

2003-12-09 - Registered - Principal Register

2003-10-16 - Allowed for Registration - Principal Register (SOU accepted)

2003-10-14 - Assigned To Examiner

2003-10-11 - Case File In TICRS

2003-09-18 - TEAS Change Of Correspondence Received

2003-09-04 - Statement of use processing complete

2003-06-10 - Amendment to Use filed

2003-08-04 - Extension 2 granted

2003-06-10 - Extension 2 filed

2003-06-09 - TEAS Statement of Use Received

2003-06-09 - TEAS Extension Received

2002-11-07 - Extension 1 granted

2002-10-09 - Extension 1 filed

2002-10-09 - TEAS Extension Received

2002-06-18 - Notice of allowance - mailed  
2002-05-02 - PAPER RECEIVED  
2002-03-26 - Published for opposition  
2002-03-06 - Notice of publication  
2001-11-21 - Approved for Pub - Principal Register (Initial exam)  
2001-07-27 - Communication received from applicant  
1998-03-12 - Letter of suspension mailed  
1998-02-17 - Communication received from applicant  
1998-02-18 - Assigned To Examiner  
1997-08-14 - Non-final action mailed  
1997-05-16 - Letter of suspension mailed  
1997-05-08 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

LESLEY S. CRAIG (Attorney of record)

LESLEY S. CRAIG  
TOWNSEND AND TOWNSEND AND CREW LLP  
TWO EMBARCADERO CENTER, 8TH FLOOR  
SAN FRANCISCO CA 94111

**Phone Number:** 303-571-4000**Fax Number:** 303-571-4321

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:14:30 ET**

**Serial Number:** 75298962 Assignment Information

**Registration Number:** 2510781

**Mark (words only):** PRIME RESPONSE

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2001-11-20

**Filing Date:** 1997-05-27

**Transformed into a National Application:** No

**Registration Date:** 2001-11-20

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 111

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2001-12-04

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Prime Response Ltd.

**Address:**

Prime Response Ltd.  
Goat Wharf  
Brentford, Middlesex, TW8 0BA  
United Kingdom

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** United Kingdom

---

**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

computer software, computerized data and databases, computer hardware, computer recordal, storage and retrieval media for product service marketing, market campaign planning, strategy, implementation and management, customer relationship management systems, telecommunication and on-line global computer network and other computerized network marketing systems, marketing data collection and access systems, marketing data integration, marketing data management, marketing report generation, customer communication management systems, customer data collection and management systems, customer and information security systems and systems for integrating marketing and customer data with other business and statistical information

**Basis:** 1(a)

**First Use Date:** 1997-09-08

**First Use in Commerce Date:** 1997-09-08

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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2001-11-20 - Registered - Principal Register

2001-07-17 - Allowed for Registration - Principal Register (SOU accepted)

2001-07-03 - Assigned To Examiner

2001-06-29 - Statement of use processing complete

2001-06-18 - Amendment to Use filed

2001-05-16 - Extension 4 granted

2001-05-04 - Extension 4 filed

2001-01-17 - Extension 3 granted

2000-11-03 - Extension 3 filed

2000-06-29 - Extension 2 granted

2000-05-04 - Extension 2 filed

1999-12-06 - Extension 1 granted

1999-10-26 - Extension 1 filed

1999-05-04 - Notice of allowance - mailed

1999-03-16 - Opposition terminated for Proceeding  
1999-03-16 - Opposition dismissed for Proceeding  
1998-09-11 - Opposition instituted for Proceeding  
1998-08-14 - Extension Of Time To Oppose Received  
1998-07-21 - Published for opposition  
1998-06-19 - Notice of publication  
1998-05-08 - Approved for Pub - Principal Register (Initial exam)  
1998-03-27 - Communication received from applicant  
1998-03-09 - Non-final action mailed  
1998-02-03 - Assigned To Examiner  
1998-01-23 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

Michael J. Bevilacqua (Attorney of record)

MICHAEL J. BEVILACQUA  
HALE & DORR  
60 STATE ST STE 25  
BOSTON MA 02109-1816

**Domestic Representative**

HALE AND DORR LLP

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:15:59 ET**

**Serial Number: 75298964 Assignment Information**

**Registration Number: 2257738**

**Mark (words only): PRIME VANTAGE**

**Standard Character claim: No**

**Current Status: Registration canceled under Section 8.**

**Date of Status: 2006-04-01**

**Filing Date: 1997-05-27**

**Transformed into a National Application: No**

**Registration Date: 1999-06-29**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 111**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location: 900 -File Repository (Franconia)**

**Date In Location: 1999-09-13**

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Prime Response Ltd.

**Address:**

Prime Response Ltd.

Goat Wharf

Brentford, Middlesex, TW8 0BA

United Kingdom

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** United Kingdom

---

**GOODS AND/OR SERVICES**

---

**International Class:** 009

**Class Status:** Section 8 - Cancelled

computer software, computerized data and databases, computer hardware, computer recordal, storage and retrieval media for product and service marketing, market campaign planning, marketing campaign strategy, implementation and management, customer relationship management systems, telecommunication and on-line global computer network and other computerized network marketing systems, marketing data collection and access systems, marketing data integration, marketing data management, marketing report generation, customer communication management systems, customer data collection and management systems, customer and information security systems and systems for integrating marketing and customer data with other business and statistical information

**Basis:** 1(a)

**First Use Date:** 1997-10-00

**First Use in Commerce Date:** 1997-10-00

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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2006-04-01 - Canceled Section 8 (6-year)

1999-06-29 - Registered - Principal Register

1999-05-03 - Allowed for Registration - Principal Register (SOU accepted)

1999-05-03 - Assigned To Examiner

1999-04-16 - Statement of use processing complete

1999-03-22 - Amendment to Use filed

1998-09-22 - Notice of allowance - mailed

1998-06-30 - Published for opposition

1998-05-29 - Notice of publication

1998-04-23 - Approved for Pub - Principal Register (Initial exam)

1998-03-23 - Communication received from applicant

1998-01-23 - Non-final action mailed

1998-01-22 - Assigned To Examiner

1998-01-02 - Assigned To Examiner

1997-12-29 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

CHRISTOPHER C ROCHE (Attorney of record)

CHRISTOPHER C ROCHE  
KENYON & KENYON  
1 BROADWAY  
NEW YORK NY 10004

**Domestic Representative**

Kenyon & Kenyon

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:17:36 ET**

**Serial Number: 75410322 Assignment Information**

**Registration Number: 2698999**

**Mark**

**PRIME**



**(words only): PRIME**

**Standard Character claim: No**

**Current Status: Registered.**

**Date of Status: 2003-03-25**

**Filing Date: 1997-12-23**

**Transformed into a National Application: No**

**Registration Date: 2003-03-25**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 103**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location: 900 -File Repository (Franconia)**

**Date In Location: 2003-04-14**

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Canwest Global Communications Corp.

**Address:**

Canwest Global Communications Corp.  
31st Floor-TD Center 201 Portage Avenue

Winnipeg, Manitoba R3B 3L7

Canada

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Manitoba

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### GOODS AND/OR SERVICES

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**International Class:** 009

**Class Status:** Active

PRERECORDED VIDEO TAPES, AUDIO CASSETTES AND COMPACT DISCS ALL FEATURING TELEVISION PROGRAMMING; MOTION PICTURE FILMS FEATURING GENERAL ENTERTAINMENT

**Basis:** 44(e)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

**International Class:** 038

**Class Status:** Active

RADIO AND TELEVISION BROADCASTING SERVICES; TELECOMMUNICATION SERVICES, NAMELY, THE TRANSMISSION OF MESSAGES AND PROGRAMS BY RADIO WAVES, SATELLITE, CO-AXIAL CABLE, FIBRE OPTIC CABLE FOR RECEPTION THEREOF AND THE RE-TRANSMISSION VIA RADIO WAVES, SATELLITE, CO-AXIAL CABLE OR FIBRE OPTIC CABLE

**Basis:** 44(e)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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### ADDITIONAL INFORMATION

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**Design Search Code(s):**

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

**Foreign Application Number:** 864825

**Foreign Registration Number:** TMA510018

**Foreign Registration Date:** 1999-03-25

**Country:** Canada

**Foreign Filing Date:** 1997-12-22

**Foreign Expiration Date:** 2014-03-25

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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2003-03-25 - Registered - Principal Register

2003-02-04 - ITU claim deleted

2002-11-21 - Notice of Allowance canceled  
2002-05-21 - Notice of allowance - mailed  
2002-02-26 - Published for opposition  
2002-02-06 - Notice of publication  
2001-04-30 - Notice of Allowance canceled  
2000-10-31 - Notice of allowance - mailed  
2000-03-01 - Extension Of Time To Oppose Received  
2000-02-15 - Published for opposition  
2000-01-14 - Notice of publication  
1999-12-09 - Approved for Pub - Principal Register (Initial exam)  
1999-12-03 - Examiner's amendment mailed  
1999-08-12 - Communication received from applicant  
1999-06-01 - Letter of suspension mailed  
1999-04-16 - Communication received from applicant  
1998-10-19 - Non-final action mailed  
1998-10-08 - Assigned To Examiner  
1998-09-23 - Assigned To Examiner  
1998-09-01 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

D RANDALL KING (Attorney of record)

D RANDALL KING  
MERCHANT & GOULD PC  
PO BOX 2910  
MINNEAPOLIS MN 55402-0910

**Domestic Representative**

MERCHANT, GOULD, SMITH, EDELL, WELTER &

SCHMIDT, P.A.

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:18:36 ET**

**Serial Number:** 75427269 Assignment Information

**Registration Number:** 2436105

**Mark (words only):** PRIME POWER

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2001-03-20

**Filing Date:** 1998-02-02

**Transformed into a National Application:** No

**Registration Date:** 2001-03-20

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 109

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2001-04-16

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. PRIME POWER, INC.

**Address:**

PRIME POWER, INC.  
998 Veterans Memorial Highway, S.E.  
Mableton, GA 30126  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Georgia

---

**GOODS AND/OR SERVICES**

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**International Class:** 007

**Class Status:** Active

ELECTRICAL APPARATUSES FOR USE IN POWER GENERATION, NAMELY, ELECTRIC GENERATORS; SPARK-IGNITED AND DIESEL INTERNAL COMBUSTION ENGINES FOR POWER GENERATION

**Basis:** 1(a)

**First Use Date:** 1988-00-00

**First Use in Commerce Date:** 1988-00-00

**International Class:** 009

**Class Status:** Active

ELECTRICAL APPARATUSES FOR USE IN POWER GENERATION, NAMELY, ELECTRICAL GENERATOR CONTROL SYSTEMS CONSISTING OF VOLTAGE REGULATORS, SPEED CONTROLLERS, LOAD CONTROLLERS, ELECTRICAL GENERATOR POWER SWITCHGEAR, AND COMPONENT PARTS THEREFOR IN THE NATURE OF ELECTRIC GENERATOR CONTROLS; ELECTRICAL POWER CONTROLS, STATIC EXCITERS, STATIC VOLTAGE REGULATORS, AND ELECTRICAL POWER MANAGEMENT DEVICES CONSISTING OF COMPUTER-BASED LOCAL AND REMOTE CONTROL/MONITORING SYSTEMS RELATED TO POWER GENERATION EQUIPMENT, NAMELY, AUTOMATIC STOP-START, LOAD LEVEL MONITORING, AND PLC BASED CONTROLS

**Basis:** 1(a)

**First Use Date:** 1988-00-00

**First Use in Commerce Date:** 1988-00-00

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#### ADDITIONAL INFORMATION

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**Disclaimer:** "POWER"

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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2001-03-20 - Registered - Principal Register

2000-12-26 - Published for opposition

2000-11-24 - Notice of publication

2000-10-11 - Approved for Pub - Principal Register (Initial exam)

2000-09-20 - Communication received from applicant

2000-03-02 - Non-final action mailed

2000-03-01 - Assigned To Examiner

1999-07-26 - Communication received from applicant

1999-04-08 - Communication received from applicant

1998-10-08 - Non-final action mailed

1998-09-17 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

JOAN L. DILLON (Attorney of record)

JOAN L. DILLON  
KILPATRICK STOCKTON LLP  
1100 PEACHTREE ST, STE 2800  
ATLANTA GA 30309-4530

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2006-10-30 14:19:40 ET**

**Serial Number:** 75824039 Assignment Information

**Registration Number:** 2494951

**Mark (words only):** PRIME SOURCE

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2001-10-02

**Filing Date:** 1999-10-15

**Transformed into a National Application:** No

**Registration Date:** 2001-10-02

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 112

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2001-10-29

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Bunzl Distribution USA, Inc.

**Address:**

Bunzl Distribution USA, Inc.  
701 Emerson Road, Suite 500  
St. Louis, MO 63141  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

---

**GOODS AND/OR SERVICES**

---

**International Class:** 009

**Class Status:** Active

batteries

**Basis:** 1(a)

**First Use Date:** 2001-05-00

**First Use in Commerce Date:** 2001-05-00

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2001-10-02 - Registered - Principal Register

2001-08-02 - Allowed for Registration - Principal Register (SOU accepted)

2001-07-30 - Statement of use processing complete

2001-07-16 - Amendment to Use filed

2001-03-08 - Extension 1 granted

2001-02-05 - Extension 1 filed

2000-08-08 - Notice of allowance - mailed

2000-05-16 - Published for opposition

2000-04-14 - Notice of publication

2000-03-09 - Approved for Pub - Principal Register (Initial exam)

2000-03-01 - Assigned To Examiner

---

**CORRESPONDENCE INFORMATION**

---

**Correspondent**

Sondra D. Schol (Attorney of record)

SONDRA D. SCHOL  
BLACKWELL SANDERS PEPER MARTIN LLP  
720 OLIVE STREET 24TH FLOOR  
ST. LOUIS, MISSOURI 63101-2396

