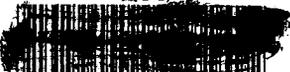

To: BORDER MEDIA PARTNERS, L.L.C. (ip@loefflerllp.com)
Subject: TRADEMARK APPLICATION NO. 78491274 - DIGITAL - 80559.00004
Sent: 8/17/2006 3:48:20 PM
Sent As: ECOM106@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE**SERIAL NO:** 78/491274**APPLICANT:** BORDER MEDIA PARTNERS, L.L.C.**CORRESPONDENT ADDRESS:**

CLINE H. WHITE
LOEFFLER TUGGEY PAUERSTEIN ROSENTHAL LLP
SUITE 200
755 EAST MULBERRY AVE.
SAN ANTONIO TX 78212



RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: DIGITAL**CORRESPONDENT'S REFERENCE/DOCKET NO:** 80559.00004**CORRESPONDENT EMAIL ADDRESS:**
ip@loefflerllp.com

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.

OFFICE ACTION

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/491274

The trademark examining attorney has carefully reviewed the request for reconsideration and is not persuaded by applicant's arguments. No new issue has been raised and no new compelling evidence has been presented with regard to the point(s) at issue in the final action. TMEP §715.03(a). Accordingly, applicant's request for reconsideration is denied and the FINAL refusal of registration is hereby continued. 37 C.F.R. §2.64(b); TMEP §715.04.

The application file will be returned to the Trademark Trial and Appeal Board for resumption of the

appeal.

In the interests of thoroughness, a number of excerpts from the Lexis/NexisResearch database have been included to show the widespread use of DIGITAL in connection with radio broadcasting services. The Trademark Trial and Appeal Board has held that materials obtained through computerized text searching are competent evidence to show the descriptive use of terms under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1). *In re National Data Corp.*, 222 USPQ 515, 517 n.3 (TTAB 1984); TMEP §710.01 (a).

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

LEVEL 1 - 2 OF 30954 STORIES

Copyright 2006 VNU Business Media, Inc.
All Rights Reserved
Billboard

August 19, 2006

SECTION: UPFRONT; GLOBAL

LENGTH: 676 words

HEADLINE: MOBILE MUSIC MOVES

BYLINE: JULIANA KORANTENG

DATELINE: LONDON

BODY:

... Galaxy-branded wireless access protocol site on 3's entertainment portal.

Rival network Vodafone is working with digital service provider Sony Network Services Europe (SNSE) to offer Vodafone Radio DJ, which consists of streamed radio channels ...

INDUSTRY:

... RECORD REPRODUCING (68%); SIC8999 SERVICES, NEC (68%); SIC7819 SERVICES ALLIED TO MOTION PICTURE PRODUCTION (68%); SIC4832 RADIO BROADCASTING STATIONS (68%); SIC3652 PHONOGRAPH RECORDS & PRERECORDED AUDIO TAPES & DISKS (68%)

LEVEL 1 - 4 OF 30954 STORIES

Copyright 2006 British Broadcasting Corporation
All Rights Reserved
BBC Monitoring World Media
Supplied by BBC Worldwide Monitoring

August 17, 2006 Thursday

LENGTH: 1809 words

HEADLINE: Digital broadcasting systems - definitions and uses

BODY:

Since the 1980s, considerable work has been undertaken by many of the world's broadcasters to develop new digital radio frequency transmission systems which will eventually replace the current analogue radio frequency services. Once both audience and ...

... a transmission and resume it later without missing any part of the programme.

For the broadcaster:

Lower transmission costs as digital transmitters generally require less power than is required for the equivalent analogue service

Most digital systems allow stations to be multiplexed, allowing many stations to be transmitted at once from one transmitter

Multiplexing uses much ...

... stations allowing many more stations to be transmitted in the same bandwidth

Some of these facilities are possible with analogue systems, but digital techniques make these features much easier and cheaper to implement for both the audience and broadcaster. In addition, although a completely digital transmission path from microphone or camera to transmitter is not essential, such an arrangement simplifies the transmission chain, eliminating - theoretically at ...

LEVEL 1 - 5 OF 30954 STORIES

Copyright 2006 Business Wire, Inc.
Business Wire

August 17, 2006 Thursday 1:38 PM GMT

LENGTH: 1401 words

HEADLINE: Clear Channel Radio Adds HD Digital Multicasts to 18 More Markets

DATELINE: SAN ANTONIO Aug. 17, 2006

BODY:

... Channel Radio today announced that a full 269 of its radio stations in 66 markets are set to air HD digital multicasts. These additional stations represent the third wave of a larger launch begun in January. The new channels will also be ...

Clear Channel Radio already has 300 stations offering their primary broadcasts in HD digital quality. HD digital radio broadcasts will air on 95% of Clear Channel Radio stations in the top 100 markets by the end of 2007 underlying the company's commitment to the aggressive roll out of HD digital radio. The company is also a founding member of the HD Digital Radio Alliance -- a joint initiative of leading radio companies to accelerate the roll-out of HD digital radio -- and is devoting on-air promotion time as part of an industry-wide marketing effort.

Below is a list of the ...

... Clear Channel Radio programming each week. The company's content can be heard on AM/FM stations, HD digital radio channels, on the Internet, via iPods, through Motorola's iRadio cell-phone service, and via mobile-navigation devices from Cobra, Garmin, Kenwood and others. The company's operations include radio broadcasting, syndication and independent media representation. Clear Channel Radio is a division of Clear Channel Communications, Inc. (NYSE:CCU), ...

COMPANY: COMPANY'S COMING INC (93%); DIGITAL RADIO SYSTEMS INC (90%);
DIGITAL RADIO TECHNOLOGY INC (90%); DU-CO CERAMICS CO INC (68%); LA-CO
INDUSTRIES MARKAL CO (...

LEVEL 1 - 10 OF 30954 STORIES

Copyright 2006 Financial Times Information
All Rights Reserved

Global News Wire - Asia Africa Intelligence Wire

Copyright 2006 BBC Monitoring/BBC Source: Financial Times Information Limited

BBC Monitoring International Reports

August 16, 2006 Wednesday

LENGTH: 77 words

HEADLINE: THAILAND/UK BBC RELAY STATION IN THAILAND MAKING DIGITAL TRANSMISSIONS

BODY:

... Radio Netherlands website on 14 August

The BBC relay site in Thailand is making some special DRM [Digital Radio Mondiale, a digital radio transmission system] broadcasts this week for the ABU digital radio convention in Kuala Lumpur. These transmissions are on every day until Thursday 17 August at 0100- ...

COMPANY: DIGITAL RADIO SYSTEMS INC (90%); DIGITAL RADIO TECHNOLOGY INC (90%)

PUB-INDUSTRY: NAICS; N513 Broadcasting & Telecommunications; N51 Information; N5131 Radio & Television Broadcasting; N51311 Radio Broadcasting ; N51312 Television Broadcasting

LEVEL 1 - 17 OF 30954 STORIES

Copyright 2006 The Press Association Limited
All Rights Reserved
Press Association Newsfile

August 16, 2006 Wednesday 1:44 PM BST

SECTION: HOME NEWS

LENGTH: 842 words

HEADLINE: DIGITAL DAY DAWNS AS DIXONS UNPLUGS ANALOGUE

BYLINE: Ruth Barnett, PA

BODY:

The announcement that Dixons is to phase out analogue radios means consumers are closer than ever to a digital revolution.

Digital television and radio have long been considered to offer more choice and better quality, and today's announcement suggests shoppers agree.

Digital radio sales first out-stripped analogue in February 2005, Dixons announced at the time. Today, Digital Audio Broadcasting (DAB) radio sales outnumber analogue by 30 to one.

More than 3.3 million digital radios have been sold so far in the UK, the Digital Radio Development Bureau (DRDB) has said. It predicts this will rise to 20 million in 2009 with 40% of households ...

... least compared to radio frequencies which have formed the basis for wireless broadcasting for more than 100 years.

The revolution in digital television is more high-profile than radio and is

LEVEL 1 - 1 OF 752 STORIES

Copyright 2006 AllAfrica, Inc.
Africa News

August 11, 2006 Friday

LENGTH: 2541 words

HEADLINE: PanAfrica;
ITU Support to Nepad

BYLINE: Highway Africa News Agency

BODY:

... analogue with virtually no series plan to move to digital broadcasting, except in Mauritius where some serious consideration has commenced.

Digital radio broadcasting has been introduced on a very limited scale through the satellite based WorldSpace digital system. The WorldSpace system is a good ...

LEVEL 1 - 2 OF 752 STORIES

Copyright 2006 National Public Radio (R)
All Rights Reserved
National Public Radio (NPR)

August 10, 2006 Thursday

LENGTH: 2812 words

HEADLINE: The Future of Jazz Radio

BODY:

... Mr. THOMAS: I think all jazz stations have a secure place on the public radio spectrum. And with the advent of digital radio broadcasting - which gives stations additional channels - I think we will see actually more stations offering a jazz service ...

LEVEL 1 - 3 OF 752 STORIES

Copyright 2006 AFX News Limited
Company News Feed formerly Regulatory News Service

August 4, 2006 Friday 7:00 AM GMT

LENGTH: 404 words

HEADLINE: UBC Media Group PLC - AGM Statement

BODY:

... radio programming for the BBC and the UK's leading supplier of digital radio scrolling text and EPG software. The Group also has significant digital radio broadcasting interests including Classic Gold Digital, the nationally distributed classic hits format. It is also part of the MXR Regional Multiplex ...

LEVEL 1 - 4 OF 752 STORIES

Copyright 2006 Business Wire, Inc.
Business Wire

August 1, 2006 Tuesday 12:30 PM GMT

LENGTH: 717 words

HEADLINE: Fraunhofer IIS is Licensing MPEG-4 Low Delay Audio Codec to Source Elements LLC

DATELINE: ERLANGEN, Germany Aug. 1, 2006

BODY:

... services on contract basis and technology licensing. The research topics

are: Audio and video source coding, multimedia realtime systems, digital radio broadcasting and digital cinema systems, integrated circuits and sensor systems, design automation, wireless, wired and optical networks, localization and navigation, ...

LEVEL 1 - 6 OF 752 STORIES

Copyright 2006 Prism Business Media, Inc.
All Rights Reserved
Primedia Insight
Radio Online Exclusive

July 18, 2006

LENGTH: 1752 words

HEADLINE: Digital Radio Update - July 19, 2006

BYLINE: By Mark Krieger, CBT

BODY:

... around the world.FCC Back Flips on IBOC Rulemaking The FCC unexpectedly struck a number of items relating to digital radio broadcasting from its July 13th agenda just hours before convening last week. Scheduled for consideration were a Second Report and Order, a First Order of Reconsideration and a Further Notice of Proposed Rulemaking regarding in band, on channel digital radio broadcasting. The surprise move came as a disappointment for hundreds of stations currently operating HD Radio hybrid signals under ...

LEVEL 1 - 7 OF 752 STORIES

Copyright 2006 Congressional Quarterly, Inc. All Rights Reserved.
CQ Congressional Testimony

June 27, 2006 Tuesday

SECTION: CAPITOL HILL HEARING TESTIMONY

LENGTH: 3353 words

COMMITTEE: HOUSE ENERGY AND COMMERCE

SUBCOMMITTEE: TELECOMMUNICATIONS AND THE INTERNET

HEADLINE: INTERNET CONTENT PROTECTIONS

TESTIMONY-BY: ANDREW W. LEVIN, EXECUTIVE VICE PRESIDENT AND CHIEF LEGAL OFFICER

AFFILIATION: CLEAR CHANNEL COMMUNICATIONS

BODY:

... Any encryption requirement would also likely risk stalling the digital radio transition by requiring a change in the technical digital radio broadcasting standard of such magnitude that a year's delay and likely more would be inevitable.

Further, the issue of an appropriate digital audio copyright ...

... transmissions. Any encryption requirement would also risk stalling the digital radio transition by requiring a change in the technical digital radio broadcasting standard that could delay the digital radio roll-out by more than one year. Unlike the video flag, encryption of DAB ...

LEVEL 1 - 8 OF 752 STORIES

Copyright 2006 AFX News Limited
Company News Feed formerly Regulatory News Service

June 26, 2006 Monday 8:00 AM GMT

LENGTH: 376 words

HEADLINE: UBC Media Group PLC - Directors dealings

BODY:

... radio programming for the BBC and the UK's leading supplier of digital radio scrolling text and EPG software. The Group also has significant digital radio broadcasting interests including Classic Gold Digital, the nationally distributed classic hits format. It is also part of the MXR Regional Multiplex ...

LEVEL 1 - 10 OF 752 STORIES

Copyright 2006 Business Wire, Inc.
Business Wire

June 8, 2006 Thursday 1:48 PM GMT

LENGTH: 553 words

HEADLINE: Fraunhofer IIS Technology Included in New Palm Treo 700p Smartphone

DATELINE: ERLANGEN, Germany June 8, 2006

BODY:

... services on contract basis and technology licensing. The research topics are: Audio and video source coding, multimedia realtime systems, digital radio broadcasting and digital cinema systems, integrated circuits and sensor systems, design automation, wireless, wired and optical networks, localization and navigation, ...

LEVEL 1 - 11 OF 752 STORIES

Copyright 2006 British Broadcasting Corporation
All Rights Reserved
BBC Monitoring World Media
Supplied by BBC Worldwide Monitoring

May 30, 2006 Tuesday

LENGTH: 461 words

HEADLINE: UK: VT Communications launches new DRM service in London

BODY:

... press release from UK transmission company VT Communications on 30 May
VT Communications continues to push the boundaries of digital radio broadcasting by launching its dual-channel Digital Radio Mondiale (DRM) transmission service from Crystal Palace in southeast London into ...

/Dominick Salemi/
Trademark Attorney
Law Office 106
Phone: 571-272-9330
Fax: 571-273-9106 (formal responses)

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the *date of receipt in the Office*, not the postmarked date.** To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.