

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78620611
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
<u>REMARKS</u>	
<p>In this Office Action, the Examiner raised three issues with respect to the application for AMERICA MOVIL &amp; design. First, the Examiner maintained her refusal to register the mark based on an alleged likelihood of confusion with prior U.S. Reg. No. 2,915,338 for AMERICA MOVIL. Second, the Examiner maintained her refusal to register the mark, alleging that it is primarily geographically descriptive. Third, the Examiner objected to the identification of goods and services for Classes 9, 16, 35 and 41, requiring further clarification. Each issue is discussed in turn.</p> <p><b>1. <u>Alleged Likelihood of Confusion.</u></b></p> <p>In this Office Action, the Examiner maintained her refusal to register the Applicant's mark on the grounds that the mark is likely to be confused with prior U.S. Reg. No. 2,915,338 for AMERICA MOVIL. For the reasons discussed below, the Applicant continues to disagree that there is a likelihood of confusion, and respectfully requests that the citation be withdrawn.</p> <p><b>a. <u>Applicable Law.</u></b></p> <p>In situations where Applicant is related in ownership to the owner of the prior registration, "the Examiner must consider whether, in view of all the circumstances, use of the mark by the application is likely to confuse the public about the <i>source</i> of Applicant's goods." TMEP § 1201.07(a). According to the TMEP, a close relationship between two related entities can "obviate any likelihood of confusion in the public mind because the related companies constitute a single source." <i>Id.</i> The Trademark Trial and Appeal Board ("TTAB") "views the concept of 'source' as encompassing more than 'legal entity.'" <i>Id.</i> (quoting <i>In re Wella A.G.</i>, 5 U.S.P.Q.2d 1359, 1361 (T.T.A.B. 1987)). In addition to a legal relationship between Applicant and Registrant, "there must also be a unity of control over the use of the trademarks." <i>Id.</i> The Applicant bears the burden of establishing that unity of control is present, and Applicant's evidence or explanation should be supported by an affidavit or a declaration under 37 C.F.R. §2.20. TMEP § 1201.07(b)(iii).</p> <p><b>b. <u>Unity of Control Obviates any Likelihood of Confusion.</u></b></p>	

As evidenced by the printout from the PTO website attached as **Exhibit A**, Registration No. 2,915,338 for the mark AMERICAN MOVIL has been assigned from Radiomovil Dipsa, S.A. De C.V. to Administradora de Marcas RD, S. de R.L. de C.V. (hereinafter "Administradora de Marcas"). As evidenced by the unsigned Declaration attached as **Exhibit B**, Administradora de Marcas is a wholly owned subsidiary of Sercotel, S.A. de C.V., which is in turn a wholly owned subsidiary of the Applicant. Exhibit B, ¶ 3. Through its ownership and control of Sercotel, the Applicant also controls the activities and operations of Administradora de Marcas, including the selection, adoption and use of its AMERICA MOVIL trademark. *Id.* ¶ 4. The Applicant submits that the evidence regarding the relationship between the Applicant and Registrant is sufficient to show that the control of the AMERICA MOVIL & design and AMERICA MOVIL resides in a single source, namely the Applicant, for trademark purposes. See TMEP § 1201.07(a); *In re Wella A.G.*, 5 U.S.P.Q.2d 1359, 1361 (T.T.A.B. 1987). Please note that the Applicant will soon submit a fully executed copy of the attached Declaration in a Supplemental Response to this Office Action.

**c. Conclusion – Alleged Likelihood of Confusion.**

In light of the common ownership and unity of control for the AMERICA MOVIL & design and AMERICA MOVIL marks, the Applicant respectfully submits that there is no likelihood of confusion, and requests that the citation be withdrawn.

**2. Allegedly Primarily Geographically Descriptive.**

The Examiner has maintained her refusal to register the mark, alleging that AMERICA MOVIL is primarily geographically descriptive of the Applicant's goods and services. 15 U.S.C. § 1052(e)(2). For the reasons discussed below, the Applicant continues to disagree with the Examiner, and respectfully requests that the refusal be withdrawn. In addition to the arguments set forth below, the Applicant also incorporates by reference all arguments presented in its Response to Office Action No. 1.

**a. Applicable Law.**

To establish a *prima facie* case that a mark, or a portion of a mark, is primarily geographically descriptive, the Examiner must show that: (1) the *primary* significance of the mark is geographic; (2) purchasers would be likely to make a goods/place association (*i.e.*, to think that the goods or services originate in the geographic place identified by the mark); and (3) the mark identifies the geographic origin of the goods or services. 15 U.S.C. §§ 1052(e)(2)-(3); TMEP §§ 1210.01(a) and 1210.02(b). The TMEP specifically discusses the term "AMERICA." In particular, the TMEP counsels that a determination of whether this term or the entire mark is geographic is a "particularly difficult one," such that the Examiner should consider "most importantly, the overall commercial impression engendered by the mark at issue." See TMEP §1210.02(b)(iv). When examining a mark that is composed of geographic matter combined with additional matter, "the Examiner must first determine the primary significance of the *composite*." TMEP § 1210.06 (emphasis added). "If a composite mark does not primarily convey geographic significance overall...then it is inappropriate to treat "AMERICA" or "AMERICAN" as primarily geographically descriptive." TMEP § 1210.02(b)(iv).

**b. Failure to Make a Prima Facie Case.**

In this Office Action, the Examiner maintained her refusal to register the mark, alleging that the composite mark AMERICA MOVIL is primarily geographically descriptive. As a basis for this allegation, the Examiner argues that there is a presumed goods/place association in this case. In light of the fact that "AMERICA" encompasses numerous countries spanning two continents, the Applicant

respectfully submits that a goods/place association cannot be presumed in this situation. *See, e.g., World Carpets, Inc. v. Dick Littrell's New World Carpets*, 438 F.2d 482 (5th Cir. 1971) (holding the term WORLD was not geographically descriptive since the term "is far too broad to suggest any identifiable unit or place of origin"). The plain language of the TMEP contradicts the Examiner's assertion in this case. As noted above, TMEP § 1210.02(b)(iv) specifically describes the determination of the geographic significance of this term as "particularly difficult." In view of this plain language, it is clear that the Examiner's assertion of a *presumption* of a goods/place association for the term "AMERICA" is not well founded.

As the Applicant demonstrated in its Response to Office Action No. 1, the term "AMERICA" encompasses the entire American land mass, including North and South America, as well as the islands of the Caribbean, and Greenland. *See* Response to Office Action No. 1 at Exhibit A. In the context of this very large area, the Applicant submits that consumers who perceive the composite mark AMERICA MOVIL would not automatically make a goods/place association between the Applicant's goods and services and the United States of America, or between the Applicant's goods and services and their geographic origin in Mexico.

In the present case, the Applicant also respectfully points out that the Examiner has not alleged nor proven that the term "MOVIL" has any geographic significance, nor has the Examiner alleged or proven that these term is merely descriptive. *See* TMEP § 1209.01(b); 15 U.S.C. §1052(e)(1). Instead, the Examiner has relied on a dictionary definition to summarily state that this word "describes" the Applicant's goods and services. Accordingly, this shows that the Examiner has not made a *prima facie* case that "MOVIL" is primarily geographically descriptive, and has similarly not made a *prima facie* case that either word is merely descriptive.

Perhaps most importantly, the Examiner has not shown that the *composite* mark AMERICA MOVIL creates an overall commercial impression of geographic origin, as is required by the TMEP. *See* TMEP § 1210.06. In the present action, the Examiner's sole discussion of geographic significance of the mark is limited to the term "AMERICA." There is no discussion of the geographic significance of, and no support for, the proposition that Applicant's composite mark AMERICA MOVIL creates an overall commercial impression of geographic origin. Accordingly, the TMEP dictates that the term "AMERICA" should not be treated as a primarily geographically descriptive term. *See* TMEP §1210.02(b)(iv).

In light of the above, the Applicant respectfully submits that the mark AMERICA MOVIL is not primarily geographically descriptive as applied to the Applicant's goods and services, and requests that the refusal be withdrawn.

### **3. Identification of Goods and Services.**

In this Office Action, the Examiner objected to the identification of goods and services for Classes 9, 16, 35 and 41, requiring further clarification. In response, the Applicant has amended the identification of goods and services to read as indicated herein, largely in conformity with the Examiner's request. The amendment clarifies the identification without expanding or adding to those goods or services identified in the original application. *See* 37 C.F.R. § 2.71(a); TMEP § 804.09. Accordingly, the Applicant respectfully submits that the amended identification of goods and services is acceptable.

### **4. Notice of Appeal.**

In the event the Examiner maintains either of her refusals to register the mark, or her objection to the identification of goods and services, the Applicant has filed simultaneously herewith a Notice of Appeal.

### CONCLUSION

In light of the above, the Applicant believes that it has responded to all issues raised in the Office Action and respectfully requests that the application be passed to publication. However, should any questions arise with respect to the application or the issues addressed herein, please contact the undersigned.

### EVIDENCE SECTION

#### EVIDENCE FILE NAME(S)

<b>ORIGINAL PDF FILE</b>	<a href="http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_001/evi_15115311-184058308_.Exhibit_A.pdf">http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_001/evi_15115311-184058308_.Exhibit_A.pdf</a>
<b>CONVERTED PDF FILE(S) (4 pages)</b>	<a href="\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0002.JPG">\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0002.JPG</a>
	<a href="\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0003.JPG">\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0003.JPG</a>
	<a href="\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0004.JPG">\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0004.JPG</a>
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<b>ORIGINAL PDF FILE</b>	<a href="http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_002/evi_15115311-184058308_.Exhibit_B_-_Unsigned_Declaration.pdf">http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_002/evi_15115311-184058308_.Exhibit_B_-_Unsigned_Declaration.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0006.JPG">\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0006.JPG</a>
	<a href="\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0007.JPG">\\TICRS2\EXPORT13\786\206\78620611\xml1\ROA0007.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A - printout from PTO website; Exhibit B - copy of unsigned Declaration

### GOODS AND/OR SERVICES SECTION (009)(current)

INTERNATIONAL CLASS

009

#### DESCRIPTION

(Based on Intent to Use) Telecommunication products, namely telephones, cellular telephones and telephone answering machines; apparatus for recording, transmission, reproduction of sound images, namely, phonograph record, CD and DVD players, audio and video tape recorders; blank audio and

video tapes and CDs; stereo receivers, amplifiers, and tuners; magnetic data carriers, data processors and computers; computer hardware, namely, memory cards, modems, computer interface boards, blank magnetic computer tapes, fax machines, fiber optic cables, computer and electric cables, optical character recognition apparatus, optical discs, optical scanners, magnetic coded cards; satellites, digital optical disks, computer keyboards, process computers, computers for data and word processing, computer terminals, computer printers, computer monitors, integrated circuits and components, namely computer chips; electronic circuit boards, electronic notice boards, integrated circuit cards	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	880201
<b>FOREIGN REGISTRATION COUNTRY</b>	Mexico
<b>FOREIGN REGISTRATION DATE</b>	04/29/2005
<b>FOREIGN EXPIRATION DATE</b>	04/29/2015
<b>STANDARD CHARACTERS OR EQUIVALENT</b>	NO
<b>GOODS AND/OR SERVICES SECTION (009)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
Telecommunication products, namely telephones, cellular telephones and telephone answering machines; apparatus for recording, transmission, reproduction of sound images, namely, phonograph record, CD and DVD players, audio and video tape recorders; blank audio and video tapes; blank CDs for sound or video recording; stereo receivers, amplifiers, and tuners; magnetic data carriers, data processors and computers; computer hardware, namely, memory cards, modems, computer interface boards, blank magnetic computer tapes, fax machines, fiber optic cables, computer and electric cables, optical character recognition apparatus, blank optical discs, optical scanners, magnetic coded cards for prepaid telecommunications; satellites; prerecorded digital video discs featuring all types of voice recordings and recordable data and images; computer keyboards, process computers, computers for data and word processing, computer terminals, computer printers, computer monitors, integrated circuits and components, namely computer chips; electronic circuit boards, electronic notice boards, integrated circuit cards	
<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (016)(current)</b>	
<b>INTERNATIONAL CLASS</b>	016
<b>DESCRIPTION</b>	
Advertisement boards of paper and cardboard, binders, book bindings, booklets in the field of telecommunications services, book markers, books in the field of telecommunications services, boxes of cardboard and paper, calendars, catalogues in the field of telecommunications products and	

services, coasters made of paper,decalcomanias, envelopes, fountain pens, greeting cards,handbooks in the field of telecommunications products and services, labels, manuals in the field of telecommunications products, newspapers, office supplies, namely envelopes, and folders, packing paper, paper, paper sheets, pen cases, pens,pencils, postcards, posters, printing blocks, printed publications,namely manuals, magazines, catalogues, brochures, flyers, posters,all in the field of telecommunications products and services,stationery, stickers, writing pads, writing paper	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	878426
<b>FOREIGN REGISTRATION COUNTRY</b>	Mexico
<b>FOREIGN REGISTRATION DATE</b>	04/26/2005
<b>FOREIGN EXPIRATION DATE</b>	04/26/2015
<b>STANDARD CHARACTERS OR EQUIVALENT</b>	NO
<b>GOODS AND/OR SERVICES SECTION (016)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	016
<b>DESCRIPTION</b>	
advertising signs of paper or cardboard; binders; book bindings; booklets featuring telecommunications services bookmarks; books featuring telecommunications services; boxes of cardboard or paper; calendars; cardboard articles, namely, boxes, cartons and containers; catalogues featuring telecommunications products and services; coasters of paper; decalcomanias, envelopes; fountain pens; greeting cards; printed handbooks featuring telecommunications products and services; printed paper labels; manuals in the field of telecommunications products; newspapers for general circulation; office supplies, namely, envelopes and folders; packing paper; bond paper; paper sheets for note taking; pen cases; pens; pencils; postcards; posters; printing blocks; printed publications, namely books, magazines, pamphlets and instructional manuals in the field of telecommunications; informational flyers featuring telecommunications products and services; posters, paper and cardboard boards featuring telecommunicationc products and services; stationery, stickers, writing pads and writing paper	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	878426
<b>FOREIGN REGISTRATION COUNTRY</b>	Mexico
<b>FOREIGN REGISTRATION DATE</b>	04/26/2005

<b>FOREIGN EXPIRATION DATE</b>	04/26/2015
<b>GOODS AND/OR SERVICES SECTION (025)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (035)(current)</b>	
<b>INTERNATIONAL CLASS</b>	035
<b>DESCRIPTION</b>	
Advertising, advertising by mail order, dissemination of advertisement matters, business information related to telecommunications services, business inquiries in connection with telecommunications products and services, business management assistance, demonstration of goods, organization of exhibitions related to telecommunications products and services; retail store services featuring goods related to cellular telephony; tracking, locating and monitoring of vehicles	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	883153
<b>FOREIGN REGISTRATION COUNTRY</b>	Mexico
<b>FOREIGN REGISTRATION DATE</b>	05/26/2005
<b>FOREIGN EXPIRATION DATE</b>	05/26/2015
<b>STANDARD CHARACTERS OR EQUIVALENT</b>	NO
<b>GOODS AND/OR SERVICES SECTION (035)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	035
<b>DESCRIPTION</b>	
Advertising, direct mail advertising, dissemination of advertisement matters, business information and inquiries in the field of telecommunications products and services, assistance in the management of business activities, demonstration of goods and services by electronic means, organization of exhibitions for advertising purposes in the field of telecommunications products and services; retail store services featuring goods related to cellular telephony; tracking, locating and monitoring of vehicles for commercial purposes	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>FOREIGN REGISTRATION NUMBER</b>	883153
<b>FOREIGN REGISTRATION COUNTRY</b>	Mexico
<b>FOREIGN REGISTRATION</b>	05/26/2005

DATE	
FOREIGN EXPIRATION DATE	05/26/2015
<b>GOODS AND/OR SERVICES SECTION (038)(current)</b>	
INTERNATIONAL CLASS	038
<b>DESCRIPTION</b>	
(Based on Intent to Use) Telecommunication services, namely, personal communication services; electronic transmission for the transmission of any data, images, sound, voice and alerts remotely sent through a telecommunication network either by air, wire, fiber optics and related transfer method; electronic transmission of messages and coded messages; electronic transmission of message and data; wireless digital transmission of data and documents via computer terminals, correspondence exchange services, namely the electronic transmission of computerized documents, facsimile transmission, electronic mail services, telephone communication services	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
STANDARD CHARACTERS OR EQUIVALENT	NO
<b>GOODS AND/OR SERVICES SECTION (038)(proposed)</b>	
INTERNATIONAL CLASS	038
<b>DESCRIPTION</b>	
(Based on Intent to Use) Telecommunication services, namely, personal communication services; electronic transmission for the transmission of any data, images, sound, voice and alerts remotely sent through a telecommunication network either by air, wire, fiber optics and related transfer method; electronic transmission of messages and coded messages; electronic transmission of message and data; wireless digital transmission of data and documents via computer terminals, correspondence exchange services, namely the electronic transmission of computerized documents, facsimile transmission, electronic mail services, telephone communication services	
FILING BASIS	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (041)(current)</b>	
INTERNATIONAL CLASS	041
<b>DESCRIPTION</b>	
Educational services, namely, conducting seminars, conferences, workshops, in the field of telecommunications services; entertainment, namely, contests, raffles, and competitions; providing information in the field of entertainment, recreation and education	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
STANDARD	

<b>CHARACTERS OR EQUIVALENT</b>	NO
<b>GOODS AND/OR SERVICES SECTION (041)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	041
<b>DESCRIPTION</b>	
Educational services, namely, conducting seminars, conferences, workshops, in the field of telecommunications services; entertainment, namely, contests, raffles, and competitions; providing information in the field of entertainment and recreation; providing information on education.	
<b>FILING BASIS</b>	Section 1(b)
<b>FILING BASIS</b>	Section 44(e)
<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/tschulz/
<b>SIGNATORY'S NAME</b>	Tricia L. Schulz
<b>SIGNATORY'S POSITION</b>	attorney of record
<b>DATE SIGNED</b>	09/04/2007
<b>RESPONSE SIGNATURE</b>	/tschulz/
<b>SIGNATORY'S NAME</b>	Tricia L. Schulz
<b>SIGNATORY'S POSITION</b>	attorney of record
<b>DATE SIGNED</b>	09/04/2007
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Sep 04 18:58:30 EDT 2007
<b>TEAS STAMP</b>	USPTO/ROA-151.153.1.1-200 70904185830196452-7862061 1-380f64780ed639dc06a9a46 c0f9b45ba9b0-N/A-N/A-2007 0904184058308195

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2008)

**Response to Office Action****To the Commissioner for Trademarks:**

Application serial no. 78620611 has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

**REMARKS**

In this Office Action, the Examiner raised three issues with respect to the application for AMERICA MOVIL & design. First, the Examiner maintained her refusal to register the mark based on an alleged likelihood of confusion with prior U.S. Reg. No. 2,915,338 for AMERICA MOVIL. Second, the Examiner maintained her refusal to register the mark, alleging that it is primarily geographically descriptive. Third, the Examiner objected to the identification of goods and services for Classes 9, 16, 35 and 41, requiring further clarification. Each issue is discussed in turn.

**1. Alleged Likelihood of Confusion.**

In this Office Action, the Examiner maintained her refusal to register the Applicant's mark on the grounds that the mark is likely to be confused with prior U.S. Reg. No. 2,915,338 for AMERICA MOVIL. For the reasons discussed below, the Applicant continues to disagree that there is a likelihood of confusion, and respectfully requests that the citation be withdrawn.

**a. *Applicable Law.***

In situations where Applicant is related in ownership to the owner of the prior registration, "the Examiner must consider whether, in view of all the circumstances, use of the mark by the application is likely to confuse the public about the *source* of Applicant's goods." TMEP § 1201.07(a). According to the TMEP, a close relationship between two related entities can "obviate any likelihood of confusion in the public mind because the related companies constitute a single source." *Id.* The Trademark Trial and Appeal Board ("TTAB") "views the concept of 'source' as encompassing more than 'legal entity.'" *Id.* (quoting *In re Wella A.G.*, 5 U.S.P.Q.2d 1359, 1361 (T.T.A.B. 1987)). In addition to a legal relationship between Applicant and Registrant, "there must also be a unity of control over the use of the trademarks." *Id.* The Applicant bears the burden of establishing that unity of control is present, and Applicant's evidence or explanation should be supported by an affidavit or a declaration under 37 C.F.R. §2.20. TMEP § 1201.07(b)(iii).

**b. *Unity of Control Obviates any Likelihood of Confusion.***

As evidenced by the printout from the PTO website attached as **Exhibit A**, Registration No. 2,915,338 for the mark AMERICAN MOVIL has been assigned from Radiomovil Dipsa, S.A. De C.V. to Administradora de Marcas RD, S. de R.L. de C.V. (hereinafter "Administradora de Marcas"). As evidenced by the unsigned Declaration attached as **Exhibit B**, Administradora de Marcas is a wholly owned subsidiary of Sercotel, S.A. de C.V., which is in turn a wholly owned subsidiary of the Applicant. Exhibit B, ¶ 3. Through its ownership and control of Sercotel, the Applicant also controls the activities and operations of Administradora de Marcas, including the selection, adoption and use of its AMERICA MOVIL trademark. *Id.* ¶ 4. The Applicant submits that the evidence regarding the relationship between the Applicant and Registrant is sufficient to show that the control of the AMERICA MOVIL & design and AMERICA MOVIL resides in a single source, namely the Applicant, for trademark purposes. See TMEP § 1201.07(a); *In re Wella A.G.*, 5 U.S.P.Q.2d 1359, 1361 (T.T.A.B. 1987). Please note that the Applicant will soon submit a fully executed copy of the attached Declaration in a Supplemental Response to this Office Action.

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*b. Failure to Make a Prima Facie Case.*

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services and the United States of America, or between the Applicant's goods and services and their geographic origin in Mexico.

In the present case, the Applicant also respectfully points out that the Examiner has not alleged nor proven that the term "MOVIL" has any geographic significance, nor has the Examiner alleged or proven that these term is merely descriptive. *See* TMEP § 1209.01(b); 15 U.S.C. §1052(e)(1). Instead, the Examiner has relied on a dictionary definition to summarily state that this word "describes" the Applicant's goods and services. Accordingly, this shows that the Examiner has not made a *prima facie* case that "MOVIL" is primarily geographically descriptive, and has similarly not made a *prima facie* case that either word is merely descriptive.

Perhaps most importantly, the Examiner has not shown that the *composite* mark AMERICA MOVIL creates an overall commercial impression of geographic origin, as is required by the TMEP. *See* TMEP § 1210.06. In the present action, the Examiner's sole discussion of geographic significance of the mark is limited to the term "AMERICA." There is no discussion of the geographic significance of, and no support for, the proposition that Applicant's composite mark AMERICA MOVIL creates an overall commercial impression of geographic origin. Accordingly, the TMEP dictates that the term "AMERICA" should not be treated as a primarily geographically descriptive term. *See* TMEP §1210.02 (b)(iv).

In light of the above, the Applicant respectfully submits that the mark AMERICA MOVIL is not primarily geographically descriptive as applied to the Applicant's goods and services, and requests that the refusal be withdrawn.

### **3. Identification of Goods and Services.**

In this Office Action, the Examiner objected to the identification of goods and services for Classes 9, 16, 35 and 41, requiring further clarification. In response, the Applicant has amended the identification of goods and services to read as indicated herein, largely in conformity with the Examiner's request. The amendment clarifies the identification without expanding or adding to those goods or services identified in the original application. *See* 37 C.F.R. § 2.71(a); TMEP § 804.09. Accordingly, the Applicant respectfully submits that the amended identification of goods and services is acceptable.

### **4. Notice of Appeal.**

In the event the Examiner maintains either of her refusals to register the mark, or her objection to the identification of goods and services, the Applicant has filed simultaneously herewith a Notice of Appeal.

## **CONCLUSION**

In light of the above, the Applicant believes that it has responded to all issues raised in the Office Action and respectfully requests that the application be passed to publication. However, should any questions arise with respect to the application or the issues addressed herein, please contact the undersigned.

## **EVIDENCE**

Evidence in the nature of Exhibit A - printout from PTO website; Exhibit B - copy of unsigned

Declaration has been attached.

**Original PDF file:**

[http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002\\_001/evi\\_15115311-184058308\\_.\\_Exhibit\\_A.pdf](http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_001/evi_15115311-184058308_._Exhibit_A.pdf)

**Converted PDF file(s) (4 pages)**

Evidence-1

Evidence-2

Evidence-3

Evidence-4

**Original PDF file:**

[http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002\\_002/evi\\_15115311-184058308\\_.\\_Exhibit\\_B\\_-\\_Unsigned\\_Declaration.pdf](http://tgate/PDF/ROA/2007/09/04/20070904185830196452-78620611-002_002/evi_15115311-184058308_._Exhibit_B_-_Unsigned_Declaration.pdf)

**Converted PDF file(s) (2 pages)**

Evidence-1

Evidence-2

**CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 009 for (Based on Intent to Use) Telecommunication products, namely telephones, cellular telephones and telephone answering machines; apparatus for recording, transmission, reproduction of sound images, namely, phonograph record, CD and DVD players, audio and video tape recorders; blank audio and video tapes and CDs; stereo receivers, amplifiers, and tuners; magnetic data carriers, data processors and computers; computer hardware, namely, memory cards, modems, computer interface boards, blank magnetic computer tapes, fax machines, fiber optic cables, computer and electric cables, optical character recognition apparatus, optical discs, optical scanners, magnetic coded cards; satellites, digital optical disks, computer keyboards, process computers, computers for data and word processing, computer terminals, computer printers, computer monitors, integrated circuits and components, namely computer chips; electronic circuit boards, electronic notice boards, integrated circuit cards

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ Mexico registration number 880201 registered 04/29/2005 with a renewal date of \_\_\_\_\_ and an expiration date of 04/29/2015 ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:** Class 009 for Telecommunication products, namely telephones, cellular telephones and telephone answering machines; apparatus for recording, transmission, reproduction of sound images, namely, phonograph record, CD and DVD players, audio and video tape recorders; blank audio and video tapes; blank CDs for sound or video recording; stereo receivers, amplifiers, and tuners; magnetic data carriers, data processors and computers; computer hardware, namely, memory cards, modems, computer interface boards, blank magnetic computer tapes, fax machines, fiber optic cables, computer and electric cables, optical character recognition apparatus, blank optical discs, optical scanners, magnetic coded cards for prepaid telecommunications; satellites; prerecorded digital video discs featuring all types of voice recordings and recordable data and images; computer keyboards, process computers, computers for data and word processing, computer terminals, computer printers, computer monitors, integrated circuits and components, namely computer chips; electronic circuit boards,

electronic notice boards, integrated circuit cards

Deleted Filing Basis: 44(e)

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 016 for Advertisement boards of paper and cardboard, binders, book bindings, booklets in the field of telecommunications services, book markers, books in the field of telecommunications services, boxes of cardboard and paper, calendars, catalogues in the field of telecommunications products and services, coasters made of paper, decalcomanias, envelopes, fountain pens, greeting cards, handbooks in the field of telecommunications products and services, labels, manuals in the field of telecommunications products, newspapers, office supplies, namely envelopes, and folders, packing paper, paper, paper sheets, pen cases, pens, pencils, postcards, posters, printing blocks, printed publications, namely manuals, magazines, catalogues, brochures, flyers, posters, all in the field of telecommunications products and services, stationery, stickers, writing pads, writing paper

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ Mexico registration number 878426 registered 04/26/2005 with a renewal date of \_\_\_\_\_ and an expiration date of 04/26/2015 ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:** Class 016 for advertising signs of paper or cardboard; binders; book bindings; booklets featuring telecommunications services bookmarks; books featuring telecommunications services; boxes of cardboard or paper; calendars; cardboard articles, namely, boxes, cartons and containers; catalogues featuring telecommunications products and services; coasters of paper; decalcomanias, envelopes; fountain pens; greeting cards; printed handbooks featuring telecommunications products and services; printed paper labels; manuals in the field of telecommunications products; newspapers for general circulation; office supplies, namely, envelopes and folders; packing paper; bond paper; paper sheets for note taking; pen cases; pens; pencils; postcards; posters; printing blocks; printed publications, namely books, magazines, pamphlets and instructional manuals in the field of telecommunications; informational flyers featuring telecommunications products and services; posters, paper and cardboard boards featuring telecommunication products and services; stationery, stickers, writing pads and writing paper

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [ Mexico registration number 878426 registered 04/26/2005 with a renewal date of \_\_\_\_\_ and an expiration date of 04/26/2015 ], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 035 for Advertising, advertising by mail order, dissemination of advertisement matters,

business information related to telecommunications services, business inquiries in connection with telecommunications products and services, business management assistance, demonstration of goods, organization of exhibitions related to telecommunications products and services; retail store services featuring goods related to cellular telephony; tracking, locating and monitoring of vehicles

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ Mexico registration number 883153 registered 05/26/2005 with a renewal date of \_\_\_\_\_ and an expiration date of 05/26/2015 ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:** Class 035 for Advertising, direct mail advertising, dissemination of advertisement matters, business information and inquiries in the field of telecommunications products and services, assistance in the management of business activities, demonstration of goods and services by electronic means, organization of exhibitions for advertising purposes in the field of telecommunications products and services; retail store services featuring goods related to cellular telephony; tracking, locating and monitoring of vehicles for commercial purposes

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [ Mexico registration number 883153 registered 05/26/2005 with a renewal date of \_\_\_\_\_ and an expiration date of 05/26/2015 ], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 038 for (Based on Intent to Use) Telecommunication services, namely, personal communication services; electronic transmission for the transmission of any data, images, sound, voice and alerts remotely sent through a telecommunication network either by air, wire, fiber optics and related transfer method; electronic transmission of messages and coded messages; electronic transmission of message and data; wireless digital transmission of data and documents via computer terminals, correspondence exchange services, namely the electronic transmission of computerized documents, facsimile transmission, electronic mail services, telephone communication services

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ \_\_\_\_\_ registration number \_\_\_\_\_ registered \_\_\_\_\_ with a renewal date of \_\_\_\_\_ and an expiration date of \_\_\_\_\_ ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:** Class 038 for (Based on Intent to Use) Telecommunication services, namely, personal

communication services; electronic transmission for the transmission of any data, images, sound, voice and alerts remotely sent through a telecommunication network either by air, wire, fiber optics and related transfer method; electronic transmission of messages and coded messages; electronic transmission of message and data; wireless digital transmission of data and documents via computer terminals, correspondence exchange services, namely the electronic transmission of computerized documents, facsimile transmission, electronic mail services, telephone communication services

Deleted Filing Basis: 44(e)

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 041 for Educational services, namely, conducting seminars, conferences, workshops, in the field of telecommunications services; entertainment, namely, contests, raffles, and competitions; providing information in the field of entertainment, recreation and education

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [ \_\_\_\_\_ registration number \_\_\_\_\_ registered \_\_\_\_\_ with a renewal date of \_\_\_\_\_ and an expiration date of \_\_\_\_\_ ], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

**Proposed:** Class 041 for Educational services, namely, conducting seminars, conferences, workshops, in the field of telecommunications services; entertainment, namely, contests, raffles, and competitions; providing information in the field of entertainment and recreation; providing information on education.

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 44(e), Based on Foreign Registration:** Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and /or services, and will submit a copy of [ \_\_\_\_\_ registration number \_\_\_\_\_ registered \_\_\_\_\_ with a renewal date of \_\_\_\_\_ and an expiration date of \_\_\_\_\_ ], and translation thereof, if appropriate, before the application may proceed to registration. 15 U.S.C. Section 1126(e), as amended.

**SIGNATURE(S)**

**Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the

applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /tschulz/ Date: 09/04/2007

Signatory's Name: Tricia L. Schulz

Signatory's Position: attorney of record

**Response Signature**

Signature: /tschulz/ Date: 09/04/2007

Signatory's Name: Tricia L. Schulz

Signatory's Position: attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 78620611

Internet Transmission Date: Tue Sep 04 18:58:30 EDT 2007

TEAS Stamp: USPTO/ROA-151.153.1.1-200709041858301964

52-78620611-380f64780ed639dc06a9a46c0f9b

45ba9b0-N/A-N/A-20070904184058308195

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

**This page was generated by the TARR system on 2007-08-24 17:20:09 ET**

**Serial Number:** 76240593 Assignment Information

**Registration Number:** 2915338

**Mark (words only):** AMERICA MOVIL

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2004-12-28

**Filing Date:** 2001-04-12

**Transformed into a National Application:** No

**Registration Date:** 2004-12-28

**Register:** Supplemental

**Law Office Assigned:** LAW OFFICE 116

**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:** 830 -Post Registration

**Date In Location:** 2006-08-31

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

---

1. ADMINISTRADORA DE MARCAS RD, S. DE R.L. DE C.V.

**Address:**

ADMINISTRADORA DE MARCAS RD, S. DE R.L. DE C.V.  
LAGO ALBERTO NO. 366 COL. ANAHUAC, DELEGACION, MIGUEL HIDALGO  
C.P. 11320, MEXICO, D.F.

Mexico

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Mexico

---

**GOODS AND/OR SERVICES**

---

**International Class:** 009

**Class Status:** Active

**EXHIBIT A**

TELECOMMUNICATION PRODUCTS, NAMELY TELEPHONES, CELLULAR TELEPHONES AND TELEPHONE ANSWERING MACHINES; APPARATUS FOR RECORDING, TRANSMISSION, REPRODUCTION OF SOUND IMAGES, NAMELY, PHONOGRAPH RECORD, CD AND DVD PLAYERS, AUDIO AND VIDEO TAPE RECORDERS; BLANK AUDIO AND VIDEO TAPES AND CDS; STEREO RECEIVERS, AMPLIFIERS, AND TUNERS; MAGNETIC DATA CARRIERS, DATA PROCESSORS AND COMPUTERS; COMPUTER HARDWARE, NAMELY, MEMORY CARDS, MODEMS, COMPUTER INTERFACE BOARDS, BLANK MAGNETIC COMPUTER TAPES, FAX MACHINES, FIBER OPTIC CABLES, COMPUTER AND ELECTRIC CABLES, OPTICAL CHARACTER RECOGNITION APPARATUS, OPTICAL DISCS, OPTICAL SCANNERS, MAGNETIC CODED CARDS; SATELLITES, DIGITAL OPTICAL DISKS, COMPUTER KEYBOARDS, PROCESS COMPUTERS, COMPUTERS FOR DATA AND WORD PROCESSING, COMPUTER TERMINALS, COMPUTER PRINTERS, COMPUTER MONITORS, INTEGRATED CIRCUITS AND COMPONENTS, NAMELY COMPUTER CHIPS; ELECTRONIC CIRCUIT BOARDS, ELECTRONIC NOTICE BOARDS, INTEGRATED CIRCUIT CARDS

**Basis:** 44(e)

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

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

**International Class:** 038

**Class Status:** Active

TELECOMMUNICATION SERVICES, NAMELY, PERSONAL COMMUNICATION SERVICES; ELECTRONIC TRANSMISSION FOR THE TRANSMISSION OF ANY DATA, IMAGES, SOUND, VOICE AND ALERTS REMOTELY SENT THROUGH A TELECOMMUNICATION NETWORK EITHER BY AIR, WIRE, FIBER OPTICS AND RELATED TRANSFER METHOD; ELECTRONIC TRANSMISSION OF MESSAGES AND CODED MESSAGES; ELECTRONIC TRANSMISSION OF MESSAGE AND DATA; WIRELESS DIGITAL MESSAGING SERVICES, ELECTRONIC STORE-AND-FORWARD MESSAGING, ELECTRONIC TRANSMISSION OF DATA AND DOCUMENTS VIA COMPUTER TERMINALS, CORRESPONDENCE EXCHANGE SERVICES, NAMELY THE ELECTRONIC TRANSMISSION OF COMPUTERIZED DOCUMENTS, FACSIMILE TRANSMISSION, ELECTRONIC MAIL SERVICES, TELEPHONE COMMUNICATION SERVICES

**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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**Foreign Registration Number:** 664842

**Foreign Registration Date:** 2000-06-29

**Country:** Mexico

**Foreign Expiration Date:** 2010-06-29

**Foreign Registration Number:** 664843

**Foreign Registration Date:** 2000-06-29

**Country:** Mexico

**Foreign Expiration Date:** 2010-06-29

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#### MADRID PROTOCOL INFORMATION

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EXHIBIT A

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2007-02-28 - Automatic Update Of Assignment Of Ownership

2006-08-31 - Review Of Correspondence Complete

2006-08-21 - PAPER RECEIVED

2004-12-28 - Registered - Supplemental Register

2004-10-20 - Law Office Publication Review Completed

2004-10-20 - Assigned To LIE

2004-10-06 - APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER

2004-08-17 - Amendment From Applicant Entered

2004-08-05 - Communication received from applicant

2004-08-05 - PAPER RECEIVED

2004-06-18 - Non-final action mailed

2004-03-22 - Sec. 44(E) Claim Added

2004-03-22 - Communication received from applicant

2004-03-22 - PAPER RECEIVED

2004-03-02 - Communication received from applicant

2004-03-04 - Communication received from applicant

2004-03-04 - PAPER RECEIVED

2003-09-02 - Non-final action mailed

2003-06-16 - Communication received from applicant

2003-07-02 - Case File In TICRS

2003-06-16 - PAPER RECEIVED

2002-12-12 - Non-final action mailed

2002-03-27 - Letter of suspension mailed

**EXHIBIT A**

2002-01-03 - Communication received from applicant

2001-07-06 - Non-final action mailed

2001-06-20 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**  
Lawrence E. Abelman

**Correspondent**  
LAWRENCE E. ABELMAN  
ABELMAN FRAYNE & SCHWAB  
150 E 42ND ST  
NEW YORK NY 10017-5612

**Domestic Representative**  
Abelman, Frayne & Schwab

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**EXHIBIT A**

Mark: AMERICA MOVIL & Design  
Serial No.: 78/620,611  
Filing Date: May 2, 2005  
Applicant: America Movil, S.A.B. de C.V.  
Examiner: Chrisie Brightmire King  
Law Office 109

**DECLARATION UNDER 37 C.F.R. Section 2.20**

I, the undersigned, hereby declare as follows:

1. I am an authorized representative of the Applicant company, America Movil, S.A.B. de C.V. (hereinafter "America Movil"). In performing my duties for America Movil, I have knowledge of its activities, trademark usage, trademark rights, and its control over the nature and quality of the goods and services offered under its marks.
2. The mark AMERICA MOVIL (Reg. No. 2,915,338), which was cited as a basis to refuse registration of the above-referenced application, is owned by Administradora de Marcas RD, S. de R.L. de C.V. (hereinafter "Administradora de Marcas").
3. Applicant and the cited Registrant are closely related companies. The Registrant, Administradora de Marcas, is a wholly owned subsidiary of Sercotel, S.A. de C.V. (hereinafter "Sercotel"). Sercotel is a wholly owned subsidiary of the Applicant, America Movil.
4. Through its wholly owned subsidiary, Sercotel, America Movil controls the activities and operations of Administradora de Marcas, including the selection, adoption and use of trademarks.
5. Due to the close relationship between America Movil and Administradora de Marcas, it is my understanding and belief that no likelihood of confusion exists.

I, having been warned that willful false statements and the like are punishable by fine or imprisonment or both and may jeopardize the validity of the application or document or

any registration resulting therefrom, declare that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Executed this \_\_\_\_ day of September 2007.

**AMERICA MOVIL S.A.B. de C.V.**

By:

\_\_\_\_\_  
Alejandro Cantú Jiménez

Authorized Representative for Applicant