

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79039874
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (current)	
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	TVDIGITAL
COLOR(S) CLAIMED (If applicable)	Color is not claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a rectangle divided twice into three sections. The middle section contains the wording "TVDIGITAL" in a stylized font with the design of a globe containing continents superimposed in the center over the center of the letters "T" and "V" in "TV".
MARK SECTION (proposed)	
MARK FILE NAME	\\TICRS\EXPORT4\IMAGEOUT4\790\398\79039874\xml1\RF R0002.JPG
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	TVDIGITAL
COLOR MARK	YES
COLOR(S) CLAIMED (If applicable)	The color(s) black and white is/are claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of Rectangle formed with upper and lower black strips, with the term TVDIGITAL across the middle section.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	469 x 319

ARGUMENT(S)

Initially, it is noted that the Examiner has requested a disclaimer of the unitary term, TVDIGITAL, apart from the mark as shown. Per the Examiner's request, Applicant provides herewith a disclaimer of the exclusive right to use "TVDIGITAL" apart from the mark as shown in the standard format used by the Trademark Office.

The Examiner has also objected to the identification of goods and services in International Classes 16, 35, 38 and 41. More specifically, Applicant has amended the identification of goods and services in International Classes 16, 35, 38 and 41 to be substantially similar to the identification of goods and services in co-pending application S.N. 79/039,873 for the mark, TVDIGITAL, which has been approved for publication. In addition, applicant has attempted to specifically incorporate the suggestions provided by the Examiner. As such, it is believed that all of the changes to identification of goods and services in the present application reflect the suggestions provided by the Examiner. For example, with respect to International Class 16, Applicant specifies that the printed matter and materials, namely, catalogues and leaflets, brochures, books and magazines all feature analogue and digital television programming schedules. With respect to International Class 35, Applicant has removed the phrase "other information" from the identification of services in International Class 35. In addition, Applicant has inserted the term "data" preceding the phrase "reproduction services." The phrase "data reproduction services" is a more accurate representation of the services provided by Applicant under the above-identified mark.

With respect to international class 38, applicant has specified that the "Telecommunication services" are transmitted via cable and satellite. The Examiner has indicated that the wording "providing information concerning telecommunications and communication services of all kinds" in the identification of services needs clarification because it is indefinite. As such, Applicant has amended the identification of services in International Class 38 to include the phrase "providing information concerning telecommunications and communication of services in fields of telecommunications access and communication by electronic computer terminals and television services." Referring to the phrase "electronic transmission of news and information, e-mail and mobile communications services featuring transmission of news, information and pictures via computer, teletext services;" Applicant has amended description to specify that the mobile communications services include voicemail services, and SMS and WAP services and to correct the punctuation in the description in order for the description to reflect the nature of the communication services, as requested by the Examiner.

With respect to International Class 41, the Examiner has requested the format referred to as "electronic media." Per the Examiner's request, Applicant has amended International Class 41 to specify that the electronic publishing services for others involves on-line publication of electronic media. In addition, Applicant has amended Independent Class 41 to specify the service pertain to the production of motion pictures and films recorded on video tape.

Finally, it is noted that the Examiner has requested a substitute drawing because the drawing does not provide a high reproduction when copied. Applicant includes herewith a new drawing in compliance with the Examiner's request. Since Applicant's drawing contains gray tones, Applicant has submitted a statement herewith that color is not a claimed feature of the mark.

In view of the foregoing, Applicant believes that the present application is in proper form for allowance and passage to publication is earnestly solicited. No fees are believed to be payable with this response. However, the Director is authorized to charge any fees or credit any overpayments to Deposit Account No. 50-1170.

GOODS AND/OR SERVICES SECTION (016)(current)	
INTERNATIONAL CLASS	016
DESCRIPTION	
Paper and cardboard cartons, boxes, containers; printed matter and materials, namely, catalogues, and leaflets, brochures, books, and magazines with all featuring television program; printed teaching and educational materials in the field of digital tv	
GOODS AND/OR SERVICES SECTION (016)(proposed)	
INTERNATIONAL CLASS	016
DESCRIPTION	
Paper and cardboard cartons, boxes, and containers; printed matter and materials, namely, catalogues and leaflets, brochures, books and magazines all featuring analogue and digital television programming schedules; printed teaching and educational materials in the field of digital TV.	
GOODS AND/OR SERVICES SECTION (035)(current)	
INTERNATIONAL CLASS	035
DESCRIPTION	

Providing a database for collecting, compiling, processing, updating, selecting, evaluating and providing data and other information for third parties; data processing and reproduction services	
GOODS AND/OR SERVICES SECTION (035)(proposed)	
INTERNATIONAL CLASS	035
DESCRIPTION	
Providing a database for collecting, compiling, processing, updating, selecting, evaluating and providing data reproduction services for third parties; data processing and data reproduction services.	
GOODS AND/OR SERVICES SECTION (038)(current)	
INTERNATIONAL CLASS	038
DESCRIPTION	
Telecommunications services, namely, broadcasting of radio and television programs, gathering and delivering of news and general information, namely, transmission of news; transmission of sound and pictures via cable and satellite; providing information concerning telecommunications and communication services of all kinds, providing access to a digital media platform for the exchange of news and information of all kinds; mobile telephone services, namely, voice-mail services, and SMS and WAP services; sound, picture and data transmission via cable, satellite, computer and computer networks; providing access to a global computer information network via the Internet, other networks and on-line services featuring, news and entertainment programs; providing access to electronic media transmission services and information via the Internet, especially on-demand transmission services; electronic transmission of news and information, e-mail and mobile communication services featuring transmission of news, information and pictures via computer; teletext services; transmitting information of all kinds to Internet addresses, namely, web-messaging; providing information about telecommunications featuring electronic media transmission services and information via the Internet	
GOODS AND/OR SERVICES SECTION (038)(proposed)	
INTERNATIONAL CLASS	038
DESCRIPTION	
Telecommunication services, namely, broadcasting of radio and television programs; gathering and delivering of news and general information, namely, transmission of news via cable and satellite; transmission of sound and pictures via cable and satellite; providing information concerning telecommunications and communication services in the fields of telecommunications access and communication by electronic computer terminals and television services; mobile telephone services, namely, voicemail services, and SMS and WAP services; sound, picture and data transmission via cable, satellite, computer and computer networks; providing multiple-user access to a global computer information network via the internet, other networks, namely, a global computer information network, and on-line internet and broadcasting services featuring, news and entertainment programs; providing access to electronic media transmission services and information via the internet, especially on-demand transmission services; electronic transmission of news and information, e-mail and mobile communications services, namely, voicemail services, and SMS and WAP services featuring transmission of news, information and pictures via computer, teletext services; transmitting information of all kinds of internet addresses, namely, web-messaging; providing information about telecommunications featuring electronic media transmission services and information via the internet.	

GOODS AND/OR SERVICES SECTION (041)(current)	
INTERNATIONAL CLASS	041
DESCRIPTION	
Educational and entertainment services, namely, organizing community sporting and cultural activities, and providing continuing radio and television programs featuring news and entertainment programs and providing information related thereto; publication and editing of printed matter in particular newspapers and magazines; electronic publishing service for others, namely, online publication of electronic media, electronic text, graphics, pictures with all featuring news and entertainment programs and sound information, as well as language data available via computer networks; production of motion picture film, image and sound recordings, namely, production of movies and video films, and recording of audio and video tapes for others; publishing of electronic books, electronic magazines and electronic newspapers, and image and sound recordings	
GOODS AND/OR SERVICES SECTION (041)(proposed)	
INTERNATIONAL CLASS	041
DESCRIPTION	
Educational and entertainment services, namely, organizing community sporting and casual activities, and providing continuing radio and television programs featuring news and entertainment programs and providing information related thereto; publication and editing of printed matter in particular newspapers and magazines; electronic publishing services for others, namely, on-line publication of electronic media, electronic text, graphics, and pictures with all featuring news and entertainment programs and sound information, as well as, language data available via computer networks; production of motion picture film, image and sound recordings, namely, production of motion pictures and films recorded on video tapes, and recording of audio and video tapes for others; online publishing of electronic books, electronic magazines and electronic newspapers, and image and sound recording works of others.	
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use TVDIGITAL apart from the mark as shown.
MISCELLANEOUS STATEMENT	DESCRIPTION OF THE MARK: Please insert a description of the mark as follows: <input type="checkbox"/> Color is not claimed as a feature of the mark. <input type="checkbox"/>
CORRESPONDENCE SECTION	
NAME	Peter C. Stomma
FIRM NAME	Boyle Fredrickson S.C.
INTERNAL ADDRESS	Milwaukee
STREET	840 N. Plankinton Ave
CITY	Wisconsin
STATE	Wisconsin

ZIP/POSTAL CODE	53203
COUNTRY	United States
PHONE	414-225-9755
FAX	414-225-9753
EMAIL	pcs@boylefred.com
SIGNATURE SECTION	
DECLARATION SIGNATURE	/peter c. stomma/
SIGNATORY'S NAME	Peter C. Stomma
SIGNATORY'S POSITION	Attorney of record, Wisconsin bar member
DATE SIGNED	10/27/2008
RESPONSE SIGNATURE	/peter c. stomma/
SIGNATORY'S NAME	Peter C. Stomma
SIGNATORY'S POSITION	Attorney of record, Wisconsin bar member
DATE SIGNED	10/27/2008
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Oct 27 15:29:50 EDT 2008
TEAS STAMP	USPTO/RFR-66.162.233.146- 20081027152950580338-7903 9874-430d0a7d49d3f1a495f3 838aa2ac590603f-N/A-N/A-2 0081027150026803726

PTO Form 1930 (Rev 9/2007)

OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **79039874** has been amended as follows:

MARK

Applicant proposes to amend the mark as follows:**Current:** TVDIGITAL (Stylized and/or with Design)

Color is not claimed as a feature of the mark.

The mark consists of a rectangle divided twice into three sections. The middle section contains the wording "TVDIGITAL" in a stylized font with the design of a globe containing continents superimposed in the center over the center of the letters "T" and "V" in "TV".

Proposed: TVDIGITAL (Stylized and/or with Design, see mark)

The color(s) black and white is/are claimed as a feature of the mark. The mark consists of Rectangle formed with upper and lower black strips, with the term TVDIGITAL across the middle section.

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

Initially, it is noted that the Examiner has requested a disclaimer of the unitary term, TVDIGITAL, apart from the mark as shown. Per the Examiner's request, Applicant provides herewith a disclaimer of the exclusive right to use "TVDIGITAL" apart from the mark as shown in the standard format used by the Trademark Office.

The Examiner has also objected to the identification of goods and services in International Classes 16, 35, 38 and 41. More specifically, Applicant has amended the identification of goods and services in International Classes 16, 35, 38 and 41 to be substantially similar to the identification of goods and services in co-pending application S.N. 79/039,873 for the mark, TVDIGITAL, which has been approved for publication. In addition, applicant has attempted to specifically incorporate the suggestions provided by the Examiner. As such, it is believed that all of the changes to identification of goods and services in the present application reflect the suggestions provided by the Examiner. For example, with respect to International Class 16, Applicant specifies that the printed matter and materials, namely, catalogues and leaflets, brochures, books and magazines all feature analogue and digital television programming schedules. With respect to International Class 35, Applicant has removed the phrase "other information" from the identification of services in International Class 35. In addition, Applicant has inserted the term "data" preceding the phrase "reproduction services." The phrase "data reproduction services" is a more accurate representation of the services provided by Applicant under the above-identified mark.

With respect to international class 38, applicant has specified that the "Telecommunication services" are transmitted via cable and satellite. The Examiner has indicated that the wording "providing information concerning telecommunications and communication services of all kinds" in the identification of services needs clarification because it is indefinite. As such, Applicant has amended

the identification of services in International Class 38 to include the phrase "providing information concerning telecommunications and communication of services in fields of telecommunications access and communication by electronic computer terminals and television services." Referring to the phrase "electronic transmission of news and information, e-mail and mobile communications services featuring transmission of news, information and pictures via computer, teletext services;" Applicant has amended description to specify that the mobile communications services include voicemail services, and SMS and WAP services and to correct the punctuation in the description in order for the description to reflect the nature of the communication services, as requested by the Examiner.

With respect to International Class 41, the Examiner has requested the format referred to as "electronic media." Per the Examiner's request, Applicant has amended International Class 41 to specify that the electronic publishing services for others involves on-line publication of electronic media. In addition, Applicant has amended Independent Class 41 to specify the service pertain to the production of motion pictures and films recorded on video tape.

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In view of the foregoing, Applicant believes that the present application is in proper form for allowance and passage to publication is earnestly solicited. No fees are believed to be payable with this response. However, the Director is authorized to charge any fees or credit any overpayments to Deposit Account No. 50-1170.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 016 for Paper and cardboard cartons, boxes, containers; printed matter and materials, namely, catalogues, and leaflets, brochures, books, and magazines with all featuring television program; printed teaching and educational materials in the field of digital tv

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 016 for Paper and cardboard cartons, boxes, and containers; printed matter and materials, namely, catalogues and leaflets, brochures, books and magazines all featuring analogue and digital television programming schedules; printed teaching and educational materials in the field of digital TV.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

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

Current: Class 035 for Providing a database for collecting, compiling, processing, updating, selecting, evaluating and providing data and other information for third parties; data processing and reproduction services

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 035 for Providing a database for collecting, compiling, processing, updating, selecting, evaluating and providing data reproduction services for third parties; data processing and data reproduction services.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

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

Current: Class 038 for Telecommunications services, namely, broadcasting of radio and television programs, gathering and delivering of news and general information, namely, transmission of news; transmission of sound and pictures via cable and satellite; providing information concerning telecommunications and communication services of all kinds, providing access to a digital media platform for the exchange of news and information of all kinds; mobile telephone services, namely, voice-mail services, and SMS and WAP services; sound, picture and data transmission via cable, satellite, computer and computer networks; providing access to a global computer information network via the Internet, other networks and on-line services featuring, news and entertainment programs; providing access to electronic media transmission services and information via the Internet, especially on-demand transmission services; electronic transmission of news and information, e-mail and mobile communication services featuring transmission of news, information and pictures via computer; teletext services; transmitting information of all kinds to Internet addresses, namely, web-messaging; providing information about telecommunications featuring electronic media transmission services and information via the Internet

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 038 for Telecommunication services, namely, broadcasting of radio and television programs; gathering and delivering of news and general information, namely, transmission of news via cable and satellite; transmission of sound and pictures via cable and satellite; providing information concerning telecommunications and communication services in the fields of telecommunications access and communication by electronic computer terminals and television services; mobile telephone services, namely, voicemail services, and SMS and WAP services; sound, picture and data transmission via cable, satellite, computer and computer networks; providing multiple-user access to a global computer information network via the internet, other networks, namely, a global computer information network, and on-line internet and broadcasting services featuring, news and entertainment programs; providing

access to electronic media transmission services and information via the internet, especially on-demand transmission services; electronic transmission of news and information, e-mail and mobile communications services, namely, voicemail services, and SMS and WAP services featuring transmission of news, information and pictures via computer, teletext services; transmitting information of all kinds of internet addresses, namely, web-messaging; providing information about telecommunications featuring electronic media transmission services and information via the internet.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

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

Current: Class 041 for Educational and entertainment services, namely, organizing community sporting and cultural activities, and providing continuing radio and television programs featuring news and entertainment programs and providing information related thereto; publication and editing of printed matter in particular newspapers and magazines; electronic publishing service for others, namely, online publication of electronic media, electronic text, graphics, pictures with all featuring news and entertainment programs and sound information, as well as language data available via computer networks; production of motion picture film, image and sound recordings, namely, production of movies and video films, and recording of audio and video tapes for others; publishing of electronic books, electronic magazines and electronic newspapers, and image and sound recordings

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed: Class 041 for Educational and entertainment services, namely, organizing community sporting and casual activities, and providing continuing radio and television programs featuring news and entertainment programs and providing information related thereto; publication and editing of printed matter in particular newspapers and magazines; electronic publishing services for others, namely, on-line publication of electronic media, electronic text, graphics, and pictures with all featuring news and entertainment programs and sound information, as well as, language data available via computer networks; production of motion picture film, image and sound recordings, namely, production of motion pictures and films recorded on video tapes, and recording of audio and video tapes for others; online publishing of electronic books, electronic magazines and electronic newspapers, and image and sound recording works of others.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

Proposed: Peter C. Stomma of Boyle Fredrickson S.C., having an address of Milwaukee 840 N. Plankinton Ave Wisconsin, Wisconsin United States 53203, whose e-mail address is pcs@boylefred.com, whose phone number is 414-225-9755 and whose fax number is 414-225-9753.

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use TVDIGITAL apart from the mark as shown.

DESCRIPTION OF THE MARK: Please insert a description of the mark as follows: Color is not claimed as a feature of the mark.

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: /peter c. stomma/ Date: 10/27/2008

Signatory's Name: Peter C. Stomma

Signatory's Position: Attorney of record, Wisconsin bar member

Request for Reconsideration Signature

Signature: /peter c. stomma/ Date: 10/27/2008

Signatory's Name: Peter C. Stomma

Signatory's Position: Attorney of record, Wisconsin bar member

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.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: Peter C. Stomma
Boyle Fredrickson S.C.
Milwaukee
840 N. Plankinton Ave
Wisconsin, Wisconsin 53203

Serial Number: 79039874

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