

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	79144500
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 109
<b>MARK SECTION (no change)</b>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_6619520422-20150518104237102214_.RADIODNS_HYBRID_RADIO_Design_Request_for_R</a>
<b>CONVERTED PDF FILE(S) (6 pages)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\445\79144500\xml10\RFR0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\445\79144500\xml10\RFR0003.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\445\79144500\xml10\RFR0004.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\445\79144500\xml10\RFR0005.JPG</a>
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<b>ORIGINAL PDF FILE</b>	<a href="#">evi_6619520422-20150518104237102214_.EX_A_-_Printouts_from_US_PTO_Data</a>
<b>CONVERTED PDF FILE(S) (16 pages)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\445\79144500\xml10\RFR0008.JPG</a>
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<b>DESCRIPTION OF EVIDENCE FILE</b>	a Request for Reconsideration and supporting Exhibit
<b>GOODS AND/OR SERVICES SECTION (009)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (016)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (038)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (041)(current)</b>	
<b>INTERNATIONAL CLASS</b>	041
<b>DESCRIPTION</b>	
<p>Entertainment, namely, provision of ongoing radio programs in the field of music, musical recordings, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; radio entertainment services provided by radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment by means of radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment services provided by radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; production and preparation in the nature of post-production, production and syndication of television and radio programmes and of films, production and post-production of sound recordings, production of radio broadcasts; publication of books; publishing services, namely, publishing of magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers; radio and radio broadcasting; arranging and conducting of colloquiums, conferences, congresses, seminars</p>	

and conducting training in the nature of workshops in the field of radio and radio broadcasting; arranging a lectures, live educational demonstrations, displays, exhibitions, presentations and seminars for teaching and in the field of radio and radio broadcasting; entertainment services, namely, live music concerts and live the performances; organizing of events, namely, music festivals and music concerts for entertainment purposes instructional, teaching and coaching classes, courses, seminars, presentations, and workshops in the field of broadcasting; entertainment in the nature of factual knowledge and talent competitions in the field of radio personal attendance, mail, email, telephone, text message or via the Internet; online library services, namely: electronic library services for the supply of electronic information, including archive information, in the for texts and audio and video information and data; providing on-line publications, non-downloadable, namely magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers radio and radio broadcasting; entertainment services, namely, providing digital sound, music and video rec downloadable, from the Internet; entertainment services, namely, providing digital sound, music and video downloadable, from MP3 and MP4 Internet websites. entertainment services, namely, providing digital sou downloadable, from the Internet; entertainment services, namely, providing digital sound recordings, not d MP3 Internet websites; entertainment services, namely, providing digital music and sound recordings, not c from the Internet; entertainment services, namely, providing digital music and sound recordings, not downl MP3 Internet websites; entertainment services, namely, providing digital video, image, film, radio and TV programmes, not downloadable, from the Internet; entertainment services, namely, providing digital video, and TV recordings and programmes, not downloadable, from MP4 Internet websites; provision of informat music, musical recordings and musical entertainment; information, advisory and consultancy services in rel aforesaid services

**GOODS AND/OR SERVICES SECTION (041)(proposed)**

<b>INTERNATIONAL CLASS</b>	041
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**TRACKED TEXT DESCRIPTION**

Entertainment, namely, provision of ongoing radio programs in the field of music, musical recordings, mus musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, ap celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adve documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; radio entertainment servic provision of ongoing radio programs in the field of music, musical recordings, musical performances, musi members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celel appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, docun health, beauty, lifestyle, clothing and self-improvement; entertainment by means of radio, namely, provisio programs in the field of music, musical recordings, musical performances, musical groups and members the interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appeara professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashio lifestyle, clothing and self-improvement; entertainment services provided by radio, namely, provision of on programs in the field of music, musical recordings, musical performances, musical groups and members the interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appeara professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashio lifestyle, clothing and self-improvement; production and preparation in the nature of post-production, produ and syndication of television and radio programmes and of films, production and post-production of sound recordings. production of radio broadcasts; publication of books; publishing services, namely, publishing o magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers radio and radio broadcasting; arranging and conducting of colloquiums, conferences, congresses, seminars and conducting training in the nature of workshops in the field of radio and radio broadcasting; arranging a lectures, live educational demonstrations, displays, exhibitions, presentations and seminars for teaching and in the field of radio and radio broadcasting; entertainment services, namely, live music concerts and live the





recordings in the field of music, musical recordings, musical performances, musical groups, motion picture interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP3 Internet websites; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP3 Internet websites; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP4 Internet websites; provision of information relating to music, radio and musical entertainment; information, advisory and consultancy services in relation to the aforesaid services.

**SIGNATURE SECTION**

<b>RESPONSE SIGNATURE</b>	/Brian M. Davis/
<b>SIGNATORY'S NAME</b>	Brian M. Davis
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>SIGNATORY'S PHONE NUMBER</b>	704-245-6515
<b>DATE SIGNED</b>	05/18/2015
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Mon May 18 11:15:29 EDT 2015
<b>TEAS STAMP</b>	USPTO/RFR-66.195.204.22-2 0150518111529482417-79144 500-530b7178a14ab3977a1f3 e9eb94f3f8559c51391fa7617 90af76a57ee01955bf31-N/A- N/A-20150518104237102214

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## **Request for Reconsideration after Final Action To the Commissioner for Trademarks:**

Application serial no. **79144500** has been amended as follows:

### **EVIDENCE**

Evidence in the nature of a Request for Reconsideration and supporting Exhibit has been attached.

**Original PDF file:**

[evi\\_6619520422-20150518104237102214 . RADIODNS HYBRID RADIO Design Request for Reconsideration.pdf](#)

**Converted PDF file(s)** ( 6 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

**Original PDF file:**

[evi\\_6619520422-20150518104237102214 . EX A - Printouts from US PTO Database.PDF](#)

**Converted PDF file(s)** ( 16 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

[Evidence-13](#)

[Evidence-14](#)

[Evidence-15](#)

[Evidence-16](#)

### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

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

**Current:** Class 041 for Entertainment, namely, provision of ongoing radio programs in the field of music,

musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; radio entertainment services, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment by means of radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment services provided by radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; production and preparation in the nature of post-production, production, distribution and syndication of television and radio programmes and of films, production and post-production of sound and video recordings. production of radio broadcasts; publication of books; publishing services, namely, publishing of books, magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers in the field of radio and radio broadcasting; arranging and conducting of colloquiums, conferences, congresses, seminars and symposiums, and conducting training in the nature of workshops in the field of radio and radio broadcasting; arranging and conducting of lectures, live educational demonstrations, displays, exhibitions, presentations and seminars for teaching and training purposes in the field of radio and radio broadcasting; entertainment services, namely, live music concerts and live theatrical performances; organizing of events, namely, music festivals and music concerts for entertainment purposes; conducting instructional, teaching and coaching classes, courses, seminars, presentations, and workshops in the field of radio and radio broadcasting; entertainment in the nature of factual knowledge and talent competitions in the field of radio where entry is by personal attendance, mail, email, telephone, text message or via the Internet; online library services, namely, providing electronic library services for the supply of electronic information, including archive information, in the form of electronic texts and audio and video information and data; providing on-line publications, non-downloadable, namely, books, magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers in the field of radio and radio broadcasting; entertainment services, namely, providing digital sound, music and video recordings, not downloadable, from the Internet; entertainment services, namely, providing digital sound, music and video recordings, not downloadable, from MP3 and MP4 Internet websites. entertainment services, namely, providing digital sound recordings, not downloadable, from the Internet; entertainment services, namely, providing digital sound recordings, not downloadable, from MP3 Internet websites; entertainment services, namely, providing digital music and sound recordings, not downloadable, from the Internet; entertainment services, namely, providing digital music and sound recordings, not downloadable, from MP3 Internet websites; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes, not downloadable, from the Internet; entertainment services, namely, providing digital video, image, film radio and TV recordings and programmes, not downloadable, from MP4 Internet websites; provision of information relating to music, musical recordings and musical entertainment; information, advisory and consultancy services in relation to the aforesaid 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:**

**Tracked Text Description:** Entertainment, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; radio entertainment services, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment by means of radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; entertainment services provided by radio, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; production and preparation in the nature of post-production, production, distribution and syndication of television and radio programmes and of films, production and post-production of sound and video recordings. production of radio broadcasts; publication of books; publishing services, namely, publishing of books, magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers in the field of radio and radio broadcasting; arranging and conducting of colloquiums, conferences, congresses, seminars and symposiums, and conducting training in the nature of workshops in the field of radio and radio broadcasting; arranging and conducting of lectures, live educational demonstrations, displays, exhibitions, presentations and seminars for teaching and training purposes in the field of radio and radio broadcasting; entertainment services, namely, live music concerts and live theatrical performances; organizing of events, namely, music festivals and music concerts for entertainment purposes; conducting instructional, teaching and coaching classes, courses, seminars, presentations, and workshops in the field of radio and radio broadcasting; entertainment in the nature of factual knowledge and talent competitions in the field of radio where entry is by personal attendance, mail, email, telephone, text message or via the Internet; online library services, namely, providing electronic library services for the supply of electronic information, including archive information, in the form of electronic texts and audio and video information and data; providing on-line publications, non-downloadable, namely, books, magazines, brochures, leaflets, printed guides, printed periodicals, catalogues, newsletters and newspapers in the field of radio and radio broadcasting; ~~entertainment services, namely, providing digital sound, music and video recordings, not downloadable, from the Internet;~~ entertainment services, namely, providing digital sound and video recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; ~~entertainment services, namely, providing digital sound, music and video recordings, not downloadable, from MP3 and MP4 Internet websites.~~ ~~entertainment services, namely, providing digital sound recordings, not downloadable, from the Internet;~~ entertainment services, namely, providing digital sound and video recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts,

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Class 041 for Entertainment, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances, musical groups and members thereof, celebrity interviews, spoken word, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, gameshows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement; radio entertainment services, namely, provision of ongoing radio programs in the field of music, musical recordings, musical performances,

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entertainment services, namely, providing digital sound and video recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP3 and MP4 Internet websites; entertainment services, namely, providing digital sound recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; entertainment services, namely, providing digital sound recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not

downloadable, from MP3 Internet websites; entertainment services, namely, providing digital music and sound recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; entertainment services, namely, providing digital music and sound recordings in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP3 Internet websites; entertainment services, namely, providing digital video, image, film, radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from the Internet; entertainment services, namely, providing digital video, image, film radio and TV recordings and programmes in the field of music, musical recordings, musical performances, musical groups, motion picture films, celebrity interviews, artistic performances, concerts, appearances by a celebrity or celebrities, appearances by professional entertainers, game shows, drama, comedy, action, adventure, animation, documentaries, fashion, health, beauty, lifestyle, clothing and self-improvement, not downloadable, from MP4 Internet websites; provision of information relating to music, musical recordings and musical entertainment; information, advisory and consultancy services in relation to the aforesaid 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.

#### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /Brian M. Davis/ Date: 05/18/2015

Signatory's Name: Brian M. Davis

Signatory's Position: Attorney for Applicant

Signatory's Phone Number: 704-245-6515

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.

Serial Number: 79144500

Internet Transmission Date: Mon May 18 11:15:29 EDT 2015  
TEAS Stamp: USPTO/RFR-66.195.204.22-2015051811152948  
2417-79144500-530b7178a14ab3977a1f3e9eb9  
4f3f8559c51391fa761790af76a57ee01955bf31  
-N/A-N/A-20150518104237102214

RADIODNS HYBRID RADIO Logo Response

US Serial No. 79144500

### **REQUEST FOR RECONSIDERATION**

In the Office Action dated November 18, 2014, the request for a disclaimer of the term RADIODNS in the present application for the RADIODNS HYBRID RADIO & Design mark was made final. Specifically, the Office Action states that the term RADIODNS in the mark would be perceived as two words (RADIO DNS) and that RADIO DNS is merely descriptive because it relates to goods and services that feature “hybrid radio broadcasting services featuring DNS technology.” Although Applicant has previously disclaimed the term HYBRID RADIO, Applicant disagrees with the conclusion reached by the Examining Attorney with regard to the term RADIODNS in Applicant’s mark and submits that the term is a unitary word that is not merely descriptive for the reasons stated herein below. As such, Applicant’s mark is entitled to registration on the Principal Register without a disclaimer of RADIODNS.

First, as noted in the multiple examples of use of the term RADIODNS in the Office Action, this term is always used as a single word rather than as “RADIO DNS.” The stylization of the present mark would not change this perception by the public, who would just perceive the magnifying glass portion of the design as focusing in on the DNS suffix in the mark. That magnifying glass design would not be viewed as separating the suffix into its own word in the mark, as that is not the manner in which the term RADIODNS is used anywhere else. Accordingly, Applicant requests that the Examining Attorney reconsider its characterization of the RADIODNS portion of its mark.

With regard to the requested disclaimer, Applicant notes that the words in a mark are considered merely descriptive if they **immediately** convey information concerning a significant ingredient, quality, characteristic, feature, function, purpose, subject matter or use of the applicant's goods or services. *In re Gyulay*, 3 U.S.P.Q.2d 1009 (Fed. Cir, 1987). Conversely, a mark is suggestive if, when the goods or services are encountered under the mark, a multi-stage reasoning process, or the utilization of imagination, thought or perception, is required in order to determine what attributes of the goods or services

the mark indicates. *In re Abcor Development Corp.*, 200 USPQ 215, 218 (CCPA 1978).; *In re WGI Innovations, Ltd*, Serial No. 85245646 (February 14, 2013)[not precedential](reversing descriptiveness refusal for the mark LIVEVIEW for game scouting cameras). To the extent that there are any doubts as to whether a mark is merely descriptive, **said doubts are resolved in favor of the applicant**. *In re Gourmet Bakers, Inc.*, 173 U.S.P.Q. 565 (TTAB 1972).

As noted in the prior Response relating to this application, Applicant's goods and services relate to Applicant's technology that provides a link between existing radio broadcasts and the station's internet site. This technology then allows users to connect to the station via the Internet. The descriptive term for this type of technology is HYBRID RADIO, as evidenced by the previously provided materials and Applicant's disclaimer of the term. Applicant also notes that all of the references to RADIODNS in the present Office Action refer to Applicant's open source technology and are therefore not evidence that the term is descriptive or that others need to use the term to describe their goods or services.

Applicant acknowledges that the individual terms RADIO and DNS are defined terms that can be descriptive in certain circumstances but submits that the unitary term RADIODNS, or in the alternative the pairing of the terms as RADIO DNS, is suggestive rather than merely descriptive.

The determination of whether a composite mark is descriptive or suggestive turns upon the question of whether the combination of terms evokes a new and unique commercial impression. TMEP § 1209.03 *citing In re Oppedahl & Larson LLP*, 71 USPQ2d 1370 (Fed. Cir. 2004). A mark comprising a combination of merely descriptive components is registrable if the combination of terms creates a unitary mark with a unique, non-descriptive meaning, or if the composite has a bizarre or incongruous meaning as applied to the goods. *Id. citing In re Colonial Stores Inc.*, 157 USPQ 382 (C.C.P.A. 1968) (SUGAR & SPICE held not merely descriptive of bakery products); *In re Shutts*, 217 USPQ 363 (TTAB 1983) (SNO-RAKE held not merely descriptive of a snow removal hand tool). Also, when considering the suggestiveness of a mark, the Examiner must consider Applicant's mark as a whole rather than dividing it up into its component parts. *Estate of P.D. Beckwith v. Commissioner for Patents*, 252 U.S. 538 (1920).

The term RADIODNS was coined by Applicant and had no prior meaning. Although the mark is used in association with technology that relates to radio broadcasts and provides a “DNS lookup” that enables the user to include additional services and applications in its broadcast, the mark would initially be perceived by consumers as “radio domain name system.” As no “radio domain name system” exists, it would therefore be impossible for the unitary term RADIODNS to immediately describe Applicant’s goods or services. At a minimum, some imagination or a “multi-step reasoning process” would be necessary to associate the mark with these products and services – thereby making the term suggestive rather than merely descriptive. In this regard, Applicant submits that its mark is similar to the OPENCL mark (with CL being a common abbreviation for “computer language”) that was found not to be merely descriptive in *In re Apple, Inc.*, Serial Nos. 77616247, 77844718, and 77844736 (August 28, 2012) [not precedential].

As evidence that the US PTO has found similar marks to be suggestive rather than merely descriptive when applying this analysis, Applicant again calls the Examiner’s attention to the registrations for marks such as MEDIADNS, DNSCAST and MUSICDNS noted in the prior Responses, all for various Internet related services or goods, that were not refused registration on the basis of descriptiveness. Further, Applicant calls the Examiner’s attention to the existence of the registrations described in **Exhibit A** for marks that contain RADIO as a prefix or suffix in a unitary mark. These registrations demonstrate that the US Patent and Trademark Office has previously considered unitary marks that combine DNS or RADIO with a descriptive term to be distinctive enough to allow registration on the Principal Register even if used in association with goods or services that relate to the Internet or to radio. Applicant submits that RADIODNS mark is equally distinctive when considered as a whole and that therefore the request for a disclaimer of RADIODNS should be withdrawn.

In view of the submission of the foregoing comments in satisfaction of the issues raised by the Examiner in the Office Action, and the fact that any doubts regarding the suggestiveness of the RADIODNS mark **must be resolved in Applicant’s favor**, Applicant respectfully requests that the Examining Attorney withdraw the refusal of registration and pass its application to publication at the earliest possible date. Such favorable action on the part of the Examining Attorney is respectfully solicited.

**EXHIBIT A**

**RADIO Registrations**

1.	
Trademark & Logo	RADIOLINK
Serial/Reg. No.	3,066,243
Registration Date	March 7, 2006
Goods/Services	9 - Electrical and electronic devices in the field of building automation systems, namely, building automation controllers, keypads, remote controls, RS-232 stations, thermostat stations, relay stations, input stations, output stations, dimmer stations, LCD control stations, relay modules, dimming modules, remote infra-red receivers, wireless transceivers, and modems for operating building automation systems, environmental condition systems, water systems, audio/video systems, and building amenities; Computer programs for building automation systems
Owner	LEGRAND HOME SYSTEMS, INC.

2.	
Trademark & Logo	RADIOPLAY
Reg. No.	3,316,831
Registration Date	October 23, 2007
Goods/Services	9 - Electrical, radio, and electromagnetic signal transmitting, amplifying, receiving, and converting devices, namely, cables, wires, connectors, and control devices for use with electrical, electronic and computer devices
Owner	MONSTER, INC.

3.	
Trademark & Logo	RADIOPLAN
Reg. No.	3,635,996
Registration Date	June 9, 2009
Goods/Services	9 - Computer software for the activation and operation of wireless telecommunication services; computer hardware and software for analyzing, optimizing, and monitoring the performance of computer, telecommunications and data networks; computer hardware and software for the processing, storing and communicating of data over computer networks
Owner	ACTIX LIMITED

4.	
Trademark & Logo	RADIOPRO
Reg. No.	3,648,272
Registration Date	June 30, 2009
Goods/Services	9 - Computer software and firmware for managing wireless connections, audio performance and user interface in the field of design and implementation of Internet radio devices; Universal peripheral interface software related to Internet radio user interfaces; Electronic publications recorded on computer media, namely, instructional manuals in electronic format featuring information, guidance and instructions in the field of design, manufacture and implementation of Internet radio devices
Owner	CAMBRIDGE SILICON RADIO LIMITED

5.	
Trademark & Logo	RADIOVISION
Reg. No.	3,780,831
Registration Date	April 27, 2010
Goods/Services	9 - Computer software, namely, computer software for dental and medical imaging
Owner	SMITH, ERIC H.

6.	
Trademark & Logo	SMARTRADIO
Reg. No.	3,395,650
Registration Date	March 11, 2008
Goods/Services	9 - COMPUTER HARDWARE; INTEGRATED CIRCUITS; AND SOFTWARE FOR CONTROLLING AND USING INTEGRATED CIRCUITS
Owner	BROADCOM CORPORATION

7.	
Trademark & Logo	RADIOLINX
Reg. No.	3,193,185
Registration Date	January 2, 2007

Goods/Services	9 - Telecommunication hardware, namely, serial and Ethernet wireless radios, transmitters and receivers, computer software for use in telecommunication network communications, and instructional manuals, sold as a unit
Owner	PROSOFT TECHNOLOGY, INC.

8.	
Trademark & Logo	BABYRADIO (and Design) 
Reg. No.	4,356,266
Goods/Services	28 - Toys, games and playthings, namely, bath toys, toy cars, toy action figures, toy telephones, puppets, collectable toy figures, puzzles, electronic toy vehicles, toy building blocks, toy airplanes; beach toys, namely, beach balls and sand toys; toy computers, namely, battery-powered computer game with LCD screen which features animation and sound effects; dominoes; musical toys for children; educational toys for teaching play and social skills, colors, math and reading; floats for recreational use, namely, arm floats, foam floats, rubber pool rings, swimming pool rings, inflatable swimming pools; surfboards; tennis rackets; tennis balls; toy balloons; rubber balls; playground balls; baby multiple activity toys; baby swings; balls for games; card games; children's activity tables containing manipulative toys; children's educational toys for developing fine motor, oral language, numbers, counting, colors and alphabet; children's multiple activity toys; Christmas tree decorations; dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, and doll houses; educational toys for teaching music principles to children; electronic games for the teaching of children; toy construction sets 35 - On-line retail store services featuring downloadable pre-recorded music, video, multimedia content, and downloadable computer games 38 - Internet radio broadcasting services, radio broadcasting 41 - Education services in the nature of early childhood instruction; production and distribution of audio and video recordings and digital photographic files; providing on line computer games via the internet and wireless communications; providing information relating to sporting, cultural and live theatrical productions; recording studio services; music publishing services; multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; production of radio programs; entertainment services, namely, production and distribution of a game shows and competitions
Owner	BABY RADIO, S.L.



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# RADIOLINK

**Word Mark** RADIOLINK

**Goods and Services** IC 009, US 021 023 026 036 038. G & S: Electrical and electronic devices in the field of building automation systems, namely, building automation controllers, keypads, remote controls, RS-232 stations, thermostat stations, relay stations, input stations, output stations, dimmer stations, LCD control stations, relay modules, dimming modules, remote infra-red receivers, wireless transceivers, and modems for operating building automation systems, environmental condition systems, water systems, audio/video systems, and building amenities; Computer programs for building automation systems. FIRST USE: 20010900. FIRST USE IN COMMERCE: 20010900

**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 76301657  
**Filing Date** August 14, 2001  
**Current Basis** 1A  
**Original Filing Basis** 1B

**Published for Opposition** March 16, 2004

**Registration Number** 3066243

**Registration Date** March 7, 2006

**Owner** (REGISTRANT) VIP Investments, Ltd. Vantage Controls Technology, L.L.C., a Limited Liability Company of Utah LIMITED PARTNERSHIP UTAH 1061 South 800 East Orem UTAH 84097

(LAST LISTED OWNER) LEGRAND HOME SYSTEMS, INC. CORPORATION DELAWARE 301 FULLING MILL ROAD MIDDLETOWN PENNSYLVANIA 17057

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Mark D. Giarratana, Esq.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

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# RADIOPLAY

**Word Mark** **RADIOPLAY**  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Electrical, radio, and electromagnetic signal transmitting, amplifying, receiving, and converting devices, namely, cables, wires, connectors, and control devices for use with electrical, electronic and computer devices. FIRST USE: 20070108. FIRST USE IN COMMERCE: 20070108  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77105362  
**Filing Date** February 12, 2007

Trademark Electronic Search System (TESS)

**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** August 7, 2007  
**Registration Number** 3316831  
**Registration Date** October 23, 2007  
**Owner** (REGISTRANT) Monster Cable Products, Inc CORPORATION CALIFORNIA 455 Valley Drive Brisbane CALIFORNIA 940051209  
(LAST LISTED OWNER) MONSTER, INC. CORPORATION CALIFORNIA 455 VALLEY DRIVE BRISBANE CALIFORNIA 94005  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Matthew A. Powelson  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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# RADIOPLAN

**Word Mark** **RADIOPLAN**

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software for the activation and operation of wireless telecommunication services; computer hardware and software for analyzing, optimizing, and monitoring the performance of computer, telecommunications and data networks; computer hardware and software for the processing, storing and communicating of data over computer networks. FIRST USE: 20001101. FIRST USE IN COMMERCE: 20050601

**Standard Characters Claimed**

**Mark**

**Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77266139

**Filing Date** August 28, 2007

**Current**

**Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** July 22, 2008  
**Registration Number** 3635996  
**Registration Date** June 9, 2009  
**Owner** (REGISTRANT) Actix Limited COMPANY UNITED KINGDOM Hammersmith 200 Hammersmith Road London UNITED KINGDOM W67DL  
**Attorney of Record** Monica B. Richman  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# RADIOPRO

**Word Mark** **RADIOPRO**

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software and firmware for managing wireless connections, audio performance and user interface in the field of design and implementation of Internet radio devices; Universal peripheral interface software related to Internet radio user interfaces; Electronic publications recorded on computer media, namely, instructional manuals in electronic format featuring information, guidance and instructions in the field of design, manufacture and implementation of Internet radio devices. FIRST USE: 20071227. FIRST USE IN COMMERCE: 20071227

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial** 77309573

**Number**  
**Filing Date** October 22, 2007  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** August 19, 2008  
**Registration Number** 3648272  
**Registration Date** June 30, 2009  
**Owner** (REGISTRANT) CAMBRIDGE SILICON RADIO LIMITED CORPORATION UNITED KINGDOM Unit 400, Cambridge Science Park Milton Road Cambridge UNITED KINGDOM CB40WH  
**Attorney of Record** John L. Slafsky  
**Prior Registrations** 2515859  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# RadioVision

**Word Mark** **RADIOVISION**  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Computer software, namely, computer software for dental and medical imaging. FIRST USE: 20090130. FIRST USE IN COMMERCE: 20090130  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77825417  
**Filing Date** September 12, 2009  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** February 9, 2010

**Registration Number** 3780831

**Registration Date** April 27, 2010

**Owner** (REGISTRANT) DDSMac, LLC LIMITED LIABILITY COMPANY NEW MEXICO Suite A 7930 Wyoming NE Albuquerque NEW MEXICO 87109

(LAST LISTED OWNER) SMITH, ERIC H. SOLE PROP. UNITED STATES 6233 PASO LOS CERITOS SAN JOSE CALIFORNIA 95120

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** V. Gerald Grafe

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# Typed Drawing

**Word Mark** **SMARTRADIO**

**Goods and Services** IC 009, US 021 023 026 036 038, G & S: COMPUTER HARDWARE; INTEGRATED CIRCUITS; AND SOFTWARE FOR CONTROLLING AND USING INTEGRATED CIRCUITS. FIRST USE: 20020720, FIRST USE IN COMMERCE: 20020720

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 78145441

**Filing Date** July 18, 2002

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** May 16, 2006

**Registration Number** 3395650

**Registration Date** March 11, 2008

**Owner** (REGISTRANT) Broadcom Corporation CORPORATION CALIFORNIA 5300 California Avenue Irvine CALIFORNIA 92617

**Attorney of Record** Susan Natland  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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# RADIOLINX

**Word Mark**    **RADIOLINX**

**Goods and Services**    IC 009. US 021 023 026 036 038. G & S: Telecommunication hardware, namely, serial and Ethernet wireless radios, transmitters and receivers, computer software for use in telecommunication network communications, and instructional manuals, sold as a unit. FIRST USE: 20021231. FIRST USE IN COMMERCE: 20021231

**Standard Characters Claimed**

**Mark Drawing Code**    (4) STANDARD CHARACTER MARK

**Serial Number**    78816273

**Filing Date**    February 16, 2006

**Current Basis**    1A

**Original Filing Basis** 1A  
**Published for Opposition** October 17, 2006  
**Registration Number** 3193185  
**Registration Date** January 2, 2007  
**Owner** (REGISTRANT) ProSoft Technology, Inc. CORPORATION CALIFORNIA 5201 Truxtun Avenue, 3rd Floor Bakersfield CALIFORNIA 93309  
**Attorney of Record** Todd Braverman, Esq.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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**Word Mark** **BABYRADIO**

**Goods and Services**

IC 028. US 022 023 038 050. G & S: Toys, games and playthings, namely, bath toys, toy cars, toy action figures, toy telephones, puppets, collectable toy figures, puzzles, electronic toy vehicles, toy building blocks, toy airplanes; beach toys, namely, beach balls and sand toys; toy computers, namely, battery-powered computer game with LCD screen which features animation and sound effects; dominoes; musical toys for children; educational toys for teaching play and social skills, colors, math and reading; floats for recreational use, namely, arm floats, foam floats, rubber pool rings, swimming pool rings, inflatable swimming pools; surfboards; tennis rackets; tennis balls; toy balloons; rubber balls; playground balls; baby multiple activity toys; baby swings; balls for games; card games; children's activity tables containing manipulative toys; children's educational toys for developing fine motor, oral language, numbers, counting, colors and alphabet; children's multiple activity toys; Christmas tree decorations; dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, and doll houses; educational toys for teaching music principles to children; electronic games for the teaching of children; toy construction sets

IC 035. US 100 101 102. G & S: On-line retail store services featuring downloadable pre-recorded music, video, multimedia content, and downloadable computer games

IC 038. US 100 101 104. G & S: Internet radio broadcasting services, radio broadcasting

IC 041. US 100 101 107. G & S: Education services in the nature of early childhood instruction; production and distribution of audio and video

recordings and digital photographic files; providing on line computer games via the internet and wireless communications; providing information relating to sporting, cultural and live theatrical productions; recording studio services; music publishing services; multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; production of radio programs; entertainment services, namely, production and distribution of a game shows and competitions

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 02.05.01 - Busts of children; Children, heads, portraiture, busts; Heads of children  
 02.05.05 - Boys; Children, boy(s)  
 02.05.06 - Baby; Children, baby or babies  
 02.05.24 - Stylized children, including children depicted in caricature form

**Serial Number** 85488515

**Filing Date** December 6, 2011

**Current Basis** 44E

**Original Filing Basis** 1B;44D

**Published for Opposition** April 9, 2013

**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number** 4356266

**Registration Date** June 25, 2013

**Owner** (REGISTRANT) BABY RADIO, S.L. LIMITED LIABILITY COMPANY SPAIN Bloque 2, 1° A Calle Carmen Valenzuela, 1, 11500-CADIZ SPAIN

**Attorney of Record** Aimee L. Kaplan

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of a stylized drawing of a baby's head appearing above the words "**babyradio**" in lower case cursive lettering.

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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