

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cingular Wireless II, LLC
Serial No.: 78/443,400
Mark: Design
Class: 38
Office Action Date: September 1, 2005
Examiner: John Hwang (Law Office 114)

**RESPONSE TO
OFFICE ACTION**

On September 1, 2005 the Examining Attorney issued an Office Action, following a Letter of Protest, that refused registration on the grounds that the proposed mark merely describes Applicant's services. 15 U.S.C. §1052(e)(1). Applicant respectfully disagrees with this conclusion for the reasons set forth below.

I. Applicant's Mark Is Not Merely Descriptive of Telecommunications Services.

A mark or term is merely descriptive under Section 2(e)(1) of the Lanham Act if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods, *In re Gyulay*, 820 F.2d 1216 (Fed. Cir. 1987), or if it "immediately convey[s] to one seeing or hearing it the thought of [the applicant's goods]." *In re Abcor Development Corp.*, 200 U.S.P.Q. 215, 218 (T.T.A.B. 1978). However, the attribute or attributes must be described with "some particularity." *In re Entenmann's Inc.*, 15 U.S.P.Q.2d 1750 (T.T.A.B. 1990). In addition, the Examining Attorney bears the burden of demonstrating the descriptiveness of a mark for which registration is sought. *In re Gyulay*, 820 F.2d at 1216.

Here, Applicant's mark does not meet the merely descriptive standard, and the Examining Attorney has not met his burden of proving descriptiveness.

A. The Evidence Relied on by the Examining Attorney Does Not Show that the Mark is Descriptive for Applicant's Services.

The Examining Attorney has relied on evidence submitted in the Letter of Protest, but this proffered evidence does not show use of Applicant's Mark with the Applicant's identified services. The refusal is flawed because it relies exclusively on evidence of use of a design with products, whereas Applicant seeks to register its design for services.

Mobile telephones are a product distinct from telecommunications services; this is true both as a matter of U.S.P.T.O. practice and marketplace reality. A mobile telephone is a good in International Class 9, while telecommunications services are a service in International Class 38. Similarly, in the marketplace, entities that manufacture mobile phones do not typically provide telecommunications services. In addition, a mobile telephone manufacturer's brand is not tied to a particular telecommunications service. Mobile telephones from a large number of different manufacturers can be used in connection with Applicant's services, and the same is true for Applicant's competitors providing telecommunications services.

As the Board has noted, "the fact that a term may be descriptive of certain types of goods does not establish that it is likewise descriptive of other types of goods, even if the goods are closely related." *In re The Stroh Brewery Co.*, 34 U.S.P.Q.2d 1796 (T.T.A.B. 1994) (finding that evidence that the word "virgin" was descriptive of non-alcoholic mixed drinks did not show that it was descriptive of non-alcoholic malt beverages); *see also Abercrombie & Fitch Co. v. Hunting World, Inc.*, 189 U.S.P.Q. 759, 765 (2d Cir. 1976) (holding that evidence of descriptiveness as to hats did not prove descriptiveness as to boots). This truism is even more compelling when applied to "apples and oranges," namely products versus services, as is the case here.

Even more analogous are the cases in which registration has been granted for marks that were descriptive of services, but not merely descriptive of goods, or vice versa. For example, ACOUSTIC RESEARCH was registered for loudspeakers, but arguably would have been merely descriptive of services related to the design of such loudspeakers. *Bose Corp. v. International Jensen, Inc.*, 963 F.2d 1517 (Fed. Cir. 1992). Similarly, METALOCK was registered for a *method* for metal repair, whereas it is unlikely to have been registrable for a metal lock product. *Engineered Mechanical Services, Inc. v. Applied Mechanical Technology*, 584 F. Supp. 1149 (M.D. La. 1984).

When this test for descriptiveness is applied to the facts and evidence here, it is clear that the Examining Attorney has not met his burden of proof. Virtually all of the evidence in the Office Action refers to *cellular phones* and not to *telecommunications services*; the only piece of evidence referring to telecommunications services refers to *Applicant's* services. For example, every piece of documentary evidence submitted in Exhibit B of the Letter of Protest, and relied on by the Examining Attorney, relates to various cellular telephones as identified below:

- 1) Samsung SPH-N300 Digital Wireless Phone,
- 2) Samsung SCH-N150 Series Portable Telephone,
- 3) Tri-Band GPRS Series SGH-p735 Portable Digital Telephone User Manual,
- 4) Samsung PM-A740 Picture Phone,
- 5) LG VX8000 portable telephone,
- 6) Siemens S66 portable telephone,
- 7) Sanyo PM-8200 portable telephone,
- 8) Toshiba VM4050 portable telephone,
- 9) LG PM-325 portable telephone,
- 10) Motorola Digital StarTAC portable telephone,
- 11) Motorola V600 portable telephone,
- 12) Motorola V3 portable telephone,
- 13) Sony Ericsson S710 portable telephone,
- 14) Nokia V6016i portable telephone,
- 15) Nokia 3220 portable telephone,
- 16) BlackBerry 7230 Wireless Handheld,

- 17) Crofone DECT ADP-1100 digital caller ID cordless phone, and
- 18) LG 535 portable telephone.

None of this evidence has any relevance to the issue of whether the Mark is merely descriptive of Applicant's services.

The Letter of Protest and the Office Action also references five newspaper articles. These were selected from an overall results field of 97 results; presumably, these articles were submitted because they were the articles deemed most relevant. Nevertheless, four of these articles refer to a bar design only in relation to cellular telephones:

- 1) Tamara Browing, "Cellular phones, pagers on many lists," *State Journal-Register* at 2A (Nov. 21, 1996) (stating that a "signal strength indicator" was a feature of the NEC 810 cellular telephone);
- 2) Eric Grevsted, "The 'Year of Wireless' will need a battery of batteries," *Orange County Register* at C09 (Jan. 10, 2000) (stating that the Research in Motion RIM 850 pager has signal-strength indicator bars);
- 3) "Digital Hotspotter handy for helping wireless Web surfers catch open waves," *Baltimore Sun* at 8D (Dec. 9, 2004) (stating that a Wi-Fi detection device has a "signal-strength indicator that shows a series of bars, much like the way cell phones display signal strength"); and
- 4) Alberto Enriquez, "Celling OutSH," *Anchorage Daily News* (Aug. 1, 2002) (stating that the Nokia 3360 and Nokia 3320 cellular phones "display signal strength as zero to four vertical bars over an antenna icon").

The absence of a significant number of articles using the mark descriptively in relation to Applicant's services is strong evidence that the mark is not merely descriptive. The Board has observed that "the NEXIS data base is extremely extensive, [and] we believe that if the term [] was descriptive . . . it would have been [so] used . . . at least occasionally." *In re Stroh Brewing*, 34 U.S.P.Q.2d at 1797. Here, the only piece of evidence in the record that focuses on telecommunications services was a newspaper article that refers to *Applicant's* services (provided by its predecessor company AT&T Wireless Services, Inc.). That article only references Applicant's registered trademark HOW MANY BARS DO YOU HAVE?, and not

the subject Mark here. Dan Meyer, "No Lame Duck, AWS Adds Twists to Rate Planes," RCR Wireless News (Apr. 19, 2004); *see also* Reg. No. 2,940,198.

In short, none of the evidence in the record shows any descriptive use of a design arguably similar to Applicant's Mark in connection with telecommunications services. As a result, the refusal under Section 2(e)(1) of the Trademark Act is improper.

B. Applicant's Mark Is at Least Suggestive and Thus Entitled to Registration on the Principal Register as Inherently Distinctive.

A mark is descriptive only where it immediately conveys an "ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods." *In re Gyulay*, 820 F.2d 1216 (Fed. Cir. 1987). At the same time, suggestive marks also bear some relation to the goods at hand, otherwise the process of "suggesting" would not take place. The most common standard for differentiating a suggestive mark from a descriptive mark focuses on the degree of imagination required to connect the goods or services to the mark at hand.

Generally speaking, if the mark imparts information directly, it is descriptive. If it stands for an idea which requires some operation of the imagination to connect it with the goods, it is suggestive. *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 U.S.P.Q. 215 (C.C.P.A. 1978) (citing *Union Carbide Corp. v. Ever-Ready Inc.*, 531 F.2d 366, 379, 188 USPQ 623 (7th Cir. 1976).

This "operation of the imagination" is frequently restated as whether a mental step or multi-stage reasoning is required of the viewer of the Mark. *Bellsouth Corp. v. Platum Technology Corp.*, 14 U.S.P.Q.2d 1555 (T.T.A.B. 1988). Applying this standard, the Board held that the mark PHONE FORWARD for a telephone call forwarding service "requires a modicum of imagination or thought before one is able to determine the nature of applicant's product," noting that "substituting the word 'call' for the word 'phone' used as a verb . . . is necessary in order to ascertain the nature or function of applicant's goods." *Id.* This case also

is analogous because the mark references a product—a phone—in the context of services, and this incongruity rendered the mark suggestive; the same logic applies here.

Similarly, the Mark does not "immediately describe" a feature of Applicant's services. Applicant's service is not "signal bars," nor are signal bars a feature of Applicant's service. Signal bars appear on mobile phones, but Applicant's mark is only suggestive of such signal bars, which vary among different phone manufacturers.

To say that Applicant's mark is descriptive of Applicant services is akin to saying that a hammer is descriptive of carpentry services. Just as the hammer is one of many tools used in providing carpentry services, so are signal bars one of many aspects of the mobile phone "tool" used to provide telecommunication services. A hammer is used to provide carpentry services, and signal bars are used to provide telecommunication services, but neither is merely descriptive of such services.

As the many user manuals submitted with the Letter of Protest showed, a signal bar design appears on cellular telephones to inform about the user's proximity in relation to the nearest antenna tower. In contrast, Applicant's Mark is used outside of the framework of a mobile phone or a screen-shot of a mobile phone. Applicant's mark appears separate from a mobile phone in print, Internet, and television advertisements. *See, e.g.,* Exhibit A (see also attached Declaration of Bonnie S. Fruik). In addition, Applicant's Mark does not identify, or purport to identify, the actual signal strength of a cellular phone or other device at a particular moment. Rather, it cleverly suggests the quality of Applicant's telecommunications services through a multi-step mental process. Applicant's Mark requires imagination to move from the design alone to its use in the context of a mobile phone, and then a second step of imagination to suggest the design is associated with Applicant's service. Therefore, as applied to telecommunications services, Applicant's Mark is suggestive and not descriptive of its services.

Finally, the suggestive nature of a mark may be enhanced through its use in advertising. *Nautilus Group, Inc. v. Icon Health and Fitness, Inc.*, 71 U.S.P.Q.2d 1173 (Fed. Cir. 2004) (holding that BOWFLEX for exercise machines to be suggestive). Here, the suggestive nature of Applicant's Mark is further emphasized by its proximity in advertising to several other trademarks owned by Applicant. For example, the Mark is often used in connection with the following slogans:

- HOW MANY BARS DO YOU HAVE? Reg. No. 2,940,198
- RAISING THE BAR Ser. No. 78/445,176
- MORE BARS IN MORE PLACES Ser. No. 78/490,750

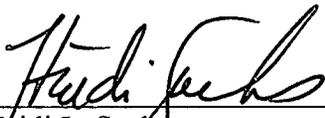
Applicant attaches samples showing use of its Mark along with these other trademarks. *See* Exhibit A. Each of these trademarks is suggestive, and each has been registered or approved for publication without proof of acquired distinctiveness. Exhibit B. Applicant's extensive "tying" of these its other suggestive marks to the Mark here increase the distinctiveness of the Mark to the consuming public.

II. Conclusion

As noted above, the Examining Attorney has not provided evidence to support the claimed descriptiveness of the Mark in relation to Applicant's services. On the other hand, Applicant has supported its claim that the Mark is not merely distinctive. At a minimum, there is significant doubt concerning the Mark's descriptiveness, and that doubt must be resolved in favor of registration on the Principal Register. *In re Gyulay, supra*. The Applicant respectfully requests that the descriptiveness finding be withdrawn, and that the mark be passed to publication as an inherently distinctive mark. Should any questions remain with respect to the above, please contact the undersigned.

DATED: March 1, 2006.

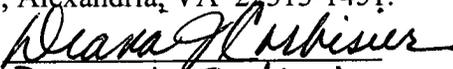
PERKINS COIE LLP

By 
Heidi L. Sachs
James Vana
Matt Schneller

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(206) 359-8506

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on March 1, 2005, in an envelope addressed to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Signature: 
Printed Name: Diana J. Corbisier

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**DECLARATION OF
BONNIE S. FRUIK**

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The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that:

1. I am a senior trademark paralegal at Cingular Wireless II, LLC ("Applicant").
2. I am familiar with Applicant's trademark portfolio and marketing activities.
3. The documents attached as Exhibit A of the Office Action Response for Ser. No. 78/443,400 are true and correct copies of Applicant's print and internet advertising materials.
4. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

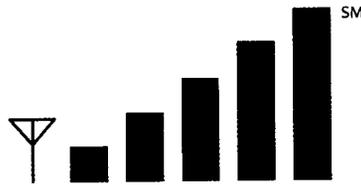
EXECUTED at Redmond, Washington, on March 1, 2006.

CINGULAR WIRELESS II, LLC

By Bonnie Fruik
Bonnie S. Fruik, Senior Trademark Paralegal

EXHIBIT A

Introducing the
ALLOVER[®]
Network



The largest digital voice and
data network in America.



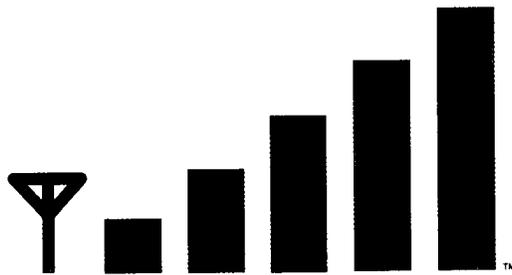
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raising the bar 

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More Bars in More Places™

ALLOVER™

network



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The ALLOVER network covers over 270 million people and is growing all the time.

 **cingular**
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ALLOVER™

network



The largest digital
voice and data network
in America

More bars in
more places.™

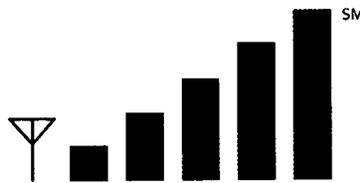


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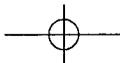
The largest digital voice and
data network in America.

More bars in
more places.

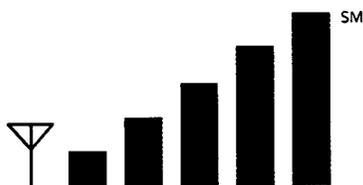


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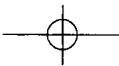
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data network in America.



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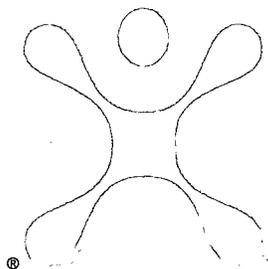


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UNLIMITED Nationwide Night and Weekend Minutes

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\$19⁹⁹ per month for 2 lines (\$9⁹⁹ per line)

Total Package

\$109⁹⁷ \$129⁹⁷ \$169⁹⁷

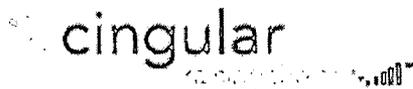
Add up to 3 additional lines for only 9⁹⁹ each

*Promotional feature requires a new one- or two year service agreement.

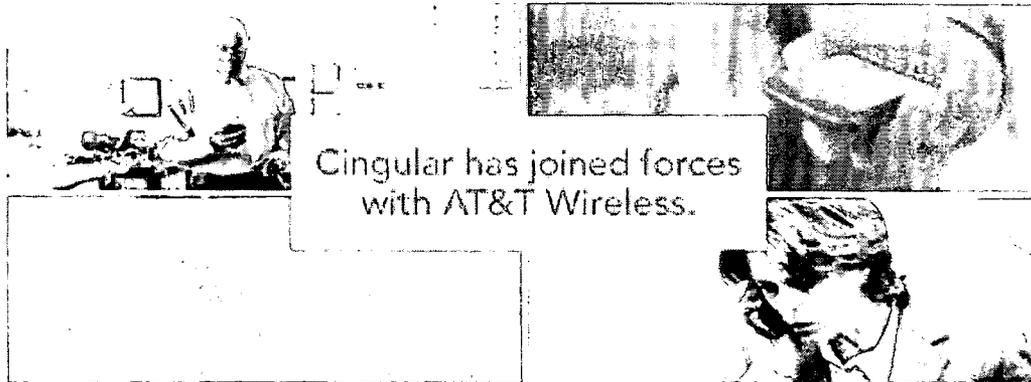
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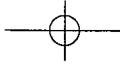
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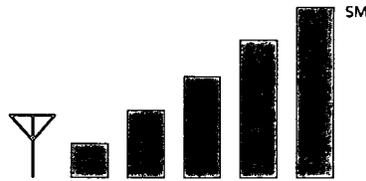
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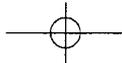


The largest digital voice and
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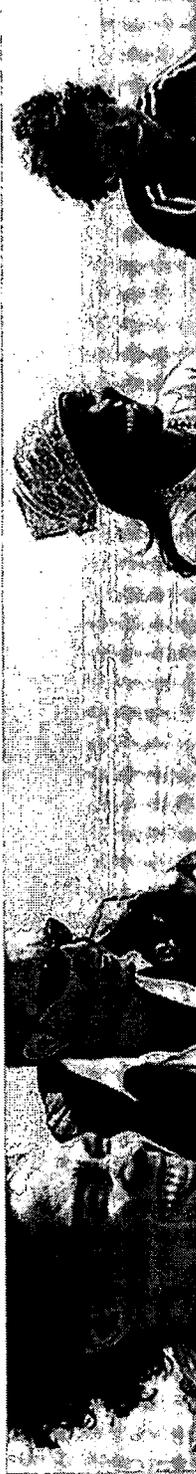


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Questions & Answers

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Cingular's Nation[®] Plan is the only simple-to-understand, nationwide plan that allows customers to roam the country, while paying the same low rate.

GSM is the global standard for wireless technology, so you can stay in touch around the world. GSM technology uses a SmartChip[™], which allows you to move your phone book from phone to phone without reprogramming.

Implementation is already underway to provide you with the benefits of Cingular's GSM service. Please check back on March 15, 2005 for an update. Our goal is to have this feature available to you by end of March, 2005.

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The Largest Mobile to Mobile Calling Community In America



Cingular's Mobile to Mobile calling community is the largest in America. The reach of our Mobile to Mobile calling plan includes an unprecedented 46 million people.

Implementation is already underway to provide you with the benefits of our Mobile to Mobile calling plan. Please check back on March 15, 2005 for an update on when this service will be available. Our goal is to have it available to you by end of March, 2005.

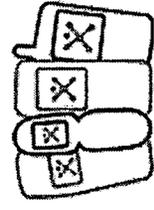
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Cingular is the only company to offer Rollover - allowing you to carry over your unused, accumulated Anytime Minutes from month to month. You can carry over unused Anytime Minutes for up to 12 billing periods.

Plans are already underway to make Rollover Minutes available to you. Please check back on March 15, 2005 for an update. Our goal is to have this feature available to you by end of March, 2005. To take advantage of Rollover, you will need to change to a Cingular Nation® Plan \$39.99 or higher. You will also need to get a new Cingular GSM phone.

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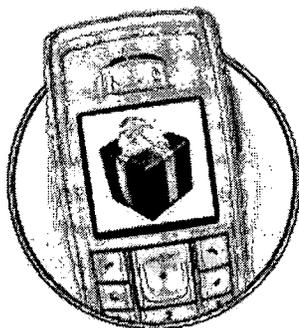
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- Automatically forward calls to your home or office phone
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A great gift idea for the holidays. **Learn more or order FastForward.**

*Compatible phone and FastFoward feature required.



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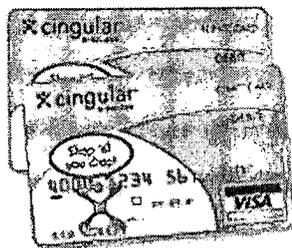
From the football field to your phone, cast your vote for the **Cingular and ABC Sports All-America Player of the Year**. Just tune into the games, then **text message*** your pick from a list of candidates - voting starts December 5th.

Text the word **Player** to **64444** and register to vote today!*

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*Normal text messaging charges apply.

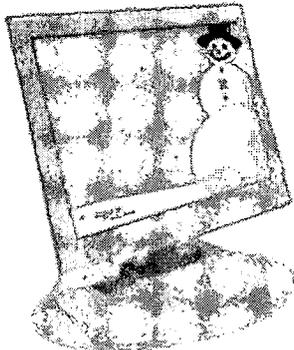
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Refer family and friends to Cingular through our **web-based referral program** – you and your referred customer can earn up to \$125 in Visa Debit Cards!

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Give Your Computer a Holiday Makeover

Cingular has fun, new features to decorate your computer for the holidays. Go to **cingularfun.com** to check out all the latest wallpapers, screensavers and games.

Enter your zip code below to find the Cingular store nearest you.

ZIP CODE:

Or for more information go to Cingular.com

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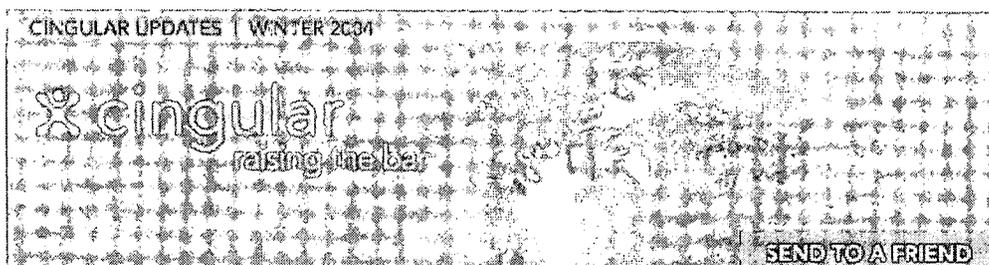
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Cingular Wireless 5565 Glenridge Connector,
Attention: Suite 625A Atlanta, GA 30342, United States of America.



The holiday season is fast approaching and Cingular has lots of great offers and giveaways in store. Check out all the exciting things Cingular has wrapped up just for you.

Jump to an article below.

- > [Welcome to the New Cingular](#)
- > [The Incredibles On Your Phone](#)
- > [FastForward - Save Your Minutes](#)
- > [Win Big with "Snap It & Unwrap It"](#)
- > [All-America Player of the Year](#)
- > [Earn Cingular Visa Debit Cards!](#)
- > [Exclusive Downloads](#)

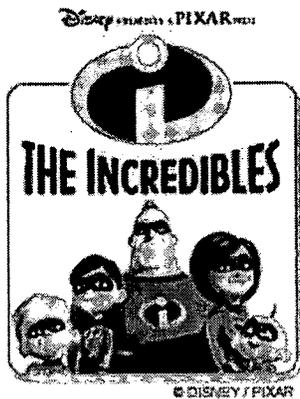


Welcome to the New Cingular

Cingular and **AT&T Wireless** have joined forces to bring you the largest digital voice and data network in America, the **ALLOVERSM Network***, giving you more signal bars in more places. And you don't need to do anything – you are already part of the family.

See how the new Cingular will benefit you. Visit www.newcingular.com.

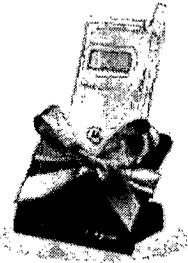
*The ALLOVERSM Network covers 268 million people and is growing all the time. Coverage not available in all areas.



The Incredibles On Your Phone

Superheroes in the palm of your hand? Cingular and Disney Mobile have teamed up to bring you exciting new **The Incredibles ringtones, voice tones, graphics and games**. Simply download and bring America's favorite superhero family to your phone today!





Never miss a call with

FastForward™

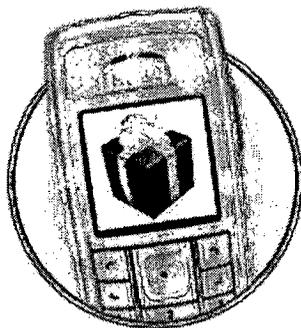
FastForward™ – Save Your Minutes

Does the holiday season keep you on the go? Never miss a call with **Cingular's FastForward*** - it saves time, money and your minutes. Hurry and get FastForward today – now only \$24.99. This limited time offer has been **extended through December 31st, 2004** and now supports new handsets.

- Only one number is needed for all your calls
- Automatically forward calls to your home or office phone
- Incoming calls won't count against your monthly minutes
- Charge your wireless battery while forwarding

A great gift idea for the holidays. **Learn more or order FastForward.**

*Compatible phone and FastForward feature required.



You Could Win \$10,000 for the Holidays with "Snap It & Unwrap It"

A picture is worth a thousand words ... how about ten thousand bucks? With **Cingular's "Snap It and Unwrap It" Sweepstakes**, show us what is on your wish list this holiday season and you could win up to \$10,000.

To enter, simply send a picture or video message to **7627 (SNAP)** using the multimedia messaging feature on your camera phone. The sweepstakes ends December 15th, so hurry and enter today!

Learn more about **Multimedia Messaging** and check out our selection of **Multimedia Phones**.

[Official Rules](#)



All-America Player of the Year — Cast Your Vote!

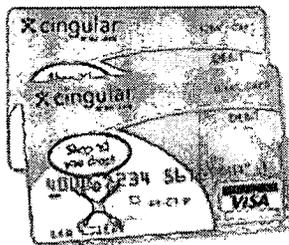
From the football field to your phone, cast your vote for the **Cingular and ABC Sports All-America Player of the Year**. Just tune into the games, then **text message*** your pick from a list of candidates - voting starts December 5th.

Text the word **Player** to **64444** and register to vote today!*

[FIND OUT MORE](#)

*Normal text messaging charges apply.

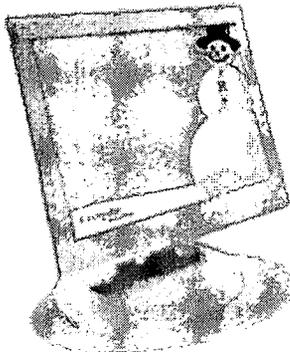
[Official Rules](#)



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Take a Shot at Winning

\$50,000!

✕ cingular
raising the bar...all™

Snap • Send • **WIN!**

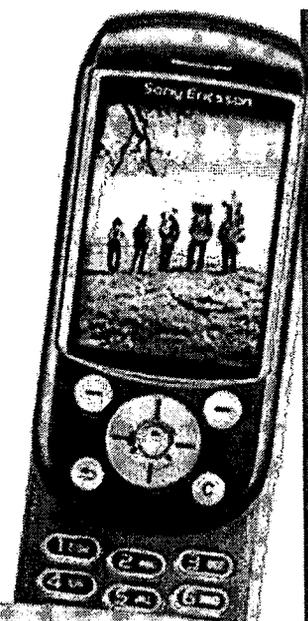
Enter the "**Raising the Bar**" photo contest for a chance to **win \$50,000**. The next time you see something that reminds you of the Cingular Bars...all™, snap a picture and you could be a winner. [See Official Rules.](#)



TO ENTER:

- Take a picture that represents the Cingular bars with your camera phone
- Send it as a picture message to **52277-86946 (5 Bars to Win)***
- Enter as many pictures as you want for a chance to win

Click here to learn more and view weekly "Five Bars" photos. Vote for your favorite photo via text message from Oct. 1-7, 2005. Need a reminder? If you enter the contest by sending a picture message, we'll notify you when voting begins.



Save on picture messaging.

Get unlimited messages your first month when you sign up for a picture messaging plan.

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 Pay your bill automatically by credit card or checking account. It's free. You'll still get a monthly, itemized statement so you'll always know what's going on with your account. You can also save time by changing your monthly bill to paperless. >>**Learn More**

Online Account Management
 Get help understanding your bill. Plus, add features, check minutes, change your calling plan and

For more info visit www.cingular.com | **CLICK HERE** for your **FREE Ringtone!***

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*Free ringtone offer limited to ringtones priced at \$1.99 or less.

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Cingular Wireless
&
AT&T Wireless

INVITE YOU AND EVERYONE IN OUR FAMILY
TO SHARE IN THE JOY OF OUR COMING TOGETHER.

THIS UNION WILL RAISE THE BAR IN WIRELESS AND STRENGTHEN
OUR COMMITMENT TO SERVICE AND INNOVATION.
THEREFORE, FEEL SECURE IN KNOWING THAT THE NETWORK
YOU'VE GROWN TO TRUST WILL CONTINUE TO BE THE ONE TO RELY ON.

NO RSVP NECESSARY. YOU'RE ALREADY PART OF THE FAMILY.
SEE HOW THIS UNION WILL BENEFIT YOU AT WWW.NEWGINGULAR.COM.

RECEPTION TO FOLLOW IMMEDIATELY.



*Cingular Wireless
&
AT&T Wireless*

INVITE YOU AND EVERYONE IN OUR FAMILY
TO SHARE IN THE JOY OF OUR COMING TOGETHER.

THIS UNION WILL EXPAND THE REACH OF YOUR EXISTING MOBILE TO
MOBILE CALLING PLAN TO INCLUDE ALL CINGULAR AND
AT&T CUSTOMERS – AN UNPRECEDENTED 46 MILLION PEOPLE.
IN ADDITION, THIS NEW BOND WILL STRENGTHEN OUR COMMITMENT
TO SERVICE AND INNOVATION AS WE CONTINUE OUR QUEST
TO RAISE THE BAR IN WIRELESS.

NO RSVP NECESSARY. YOU'RE ALREADY PART OF THE FAMILY.
SEE HOW THIS UNION WILL BENEFIT YOU AT WWW.NEWCINGULAR.COM.

RECEPTION TO FOLLOW IMMEDIATELY.



TM

Cingular Wireless
&
AT&T Wireless

INVITE YOU AND EVERYONE IN OUR FAMILY
TO SHARE IN THE JOY OF OUR COMING TOGETHER.

THIS UNION WILL RAISE THE BAR IN WIRELESS
BY BRINGING YOU THE LARGEST DIGITAL VOICE AND DATA NETWORK IN
AMERICA. WE CALL IT THE "ALLOVER" NETWORK, GIVING YOU MORE BARS IN
MORE PLACES. THE REACH OF YOUR EXISTING MOBILE TO MOBILE CALLING
PLAN WILL EXPAND TO INCLUDE ALL CINGULAR AND AT&T WIRELESS
CUSTOMERS -- AN UNPRECEDENTED 46 MILLION PEOPLE.

NO RSVP NECESSARY. YOU'RE ALREADY PART OF THE FAMILY.
SEE HOW THIS UNION WILL BENEFIT YOU AT WWW.NEWCINGULAR.COM.

RECEPTION TO FOLLOW IMMEDIATELY.



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Cingular Wireless
&
AT&T Wireless

INVITE YOU AND EVERYONE IN OUR FAMILY
TO SHARE IN THE JOY OF OUR COMING TOGETHER.

THIS UNION WILL RAISE THE BAR IN WIRELESS
BY BRINGING YOU THE LARGEST DIGITAL VOICE AND DATA NETWORK IN
AMERICA. WE CALL IT THE ALLOWER* NETWORK, GIVING YOU MORE BARS IN
MORE PLACES. IN ADDITION, THIS NEW BOND WILL STRENGTHEN OUR
COMMITMENT TO SERVICE AND INNOVATION.

NO RSVP NECESSARY. YOU'RE ALREADY PART OF THE FAMILY.
SEE HOW THIS UNION WILL BENEFIT YOU AT WWW.NEWGINGULAR.COM.

RECEPTION TO FOLLOW IMMEDIATELY.



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EXHIBIT B

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HOW MANY BARS DO YOU HAVE?

Word Mark HOW MANY BARS DO YOU HAVE?

Goods and Services IC 038. US 100 101 104. G & S: Telecommunications services, namely wireless transmission, uploading and downloading of voice, data, images, audio, video, signals, information, games, ring tones, and messages; wireless telephone communications services; wireless digital and analog voice messaging services; wireless text and numeric digital messaging services; electronic mail services; paging services; facsimile transmission services; Internet service provider and online service provider services, namely, providing multiple user access to a global computer information network, the Internet, wide area networks, local area networks, and private computer information networks; telecommunications services, namely, providing telecommunications connections and the electronic transmission of messages, data, orders, billing, payment and account information, that allow users to perform electronic business transactions via wireless telephones, handheld computers, and mobile data receivers and through a global computer information network, the Internet, wide area networks, local area networks and private computer information networks; wireless roaming services; telecommunications consultation; telematic sending of information. FIRST USE: 20040414. FIRST USE IN COMMERCE: 20040414

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Design Search Code

Serial Number 78401991

Filing Date April 14, 2004

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition January 18, 2005

Registration Number 2940198

Registration Date April 12, 2005

Owner (REGISTRANT) AT&T Wireless Services, Inc. CORPORATION DELAWARE 7277 164th Avenue NE Redmond WASHINGTON 98052

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Heidi L. Sachs

Type of Mark SERVICE MARK

Register PRINCIPAL
Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE Dict](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

TARR Status
ASSIGN Status
TDR
TTAB Status
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MORE BARS IN MORE PLACES

Word Mark MORE BARS IN MORE PLACES

Goods and Services IC 009. US 021 023 026 036 038. G & S: Telephones, telephone accessories, and equipment, namely wireless telephones; batteries; chargers; telephone carrying cases, hands-free devices, and carrying clips for wireless telephones sold as a unit in combination with wireless telephones; microphones; audio receivers; speakers; transceivers; communications devices in the nature of wireless application protocol (WAP) receivers and transmitters; communications devices in the nature of GPRS protocol receivers and transmitters; data transceivers; telecommunications transmission equipment, components, switching, and network systems comprised of radio transmitters and receivers; antennas; switches; signal transfer point servers; signal control point servers; service resource platform servers; call routing servers and software for the foregoing; computers and computer software for the activation and operation of wireless telecommunications services; machine readable magnetically encoded calling cards, caller identification cards, debit and credit cards; pagers; caller identification equipment; wireless handheld communication devices to transmit, receive, or otherwise access communications networks; and electronic equipment for entertainment namely computer game programs and computer game devices

IC 038. US 100 101 104. G & S: Telecommunications services, namely wireless transmission, uploading and downloading of voice, data, images, audio, video, signals, software, information, games, ring tones and messages; wireless telephone services; providing wireless calling plans; wireless voice messaging services; call forwarding services; wireless text and numeric digital messaging services; electronic mail services; paging services; facsimile transmission services; providing multiple user access to a global computer information network, the Internet, wide area networks, local area networks and private computer information networks; wireless roaming services; telematics services; telemetry services; telecommunications gateway services providing on-line electronic bulletin boards for transmission of messages among computer users concerning various topics; video conferencing services; television broadcasting and narrow-casting services

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Design Search Code

Serial Number 78490750

Filing Date September 28, 2004

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition November 15, 2005

Owner (APPLICANT) CINGULAR WIRELESS II, LLC LTD LIAB CO DELAWARE 5565 GLENRIDGE CONNECTOR, N.E. ATLANTA GEORGIA 30342

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record William H. Brewster
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS Home	NEW USER	STRUCTURED	FREE FORM	Browse List	SEARCH OQ	TOP	HELP	Prev List	Curr List
Next List	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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SERIAL NUMBER: 78490750**MARK: MORE BARS IN MORE PLACES****OWNER: CINGULAR WIRELESS II, LLC**

Side - 2

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RAISING THE BAR

Word Mark RAISING THE BAR

Goods and Services IC 009. US 021 023 026 036 038. G & S: Telephones, telephone accessories, and equipment, namely wireless telephones; batteries; chargers; telephone carrying cases, hands-free devices, and carrying clips for wireless telephones sold as a unit in combination with wireless telephones; microphones, audio receivers and speakers for telephones or other communications devices; transceivers; communications devices in the nature of wireless application protocol (WAP) receivers and transmitters; communications devices in the nature of GPRS protocol receivers and transmitters; data transceivers; telecommunications transmission equipment, components, switching, and network systems comprised of radio transmitters and receivers; antennas; switches; signal transfer point servers; signal control point servers; service resource platform servers; call routing servers and software for the foregoing; computers and computer software for the activation and operation of wireless telecommunications services; machine readable magnetically encoded calling cards, caller identification cards; pagers; caller identification devices; wireless handheld communication devices to transmit, receive, or otherwise access communications networks; and electronic equipment for entertainment namely computer game programs and computer game devices incorporated in telephones or other communications devices

IC 038. US 100 101 104. G & S: Telecommunications services, namely wireless transmission, uploading and downloading of voice, data, images, audio, video, signals, software, information, games, ring tones and messages; wireless telephone services; providing wireless calling plans; wireless voice messaging services; call forwarding services; wireless text and numeric digital messaging services; electronic mail services; paging services; facsimile transmission services; providing multiple user access to a global computer information network, the Internet, wide area networks, local area networks and private computer information networks; wireless roaming services; telematics services; telemetry services; telecommunications gateway services providing on-line electronic bulletin boards for transmission of messages among computer users concerning various topics; video conferencing services; television broadcasting and narrow-casting services

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Design Search Code

Serial Number 78445176

Filing Date July 2, 2004

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition November 22, 2005

Owner (APPLICANT) CINGULAR WIRELESS II, LLC LTD LIAB CO DELAWARE 5565 GLENRIDGE CONNECTOR, N.E. SUITE 1725B ATLANTA GEORGIA 30342

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record William H. Brewster

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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SERIAL NUMBER: 78445176
MARK: RAISING THE BAR
OWNER: CINGULAR WIRELESS II, LLC

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