

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77159170
LAW OFFICE ASSIGNED	LAW OFFICE 112
MARK SECTION (no change)	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<u>evi 38100134126-162241734 . DOC172.PDF</u>
CONVERTED PDF FILE(S) (15 pages)	<u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0002.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0003.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0004.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0005.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0006.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0007.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0008.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0009.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0010.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0011.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0012.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0013.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0014.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0015.JPG</u> <u>\\TICRS\EXPORT10\IMAGEOUT10\771\591\77159170\xml1\RFR0016.JPG</u>

SIGNATURE SECTION

RESPONSE SIGNATURE	/CK/
SIGNATORY'S NAME	Christopher Kelly
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	06/04/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES

FILING INFORMATION SECTION

SUBMIT DATE	Fri Jun 04 16:31:52 EDT 2010
TEAS STAMP	USPTO/RFR-38.100.134.126-20100604163152956420-77159170-4605f8e4c31eb1d153c8c138ed8c5651cdd-N/A-N/A-20100604162241734090

U.S. DEPARTMENT OF COMMERCE
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Application serial no. **77159170** has been amended as follows:

EVIDENCE**Original PDF file:**

evi_38100134126-162241734 . DOC172.PDF

Converted PDF file(s) (15 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

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /CK/ Date: 06/04/2010

Signatory's Name: Christopher Kelly

Signatory's Position: Attorney of record

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

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

Serial Number: 77159170

Internet Transmission Date: Fri Jun 04 16:31:52 EDT 2010

TEAS Stamp: USPTO/RFR-38.100.134.126-201006041631529

56420-77159170-4605f8e4c31eb1d153c8c138e

d8c5651cdd-N/A-N/A-20100604162241734090

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	
	:	
Consumer Electronics Association	:	
	:	Examiner: D. Beryl Gardner
Serial No.: 77/159,170	:	Law Office: 112
	:	
Mark: CEA	:	

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

This communication responds to the examiner's Office Action in the referenced matter. The examiner continues to withhold acceptance of Applicant's Statement of Use in the belief that the specimens of record fail to support registration of Applicant's mark in Classes 9, 38 and 40.¹ Applicant maintains that the specimens support registration of Applicant's mark in the designated classes. Simultaneously with the filing of this response, Applicant also files a notice of ex parte appeal with the Trademark Trial and Appeal Board. If the examiner remains unmoved, Applicant requests that the examiner forward the application to the Board for submission of Applicant's brief in support of its appeal.

I. International Class 9

The examiner contends that the specimen of record fails to show use of Applicant's CEA mark in commerce. Applicant remains at a loss to understand the

¹ The examiner inadvertently creates confusion in the final Office Action concerning the specimens of use and international classes remaining at issue. The examiner writes on the second page of the Office Action "However, upon careful review, the examiner maintains the specimen requirements for classes 9, 38 and 40." Further down on the same page, the examiner writes "With respect to international classes 38, 40 and 42, the specimen is not acceptable because it does not show the applied-for mark in use in commerce." The specimen of record clearly supports registration of Applicant's mark in International Class 42. It is not clear to Applicant whether the examiner nevertheless continues to find the specimen unacceptable.

examiner's position. Applicant notes in response to the examiner's previous Office Action that the specimen consists of a publication downloadable from Applicant's website found at <www.ce.org> To assist the examiner's assessment of the specimen, Applicant attaches as Exhibit A a copy of Applicant's website to demonstrate the context in which the specimen appears and the downloadable nature of the publication. (The examiner will note that Exhibit A shows the current issue of the publication rather than the issue constituting the specimen of record.) In view of the foregoing and the attached Exhibit A, Applicant maintains that the appropriateness of the specimen of record cannot reasonably be questioned. Applicant therefore requests that the examiner accept the specimen of record in support of registration in International Class 9.

II. International Class 38

Applicant maintains that the specimens of record show use of the CEA mark in connection with informational services regarding telecommunications. For example, the specimen containing the heading "CEknowhow" contains information about digital and wireless equipment and networking. Applicant also refers the examiner to Exhibit A, which contains under the heading "Daily Feed" information relating to, among other things, interactive television. Applicant also attaches as Exhibit B an excerpt from Applicant's website in 2007 referring to high definition television. Applicant notes that consumer electronics products frequently involve telecommunications and telecommunications functions. It appears that the examiner looks for a specific reference to "telecommunications" in the specimens of record. As noted in Applicant's previous response, there is no requirement that a specimen contain a specific reference to the services. *In re Ancor Holdings LLC*, 79 U.S.P.Q.2d 1218 (T.T.A.B. 2006); *In re*

Metriplex Inc., 23 U.S.P.Q.2d 1315 (T.T.A.B. 1992). A clear association between the recited services and Applicant's CEA mark is established in the specimens of record. The specimens therefore support registration of Applicant's mark in Class 38. Applicant nevertheless attaches as Exhibit C a further reference from its website providing information about telecommunications policy reform issues.

III. International Class 40

Applicant's specimen of record relating to Class 40 is in the nature of informational matter entitled "Digital Imaging – A Focus on Sharing." Attached as Exhibits D and E are press releases providing context to assist the examiner in assessing the specimen. It is clear that the specimen supports registration of Applicant's mark in this class. The information is contained on Applicant's website and distributed freely to Applicant's members and others. There can be no serious questions about the suitability of Applicant's specimen of record or its use in commerce.

IV. International Class 42

Applicant maintains that the specimens of record support registration of Applicant's mark in Class 42. The examiner will note that there are a number of references in the specimens relating to digital and wireless products, among others. As noted in Footnote 1 above, it is not clear whether International Class 42 remains at issue with the examiner. To the extent it does remain at issue, the examiner is referred to Applicant's arguments in its previous communication in this matter.

V. Conclusion

In view of the foregoing, Applicant again requests that the examiner withdraw the requirement for additional specimens of use, approve the Statement of Use and pass the

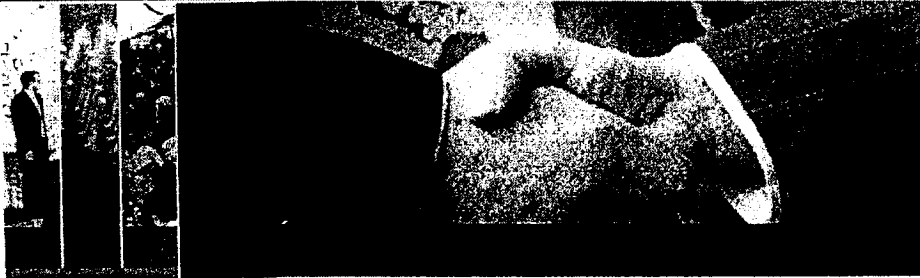
captioned application to registration. If the examiner has any questions or believes additional discussion is necessary, she is encouraged to contact counsel by telephone at 202.719.7000.

13150740 1

EXHIBIT A



MEMBERSHIP | EVENTS & AWARDS | TRAINING | GOVERNMENT AFFAIRS | RESEARCH | STANDARDS | PRESS



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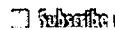
WHAT'S NEW



Is Your Startup Our Next Success Story?

i-stage is the proving ground for next-gen technologies - a chance for developing products, services and apps to show off their selling points and duke it out to be tech's next promising powerhouse. The competition is free to enter and a direct route to more than \$50,000 in prizes and a dynamic debut at the International CES, the annual big bang of innovation. Entries for our October 18 event in San Francisco are now open.

DAILY FEED



Interactive TV: Engaging Viewers, Enriching Content
 As manufacturers and service providers introduce new features aimed at improving the television viewing experience, how will consumers respond?

How Connected Are We in Today's Digital America?
 Digital America is CEA's comprehensive source of information on the CE industry, including eight product categories ranging from audio to wireless, and the latest CEA market forecasts and trends.

Mobile DTV Debuts in Washington, DC
 Hundreds of Washington-area viewers are watching TV wherever they go, on specially modified Samsung mobile phones and Dell netbooks that are part of a consumer showcase of the new technology.

CE VISION MAGAZINE



Current Issue
 May/June 2010
 Launch Interactive Issue

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THE CEA STORE HAS A HUGE RANGE OF CE PRODUCTS TO HELP YOU FIND THE PRODUCTS AND SERVICES YOU NEED

Search bar with a magnifying glass icon.

Find the products and services you need



3D Highlighted at CEA Line Shows

June 2010 will be remembered as the launch date for the 3D at home experience. Register now and see the 3D Summit dig deep into the 3D phenomenon and provide a platform to discuss the new products and new 3D content that will be hitting the market. Not signed up to exhibit yet? You still have time.

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The Innovation Movement

The Innovation Movement is a community of industry professionals, entrepreneurs and all Americans who believe innovation will promote American global leadership and economic recovery and growth. Support policies that encourage and advance the innovative spirit of American business. Join the Movement today.

CEA VIDEOS

Gary Shapiro on why health-care reform law will make America a third-rate country.

More videos.

digitaltips
 Your Ultimate Guide to Consumer Electronics

Digital Dialogue
 Official blog of CEA

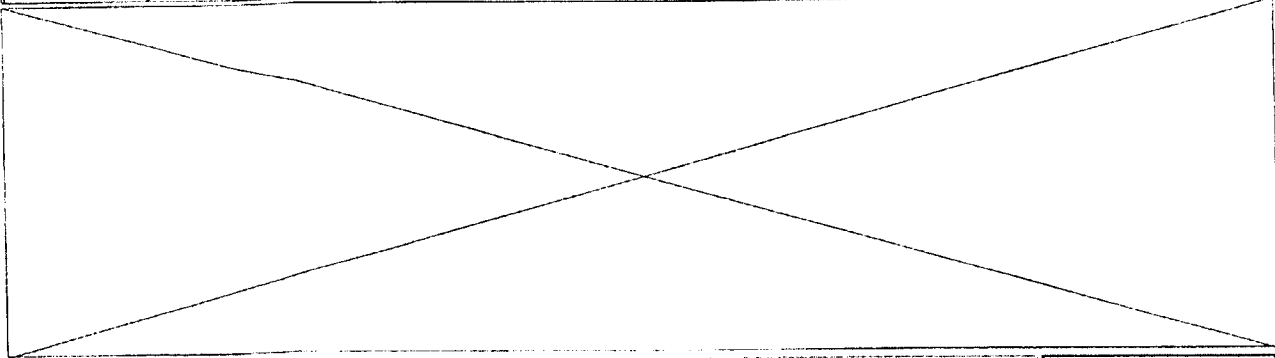
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EXHIBIT B

CEA - Consumer Electronics

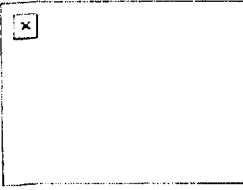
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- Membership
- Events and
- Trainin
- Government Affairs
- Resear
- Standard
- Pre
- International



Industry Forum Defines Research and Business Development

CEA has just wrapped up its fall conference and membership meetings at Industry Forum in San Diego, CA. View photos and news from the conference, covering the latest research, business tips and industry initiatives.



- [Holiday Sales and Digital Rights Hot Topics on Day 1](#)
- [Global Sales Figures and Counterfeit Protection Featured on Day 2](#)
- [E-Toys and Research Techniques Highlight Day 3](#)
- [11 New Inductees Added to the CE Hall of Fame](#)
- [CEA to Tackle Fear Mongering on Trade](#)

Publications released at Industry Forum include:

- [5 Technology Trends To Watch](#)
- [Broadband for All Americans](#)
- [Electronics Opportunities in Brazil](#)
- [Electronic Toy Market Study](#)

Waiting for the Best Time to Join CEA?

As of Oct. 1, new CEA members receive the rest of 2007 free with payment of their 2008 membership dues. Don't miss out on valuable member benefits including free research, event discounts, networking opportunities, free participation in standards-setting, lobbying support and more. Apply online or contact Jennifer Biggs at (703) 907-7756 for more information.

HDTV: Turn It On!

Did you know that today's analog TV signals will transition to all digital in 2009? This is a very exciting time for consumers, manufacturers and broadcasters. But there are still some questions as we approach this date. CE.org is your one-stop resource for information, numbers, education and updates. Learn the ins-and-outs of this breathtaking new era in TV!



Discounts at EHX Fall

EHX Fall, November 6-9 in Long Beach, CA, is the emerging opportunities event for custom electronics. Connect with the digital edge of CE, grow your business with affordable training, receive industry certification, and explore the latest products. CEA members save 20 percent on most training - use priority code CEA1.



CEA Study Shows Positive Trend for Home Buyer CE Purchases

While new housing starts are expected to decline by 21 percent in 2007, the consumer electronics industry should see an eight percent increase in revenue, according to CEA's *Second Annual New Home Buyers and Technology Purchases* study. The study found that new home buyers who did not purchase and install technologies at the time they bought a house regret their decisions. The complete study is available free to CEA members or for purchase at [eBrain.org](#).

[More news >>](#)

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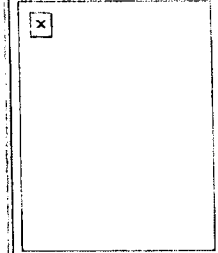


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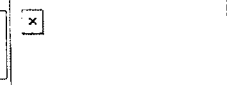
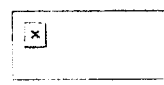


EXHIBIT C



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Telecommunications Policy Reform

[Home](#) > [CEA Initiatives](#) > [Telecommunications Policy Reform](#)

[Overview](#)

[Press Releases](#)

Telecommunications Policy Reform

The rapid advancement of digital technology and telecommunications has outpaced the current U.S. regulatory regime. The Telecommunications Act of 1996 defined (and re-defined) economic regulations and classifications of telecommunications services and providers. These regulations, however, have become outdated and are no longer relevant to the new services and technologies that have arisen over the past few years. Attempts to classify these new services into outmoded regulations stifles innovation, creates uncertainty in the marketplace and diminishes the increase in productivity that is directly attributed to such innovations. Policymakers understand the need to establish a new communications policy framework that encourages the continuing transformation and modernization of communications networks through broadband and IP-enabled applications. As they begin to debate and examine regulatory policy in this new era, CEA offers the following Guiding Principles for [Telecommunications Policy Reform](#) for consideration.

[CEA Position Paper: Preserving the Right to Connect- January 2009 \[pdf\]](#)

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Staff Contact:

Veronica O'Connell
Vice President, Congressional
Affairs
703-907-7577

EXHIBIT D



MEMBERSHIP EVENTS & AWARDS TRAINING GOVERNMENT AFFAIRS RESEARCH STANDARDS PRESS

Press Release Detail

Home > Current News > Press Release Detail

Press Release Detail FOR RELEASE

Contacts: Colleen Lerro
tel: 703-907-7080
e-mail: clerro@CE.org

Meghan Henning
tel: 703-907-7654
e-mail: mhenning@CE.org
<http://www.CE.org>

MAJORITY OF CONSUMERS ARE SHARING THEIR DIGITAL PHOTOS, SAYS CEA New Research Shows Two in Three Consumers are Satisfied with Their Options for Sharing

Arlington, Virginia

1/22/2009

A majority of consumers are satisfied with their options for sharing digital photos, according to a new study by the Consumer Electronics Association (CEA)[®]. The study, *Digital Imaging: A Focus on Sharing*, found that 65 percent of consumers are satisfied with their options for sharing, protecting and backing up photos, and 63 percent are satisfied with their options for photo storage.

"Digital cameras are becoming increasingly pervasive enjoying a 77 percent household penetration rate, not to mention other popular consumer electronics devices such as cell phones that are capable of taking digital photographs," said Chris Ely, CEA senior research analyst. "President Barack Obama became the first U.S. president to have his official portrait taken with a digital camera showing how pervasive digital photography has become."

The study shows consumers took an average of 72 digital photos at the last event they attended and shared an average of 51 percent of the photos they took. The most popular means for sharing photos include emailing (55 percent), showing on personal computers (48 percent) and posting online (40 percent). News organizations across the country put out a call for the millions of people attending Tuesday's presidential inauguration to share digital photos of the experience, demonstrating the importance of photo sharing.

Traditional print photos remain a popular method for sharing images with the option to print at home, use an online kiosk or an online printer. Among consumers who post photos online, MySpace is used most frequently, followed by Facebook and dedicated photo sharing sites such as Photobucket and Snapfish. When deciding which service to use for sharing photos, consumers' top factors include ease of access for friends and family, speed of uploading and cost of service.

The *Digital Imaging: A Focus on Sharing* (January 2009) study was fielded between October and November 2008. It was designed and formulated by CEA Market Research, the most comprehensive source of sales data, forecasts, consumer research and historical trends for the consumer electronics industry. Please cite any information to the Consumer Electronics Association (CEA)[®]. The complete study is available free to CEA member companies. Non-members may purchase the study for \$699 at CE.org.

About CEA:

The Consumer Electronics Association (CEA) is the preeminent trade association promoting growth in the \$172 billion U.S. consumer electronics industry. More than 2,200 companies enjoy the benefits of CEA membership, including legislative advocacy, market research, technical training and education, industry promotion and the fostering of business and strategic relationships. CEA also sponsors and manages the International CES - Where Entertainment, Technology and Business Converge. All profits from CES are reinvested into CEA's industry services. Find CEA online at www.CE.org.

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EXHIBIT E

FOR IMMEDIATE RELEASE

Contact:

Colleen Lerro
tel: 703-907-7080
e-mail: clerro@CE.org
www.CE.org

or

Meghan Henning
tel: 703-907-7654
e-mail: mhenning@CE.org

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New Research Shows Two in Three Consumers are Satisfied with Their Options for Sharing

Arlington, Va., January 22, 2009 – A majority of consumers are satisfied with their options for sharing digital photos, according to a new study by the Consumer Electronics Association (CEA)[®]. The study, *Digital Imaging: A Focus on Sharing*, found that 65 percent of consumers are satisfied with their options for sharing, protecting and backing up photos, and 63 percent are satisfied with their options for photo storage.

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UPCOMING EVENTS

- **Digital Music Forum East**
February 25-26, 2009, New York, NY
- **Greener Gadgets Conference**
February 27, 2009, New York, NY
- **EHX Spring 2009**
March 10-14, 2009, Orlando, FL
- **Digital Patriots Dinner**
April 22, 2009, Washington, DC
- **CEA Washington Forum**
April 22-23, 2009, Washington, DC
- **LA Games Conference**
April 28-29, 2009, Hollywood, CA
- **CONNECTIONS™: The Digital Living Conference and Showcase**
June 2 - 4, 2009, Santa Clara, CA
- **Digital Downtown**
June 10-12, 2009, New York, NY
- **13th Annual CEO Summit**
June 17-20, 2009, Dana Point, CA
- **2009 SINOCES**
July 9-12, Qingdao, China
- **2009 CEA Industry Forum**
October 18-21, 2009, Phoenix, AZ
- **CES New York Press Preview featuring CES Unveiled @ NY**
November 10, 2009, New York, NY
- **2010 International CES**
January 7-10, 2010, Las Vegas, NV

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