

PTO Form (Rev 4/2000)

OMB No. 0651-.... (Exp. 08/31/2004)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77741318
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Examining Attorney has finally refused registration of Applicant's RTV & Design mark based on alleged likelihood of confusion with the mark R TV of U.S. Registration No. 3,487,017 and R TELEVISION of U.S. Registration No. 3,487,018 for "provision of non-downloadable on going audio visual film and television programs via video on demand, TV broadcast, cable television, broadband internet, and mobile device programming," both previously owned by Ripe Digital Entertainment, and the mark REAL RTV of U.S. Registration No. 3,330,570 for a broad range of services, including broadcasting of audio and video programs via wireless devices and electronic communication networks, transmission of news, etc., owned by RealNetworks, Inc.</p> <p>As shown by the attached assignment documents filed with the USPTO earlier today and the confirmation receipts received from the USPTO, Applicant is now the owner of all right, title, and interest in the R TV and R TELEVISION marks of the '017 and '018 registrations and all related good will. Accordingly, the 2(d) rejections based on the '017 and '018 registrations are now moot. Additionally, in view of the assignments, Applicant is now the owner of a family of RTV marks which have been in use since at least as early as January, 2004, prior to the filing date and alleged date of first use of the REAL RTV mark of the '570 registration. Applicant's '017 registration for the R TV mark in unrestricted format was registered over the '570 registration. Likewise, Applicant's present application for the mark RTV with a prominent design should also be registerable under <i>Morehouse Mfg. Corp. v. J. Strickland & Co.</i>, 160 USPQ 715 (CCPA 1969), which explains that an application to register a mark should be registerable if the applicant owns a prior registration for essentially the same mark identifying essentially the same goods (or services) that are the subject mark and goods of the proposed application.</p> <p>If the Examining Attorney refuses to withdraw the rejection based on the '570 registration, Applicant presently intends to file a petition to cancel the registration based on prior use and the citation of the '570 registration in a rejection against Applicant's pending application.</p> <p>Finally, Applicant has amended its identification of services to substantially align with the identification of services in Applicant's co-pending U.S. Application Serial No. 77697092.</p> <p>The foregoing is submitted as a full and complete response to the final Office Action. It is submitted that the mark of the present application is in condition for publication and such action is respectfully requested.</p>	
EVIDENCE SECTION	

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	http://tgate/PDF/RFR/2010/07/06/20100706204023565495-77741318-001_001/evi_216215139169-203527049_._Docs_for_Req_To_Reconsider.pdf
CONVERTED PDF FILE(S) (7 pages)	\\TICRS\EXPORT10\IMAGEOUT10\777\413\77741318\xml1\RFR0002.JPG
	\\TICRS\EXPORT10\IMAGEOUT10\777\413\77741318\xml1\RFR0003.JPG
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	\\TICRS\EXPORT10\IMAGEOUT10\777\413\77741318\xml1\RFR0007.JPG
	\\TICRS\EXPORT10\IMAGEOUT10\777\413\77741318\xml1\RFR0008.JPG
DESCRIPTION OF EVIDENCE FILE	Assignment documents showing assignment of two cited registrations to Applicant
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	041
DESCRIPTION	Television programming services
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	041
DESCRIPTION	A cable television network featuring classic family-oriented television series from the 1950s through the 1980s
FILING BASIS	Section 1(b)
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 3487017 and 3487018.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/mjb/

SIGNATORY'S NAME	Michael J. Bradford
SIGNATORY'S POSITION	Associate of Attorney of Record, Tennessee Bar Member
DATE SIGNED	07/06/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Jul 06 20:40:23 EDT 2010
TEAS STAMP	USPTO/RFR-216.215.139.169 -20100706204023565495-777 41318-46027813d57db2f827c 3f75ac9d856b2854-N/A-N/A- 20100706203527049554

PTO Form (Rev 4/2000)

OMB No. 0651-.... (Exp. 08/31/2004)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. 77741318 has been amended as follows:

ARGUMENT(S)

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

The Examining Attorney has finally refused registration of Applicant's RTV & Design mark based on alleged likelihood of confusion with the mark R TV of U.S. Registration No. 3,487,017 and R TELEVISION of U.S. Registration No. 3,487,018 for "provision of non-downloadable on going audio visual film and television programs via video on demand, TV broadcast, cable television, broadband internet, and mobile device programming," both previously owned by Ripe Digital Entertainment, and the mark REAL RTV of U.S. Registration No. 3,330,570 for a broad range of services, including broadcasting of audio and video programs via wireless devices and electronic communication networks, transmission of news, etc., owned by RealNetworks, Inc.

As shown by the attached assignment documents filed with the USPTO earlier today and the confirmation receipts received from the USPTO, Applicant is now the owner of all right, title, and interest in the R TV and R TELEVISION marks of the '017 and '018 registrations and all related good will. Accordingly, the 2(d) rejections based on the '017 and '018 registrations are now moot. Additionally, in view of the assignments, Applicant is now the owner of a family of RTV marks which have been in use since at least as early as January, 2004, prior to the filing date and alleged date of first use of the REAL RTV mark of the '570 registration. Applicant's '017 registration for the R TV mark in unrestricted format was registered over the '570 registration. Likewise, Applicant's present application

for the mark RTV with a prominent design should also be registerable under *Morehouse Mfg. Corp. v. J. Strickland & Co.*, 160 USPQ 715 (CCPA 1969), which explains that an application to register a mark should be registerable if the applicant owns a prior registration for essentially the same mark identifying essentially the same goods (or services) that are the subject mark and goods of the proposed application.

If the Examining Attorney refuses to withdraw the rejection based on the '570 registration, Applicant presently intends to file a petition to cancel the registration based on prior use and the citation of the '570 registration in a rejection against Applicant's pending application.

Finally, Applicant has amended its identification of services to substantially align with the identification of services in Applicant's co-pending U.S. Application Serial No. 77697092.

The foregoing is submitted as a full and complete response to the final Office Action. It is submitted that the mark of the present application is in condition for publication and such action is respectfully requested.

EVIDENCE

Evidence in the nature of Assignment documents showing assignment of two cited registrations to Applicant has been attached.

Original PDF file:

http://tgate/PDF/RFR/2010/07/06/20100706204023565495-77741318-001_001/evi_216215139169-203527049_._Docs_for_Req_To_Reconsider.pdf

Converted PDF file(s) (7 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 041 for Television programming services

Original Filing Basis:

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

Proposed: Class 041 for A cable television network featuring classic family-oriented television series from the 1950s through the 1980s

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

ADDITIONAL STATEMENTS

Claim of Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 3487017 and 3487018.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /mjb/ Date: 07/06/2010

Signatory's Name: Michael J. Bradford

Signatory's Position: Associate of Attorney of Record, Tennessee Bar Member

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

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77741318

Internet Transmission Date: Tue Jul 06 20:40:23 EDT 2010

TEAS Stamp: USPTO/RFR-216.215.139.169-20100706204023

565495-77741318-46027813d57db2f827e3f75a

e9d856b2854-N/A-N/A-20100706203527049554



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**Electronic Trademark Assignment System****Confirmation Receipt**

Your assignment has been received by the USPTO.
The coversheet of the assignment is displayed below:

TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Ripe Digital Entertainment, Inc.		07-06-2010	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Avant Partners, Inc.		
Street Address:	6532 Vista Del Mar		
Internal Address:	Unit A		
City:	Playa Del Ray		
State/Country:	CALIFORNIA		
Postal Code:	90293		
Entity Type:	CORPORATION: CALIFORNIA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3487017	R TV	

Registration Number:	3487018	R TELEVISION
CORRESPONDENCE DATA		
Fax Number:	(865)523-4478	
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	8655464305	
Email:	mbradford@lug-patent.com	
Correspondent Name:	Michael J. Bradford	
Address Line 1:	P.O. Box 1871	
Address Line 4:	Knoxville, TENNESSEE 37901	
ATTORNEY DOCKET NUMBER:	65263.M1	
NAME OF SUBMITTER:	Michael J. Bradford	
Signature:	mjb:	
Date:	07/06/2010	
Total Attachments: 1 source=65263m1-20100706-ExecutedAssignmentRipeToAvant=page1.tif		
RECEIPT INFORMATION		
ETAS ID:	TM176694	
Receipt Date:	07/06/2010	
Fee Amount:	\$65	

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CONFIRMATORY ASSIGNMENT

Ripe Digital Entertainment, Inc., an inactive corporation formed in the state of Delaware, having a former principal place of business at 729 Seward St., Hollywood, CA 90038 (hereinafter "Assignor"), and the former owner of the marks R TV and R TELEVISION (hereinafter collectively referred to as the "Marks") used for and in connection with television broadcast and programming services including provision of non-downloadable on going audio visual film and television programs via video on demand, TV broadcast, cable television, broadband, internet, and mobile device programming (the "Goods and Services"), and the former owner of the following United States Registrations for the Marks:

<u>Mark</u>	<u>U.S. Registration No.</u>	<u>Registration Date</u>
R TV	3,487,017	August 19, 2008
R TELEVISION	3,487,018	August 19, 2008

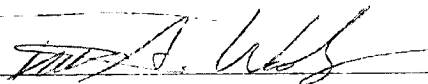
(hereinafter collectively referred to as the "Marks and Registrations"), hereby confirms that, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, has assigned to, confirms the assignment of, and to the extent not previously assigned does hereby assign to, Avant Partners, Inc., a corporation of the state of California, having a principal place of business at 6532 Vista Del Mar, Unit A, Playa Del Rey, California 90293 (hereinafter "Assignee), all of Assignor's right, title and interest in and to the Marks and Registrations, together with all of the goodwill of the business symbolized by the Marks and Registrations, and all rights of action for infringement thereof by way of one or more assignment documents, including, but not limited to, the Assignment for the Benefit of Creditors dated as of June 1, 2009 between Assignor and Avant Partners, Inc.

Assignor agrees and covenants to sign any and all further papers and do any and all further acts reasonably necessary to document and/or effectuate, confirm, or evidence this assignment or any part or aspect thereof and to fully vest in Assignee all right, title, and interest in and to the Marks and Registrations.

Ripe Digital Entertainment, Inc.

Date: 7-6-2010

By



Timothy Wesley



United States Patent and Trademark Office

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Confirmation Receipt

Your assignment has been received by the USPTO.
The coversheet of the assignment is displayed below:

TRADEMARK ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Avant Partners, Inc.		07 06 2010	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Retro Television, Inc.		
Street Address:	735 Broad Street		
Internal Address:	Suite 1204		
City:	Chattanooga		
State/Country:	TENNESSEE		
Postal Code:	37402		
Entity Type:	CORPORATION: TENNESSEE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3487017	R TV	

Registration Number:	3487018	R TELEVISION
CORRESPONDENCE DATA		
Fax Number:	(865)523-4478	
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	8655464302	
Email:	mbradford@ing-patent.com	
Correspondent Name:	Michael J. Bradford, Esq.	
Address Line 1:	P.O. Box 1871	
Address Line 4:	Knoxville, TENNESSEE 37901	
ATTORNEY DOCKET NUMBER:	65263.M1	
NAME OF SUBMITTER:	Michael J. Bradford	
Signature:	mjb	
Date:	07 06 2010	
Total Attachments: 2		
source=65263m1-20100706-ExecutedAssignmentAvantToRetro#page1.tif		
source=65263m1-20100706-ExecutedAssignmentAvantToRetro#page2.tif		
RECEIPT INFORMATION		
ETAS ID:	TM176695	
Receipt Date:	07 06 2010	
Fee Amount:	\$65	

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ASSIGNMENT

Avant Partners, Inc., a corporation of the state of California, having a principal place of business at 6532 Vista Del Mar, Unit A, Playa Del Rey, California 90293, (hereinafter "Assignor" or "Avant") owner of the marks R TV and R TELEVISION (hereinafter collectively referred to as the "Marks") used for and in connection with television broadcast and programming services including provision of non-downloadable on going audio visual film and television programs via video on demand, TV broadcast, cable television, broadband, internet, and mobile device programming (the "Goods and Services"), and the owner of the following United States Registrations for the Marks:

<u>Mark</u>	<u>U.S. Registration No.</u>	<u>Registration Date</u>
R TV	3,487,017	August 19, 2008
R TELEVISION	3,487,018	August 19, 2008

(hereinafter collectively referred to as the "Marks and Registrations"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has assigned and hereby does assign to Retro Television, Inc., a Tennessee Corporation having a principal place of business at 735 Broad Street, Suite 1204, Chattanooga, Tennessee 37402 (hereinafter "Assignee), all of Assignor's right, title and interest in and to the Marks and Registrations, together with all of the goodwill of the business symbolized by the Marks and Registrations, and all rights of action for infringement thereof.

The Marks and Registrations, together with and as part of substantially all of the assets of Ripe Digital Entertainment, Inc., a Delaware corporation ("RDE"), were assigned from RDE to Avant pursuant to that certain Assignment for the Benefit of Creditors entered into on or about June 1, 2009 (the "RDE Assignment"). Avant covenants, to the best of its knowledge and information, pursuant to the RDE Assignment, it was and is the sole and only assignee of substantially all of the assets of RDE, including, but not limited to, all of RDE's title and interest in and to the Marks and Registrations. Avant further covenants, to the best of its knowledge and information, that the Registrations and Marks were and are assigned to Avant by RDE free and clear of any and all claims, liens, interests (including security and other interests or claims of any third parties), and encumbrances of any kind or nature.

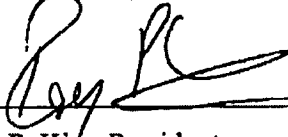
Assignor agrees and covenants to sign any and all further papers and do any and all

further acts reasonably necessary to document and/or effectuate, confirm, or evidence this assignment or any part or aspect thereof and to fully vest in Assignee all right, title, and interest in and to the Marks and Registrations.

Assignor further covenants with Assignee, its successors, assigns and legal representatives that, to the best of Assignor's knowledge and information, Assignor has not entered into and will not enter into any agreement, express or implied, for the further conveyance, transfer, assignment, grant, mortgage, promise, or pledge, affecting or pertaining to the rights, interests, or properties herein conveyed, and that the full, complete, unencumbered, unrestricted, and unlimited right to assign, transfer, convey, or otherwise dispose of the same has been and is now possessed by Assignor.

Avant Partners, Inc.

Date: July 6, 2010

By  _____
Roy P. Kim, President
