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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78155673
Applicant	PrintCo., Inc.
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Submission	Reply Brief
Attachments	Reply Brief.pdf (2 pages)
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Date	02/17/2006

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)	
)	Law Office: 101
PrintCo., Inc.)	
)	T.M. Examiner: Jennifer D. Chicoski
Serial No.: 78/155673)	
)	
Filing Date: August 19, 2002)	<u>APPLICANT'S REPLY BRIEF</u>
)	
Mark: "ENKLAVVOICE")	
)	
Atty. File No.: 4081-131)	

Applicant replies to the Examining Attorney's Brief as follows.

First, the Examining Attorney states "the application was abandoned for failure to establish use of the mark within the time permitted." This is not true. The application was improperly abandoned by the USPTO and applicant filed a Petition to reinstate the application that was granted. The application was never abandoned for failure to establish use of the mark within the time permitted.

The Examining Attorney argues that the mark ENKLAVVOICE is a term used to identify a product, device or instrument sold in the performance of a services rather than a mark used to identify the service itself. The Examining Attorney then lists a number of cases where the marks were found to identify a good as opposed to a service. The Examining Attorney indicates that the term ENKLAVVOICE is being used to identify one of several features of a publishing system and then says that "it is just as likely that the applicant's system could include the sale of software, either in hard copy of downloadable form, or the provision of access to non-downloadable software."

The problem with this argument is that Applicant's "system" does not include the sale of software. Unlike the cases cited by the Examining Attorney, Applicant is not selling a good such as software, thus the mark cannot be used to identify a good. Moreover, Applicant is not selling a "system". Applicant is providing a service over the internet and the services are described very specifically in the specimen.

The Examining attorney states that the specimen "does not provide any detail as to how a consumer or purchaser would engage the applicant in the provision of services". This is not true.

The specimen states "Contact us now for a demo or to download a brochure". The words "Contact us" can be clicked on to reach the Applicant. Once contacted, Applicant would demonstrate how the service works and if the service were purchased, Applicant would provide access to its secure site through use of a password.

The Examining Attorney states that there is no explanation as to how the specimen itself is made available to potential purchasers and therefore it is presumed that the page is visible by anyone with Internet access. The page is visible by anyone with internet access and the page is a promotional piece for Applicant's services. Web site advertising is commonplace for services and contrary to the Examining Attorney's statement that customers do not receive any additional explanation to understand that the services are offered over the web, the specimens state that the services are all provided through a hosted, secure web portal.

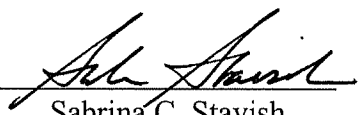
Finally, contrary to the Examining Attorney's statement, there is a direct association between the services and the mark in that the services are described immediately after the mark. Applicant does not know how a more direct connection can be made.

Applicant requests that the refusal of registration be withdrawn.

Respectfully submitted,

SHERIDAN ROSS P. C.

Date: 2/17/06

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