

**Generated on:** This page was generated by TSDR on 2025-07-19 18:42:43 EDT

**Mark:** DVD PLAY

**US Serial Number:** 78027862

**Application Filing Date:** Sep. 27, 2000

**US Registration Number:** 2573752

**Registration Date:** May 28, 2002

**Register:** Principal

**Mark Type:** Service Mark

**TM5 Common Status Descriptor:**



DEAD/REGISTRATION/Cancelled/Invalidated

The trademark application was registered, but subsequently it was cancelled or invalidated and removed from the registry.

**Status:** Registration cancelled because registrant did not file an acceptable declaration under Section 8. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:** Jan. 04, 2013

**Publication Date:** Mar. 05, 2002

**Date Cancelled:** Jan. 04, 2013

## Mark Information

**Mark Literal** DVD PLAY  
**Elements:**

**Standard Character** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Claim:**

**Mark Drawing** 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)  
**Type:**

**Disclaimer:** "DVD"

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

**For:** Stand-alone retail kiosk vending machine services, featuring music, games, videos and other recorded materials; on-line retail store services featuring music, games, videos and other recorded materials; network management and network administration services in the computer industry

**International Class(es):** 035 - Primary Class

**U.S Class(es):** 100, 101, 102

**Class Status:** SECTION 8 - CANCELLED

**First Use:** Dec. 02, 1999

**Use in Commerce:** Dec. 05, 1999

**For:** Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music, games, videos and other recorded materials

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** SECTION 8 - CANCELLED

**First Use:** Dec. 02, 1999

**Use in Commerce:** Dec. 05, 1999

## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: REDBOX AUTOMATED RETAIL, LLC

Owner Address: ONE TOWER LANE, SUITE 1200  
OAKBROOK TERRACE, ILLINOIS UNITED STATES 60181

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: DELAWARE  
Where Organized:

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Jason S. Howell

Docket Number: 72292.4000.0

Attorney Primary [pctrademarks@perkinscoie.com](mailto:pctrademarks@perkinscoie.com)  
Email Address:

Attorney Email Yes  
Authorized:

### Correspondent

Correspondent Jason S. Howell

Name/Address: Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, WASHINGTON UNITED STATES 98101

Phone: (206) 359-8000

Fax: (206) 359-9000

Correspondent e- [pctrademarks@perkinscoie.com](mailto:pctrademarks@perkinscoie.com)  
mail:

Correspondent e- Yes  
mail Authorized:

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Jan. 04, 2013	CANCELLED SEC. 8 (10-YR)/EXPIRED SECTION 9	
Jul. 18, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 09, 2012	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jul. 09, 2012	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 30, 2010	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
May 24, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
May 21, 2008	ASSIGNED TO PARALEGAL	
May 06, 2008	TEAS SECTION 8 & 15 RECEIVED	
Apr. 29, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	
Apr. 29, 2008	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Apr. 29, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	
Apr. 29, 2008	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Sep. 05, 2007	CASE FILE IN TICRS	
May 28, 2002	REGISTERED-PRINCIPAL REGISTER	
Mar. 05, 2002	PUBLISHED FOR OPPOSITION	
Feb. 13, 2002	NOTICE OF PUBLICATION	
Nov. 15, 2001	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 24, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 24, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Mar. 23, 2001	NON-FINAL ACTION MAILED	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: POST REGISTRATION

Date in Location: May 24, 2008

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 4

Registrant: FreeFlyr Inc.

### Assignment 1 of 4

Conveyance: CHANGE OF NAME

Reel/Frame: [2795/0643](#)

Pages: 2

Date Recorded: Feb. 18, 2004

Supporting Documents: [assignment-tm-2795-0643.pdf](#)

#### Assignor

Name: [FREEFLYER INC.](#)

Execution Date: Jun. 20, 2003

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

#### Assignee

Name: [DVDPLAY, INC.](#)

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

Address: 750 UNIVERSITY AVENUE, SUITE 280  
LOS GATOS, CALIFORNIA 95032

#### Correspondent

Correspondent: CURTIS A. VOCC

Name:

Correspondent: 4845 PEARL EAST CIRCLE, SUITE 300

Address: BOULDER, CO 80301

#### Domestic Representative - Not Found

### Assignment 2 of 4

Conveyance: CORRECTION OF PREVIOUSLY-FILED CHANGE OF NAME AT REEL/FRAME 002795/0643 ON 02-18-2004

Reel/Frame: [2804/0745](#)

Pages: 2

Date Recorded: Mar. 05, 2004

Supporting Documents: [assignment-tm-2804-0745.pdf](#)

#### Assignor

Name: [FREEFLYR INC.](#)

Execution Date: Jun. 20, 2003

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

#### Assignee

Name: [DVDPLAY, INC.](#)

Legal Entity Type: CORPORATION

State or Country: DELAWARE  
Where Organized:

Address: 750 UNIVERSITY AVENUE, SUITE 280  
LOS GATOS, CALIFORNIA 95032

#### Correspondent

Correspondent: CURTIS A. VOCC

Name:

Correspondent: 4845 PEARL EAST CIRCLE, SUITE 300

Address: BOULDER, CO 80026

**Domestic Representative - Not Found****Assignment 3 of 4****Conveyance:** ASSIGNS THE ENTIRE INTEREST**Reel/Frame:** [4232/0966](#)**Pages:** 7**Date Recorded:** Jun. 28, 2010**Supporting Documents:** [assignment-tm-4232-0966.pdf](#)**Assignor****Name:** [DVDPLAY, INC.](#)**Execution Date:** Nov. 23, 2009**Legal Entity Type:** CORPORATION**State or Country:** DELAWARE  
**Where Organized:****Assignee****Name:** [NCR CORPORATION](#)**State or Country:** MARYLAND  
**Where Organized:****Address:** 1700 S. PATTERSON BLVD.  
DAYTON, OHIO 45479**Composed Of:** COMPOSED OF ASSET PURCHASE  
AGREEMENT**Correspondent****Correspondent:** SHIRLEY A. BYRD  
**Name:****Correspondent:** 1700 S. PATTERSON BLVD.  
**Address:** WHQ-3E  
DAYTON, OH 45479**Domestic Representative - Not Found****Assignment 4 of 4****Conveyance:** ASSIGNS THE ENTIRE INTEREST**Reel/Frame:** [4819/0987](#)**Pages:** 4**Date Recorded:** Jul. 12, 2012**Supporting Documents:** [assignment-tm-4819-0987.pdf](#)**Assignor****Name:** [NCR CORPORATION](#)**Execution Date:** Jun. 22, 2012**Legal Entity Type:** CORPORATION**State or Country:** MARYLAND  
**Where Organized:****Assignee****Name:** [REDBOX AUTOMATED RETAIL, LLC](#)**State or Country:** DELAWARE  
**Where Organized:****Address:** ONE TOWER LANE, SUITE 1200  
OAKBROOK TERRACE, ILLINOIS 60181**Correspondent****Correspondent:** JASON S. HOWELL, C/O PERKINS COIE LLP  
**Name:****Correspondent:** 1201 THIRD AVENUE, SUITE 4900  
**Address:** SEATTLE, WA 98101**Domestic Representative - Not Found**

## Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78027862
REGISTRATION NUMBER	2573752
LAW OFFICE ASSIGNED	LAW OFFICE 110
ATTORNEY DOCKET NUMBER	72292.4000.0002.US001
MARK SECTION	
MARK	DVD PLAY
ATTORNEY SECTION	
ORIGINAL ADDRESS	CURTIS VOCK 4845 PEARL EAST CIR STE 302 BOULDER Colorado (CO) 80301-6113 US
NEW ATTORNEY ADDRESS	
STATEMENT TEXT	By submission of this request, the undersigned REVOKEs the power of attorney currently of record, as listed above, and hereby APPOINTs the following new attorney.
NAME	Jason S. Howell
FIRM NAME	Perkins Coie LLP
STREET	1201 Third Avenue, Suite 4900
CITY	Seattle
STATE	Washington
COUNTRY	United States
POSTAL/ZIP CODE	98101
PHONE	(206) 359-8000
FAX	(206) 359-9000
EMAIL	pctrademarks@perkinscoie.com
ATTORNEY AUTHORIZED TO COMMUNICATE VIA E-MAIL	YES
ATTORNEY DOCKET NUMBER	72292.4000.0002.US001
NEW OTHER APPOINTED ATTORNEYS	Lynne E. Graybeal, Heidi L. Sachs, Grace Han Stanton, James L. Vana, Kathleen J. Buckley, Julianne A. Henley, Elizabeth A. Kristoferson, Makalika D. Naholowaa, Jeffrey A. Nelson, Lisa T. Oratz, Andrea M. Sander, Sarah J. Taylor, and Robert G. Woolston
NEW CORRESPONDENCE ADDRESS	
NAME	Jason S. Howell

<b>FIRM NAME</b>	Perkins Coie LLP
<b>STREET</b>	1201 Third Avenue, Suite 4900
<b>CITY</b>	Seattle
<b>STATE</b>	Washington
<b>COUNTRY</b>	United States
<b>POSTAL/ZIP CODE</b>	98101
<b>PHONE</b>	(206) 359-8000
<b>FAX</b>	(206) 359-9000
<b>EMAIL</b>	pctrademarks@perkinscoie.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	YES

#### **SIGNATURE SECTION**

<b>SIGNATORY FILE</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">hw_198221004-180803531_.NCR_to_Redbox_POA.pdf</a>
<b>CONVERTED PDF FILE(S) (1 page)</b>	<a href="#">\\TICRS\\EXPORT16\\IMAGEOUT16\\780\\278\\78027862\\xml1\\RAA0002.JPG</a>
<b>SIGNATORY NAME</b>	Donald R. Rench
<b>SIGNATORY POSITION</b>	Vice President
<b>SIGNATORY PHONE NUMBER</b>	N/A

#### **FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Mon Jul 09 20:03:24 EDT 2012
<b>TEAS STAMP</b>	USPTO/RAA-XXX.XX.XXX.X-20 120709200324800927-780278 62-4908d1a90913cf014fba4e a2d383883f40-N/A-N/A-2012 0709194742603144

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## Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

To the Commissioner for Trademarks:

**MARK:** DVD PLAY

**SERIAL NUMBER:** 78027862

**REGISTRATION NUMBER:** 2573752

**ATTORNEY DOCKET NUMBER** 72292.4000.0002.US001

### **The original attorney**

CURTIS VOCK

4845 PEARL EAST CIR STE 302

BOULDER Colorado 80301-6113

US

### **Original Correspondence Address :**

CURTIS VOCK

4845 PEARL EAST CIR STE 302

BOULDER Colorado 80301-6113

US

By submission of this request, the undersigned REVOKEs the power of attorney currently of record, as listed above, and hereby APPOINTs the following new attorney. In addition, any additional previously-appointed attorneys that are currently listed in the application are replaced with the new "Other Appointed Attorneys" listed below.

### **Newly Appointed Attorney:**

Jason S. Howell

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

United States

(206) 359-8000

(206) 359-9000

pctrademarks@perkinscoie.com

72292.4000.0002.US001

### **Other Appointed Attorneys:**

Lynne E. Graybeal, Heidi L. Sachs, Grace Han Stanton, James L. Vana, Kathleen J. Buckley, Julianne A. Henley, Elizabeth A. Kristoferson, Makalika D. Naholowaa, Jeffrey A. Nelson, Lisa T. Oratz, Andrea M. Sander, Sarah J. Taylor, and Robert G. Woolston

### **The following is to be used as the correspondence address:**

Jason S. Howell

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

United States

(206) 359-8000

(206) 359-9000

pctrademarks@perkinscoie.com

### **Original PDF file:**

[hw\\_198221004-180803531\\_.NCR\\_to\\_Redbox\\_POA.pdf](hw_198221004-180803531_.NCR_to_Redbox_POA.pdf)

**Converted PDF file(s) (1 page)**

[Signature File1](#)

Signatory's Name: Donald R. Rench

Signatory's Position: Vice President

Signatory's Phone Number: N/A

Serial Number: 78027862

Internet Transmission Date: Mon Jul 09 20:03:24 EDT 2012

TEAS Stamp: USPTO/RAA-XXX.XX.XXX.X-20120709200324800

927-78027862-4908d1a90913cf014fba4ea2d38

3883f40-N/A-N/A-20120709194742603144

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Redbox Automated Retail, LLC

REGISTRATION NUMBERS: 2573752,  
2967191, 2985154, 2959630, 3432333, 3432228,  
3432307, 3432306, and 3186792

REVOCATION OF POWER OF  
ATTORNEY AND APPOINTMENT  
OF NEW ATTORNEY

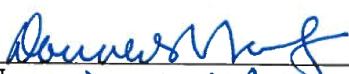
Applicant hereby revokes all previous powers of attorney and appoints the law firm Perkins Coie LLP, 1201 Third Avenue, Suite 4800, Seattle, Washington 98101-3099, (206) 359-8000, including Kathleen J. Buckley, Lynne E. Graybeal, Julianne A. Henley, Jason S. Howell, Elizabeth A. Kristoferson, Makalika D. Naholowaa, Jeffrey A. Nelson, Lisa T. Oratz, Heidi L. Sachs, Andrea M. Sander, Grace Han Stanton, Sarah J. Taylor, James L. Vana and Robert G. Woolston, each of whom is admitted to practice law in the State of Washington and/or another state of the United States, with full power of substitution and revocation, to make alterations and amendments and to transact all business in the U.S. Patent and Trademark Office in connection with this matter.

Please direct all correspondence to Jason S. Howell at said firm.

DATED: July 9, 2012

REDBOX AUTOMATED RETAIL, LLC

By:

  
Name: Donald R. Rench  
Title: Vice President



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

REGISTRATION NO: 2573752    SERIAL NO: 78/027862    MAILING DATE: 05/24/2008  
REGISTRATION DATE: 05/28/2002  
MARK: DVD PLAY  
REGISTRATION OWNER: DVDPLAY, INC.

**CORRESPONDENCE ADDRESS:**

CURTIS VOCK  
LATHROP & GAGE L.C.  
4845 PEARL EAST CIR STE 302  
BOULDER CO 80301-6113

## NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(1)

THE COMBINED AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

\*\*\*\*\*  

## NOTICE OF ACKNOWLEDGEMENT

15 U.S.C. Sec. 1065

THE AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 15 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1065.

ACCORDINGLY, THE SECTION 15 AFFIDAVIT IS ACKNOWLEDGED.

\*\*\*\*\*

**THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):**  
035, 041.

HORN, ARLENE JOYCE  
PARALEGAL SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION  
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION  
ORIGINAL

## **REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**

### **I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

**Failure to file the Section 8 Affidavit will result in the cancellation of the registration.**

### **II) SECTION 9: APPLICATION FOR RENEWAL**

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

**Failure to file the Application for Renewal will result in the expiration of the registration.**

**NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.**

## Combined Declaration of Use and Incontestability Under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2573752
REGISTRATION DATE	05/28/2002
SERIAL NUMBER	78027862
<b>MARK SECTION</b>	
MARK	DVD PLAY
<b>OWNER SECTION (current)</b>	
NAME	DVDPLAY, INC.
STREET	695 Campbell Technology Parkway Suite 200
CITY	Campbell
STATE	California
ZIP/POSTAL CODE	95008
COUNTRY	United States
PHONE	408-583-1300
FAX	408-796-5560
<b>ATTORNEY SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	035
GOODS OR SERVICES	KEEP ALL LISTED
<b>SPECIMEN FILE NAME(S)</b>	
JPG FILE(S)	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150002.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150002.JPG</a>
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	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150008.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150008.JPG</a>
SPECIMEN DESCRIPTION	Screen captures from Applicant's website featuring descriptions of Applicant's services; a signed declaration by an authorized representative of Applicant.
INTERNATIONAL CLASS	041
GOODS OR SERVICES	KEEP ALL LISTED

<b>SPECIMEN FILE NAME(S)</b>	
<b>JPG FILE(S)</b>	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150_009.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150_009.JPG</a>
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	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150011.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150011.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="SPN1-3810219798-163124287_.dvdplay_sec_8_15_declaration.pdf">SPN1-3810219798-163124287_.dvdplay_sec_8_15_declaration.pdf</a>
<b>CONVERTED PDF FILE(S) (4 pages)</b>	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150012.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150012.JPG</a>
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	<a href="\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150015.JPG">\\TICRS\\EXPORT\\IMAGEOUT\\780\\278\\78027862\\xml3\\8150015.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	Screen captures from Applicant's website featuring descriptions of Applicant's services; a signed declaration by an authroized representative of Applicant.
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>NUMBER OF CLASSES PAID</b>	2
<b>SUBTOTAL AMOUNT</b>	600
<b>TOTAL FEE PAID</b>	600
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/thomas j. fitzgerald/
<b>SIGNATORY'S NAME</b>	Thomas J. FitzGerald
<b>SIGNATORY'S POSITION</b>	Attorney for the Applicant
<b>DATE SIGNED</b>	05/06/2008
<b>PAYMENT METHOD</b>	DA
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Tue May 06 16:51:30 EDT 2008
<b>TEAS STAMP</b>	USPTO/S08N15-XX.XXX.XXX.X X-20080506165130162168-25 73752-400aec1304c97d174a5 f737354d486c7367-DA-1993- 20080506163124287889

## Combined Declaration of Use and Incontestability Under Sections 8 & 15

To the Commissioner for Trademarks:

**REGISTRATION NUMBER:** 2573752

**REGISTRATION DATE:** 05/28/2002

**MARK:** DVD PLAY

The owner, DVDPLAY, INC., having an address of

695 Campbell Technology Parkway Suite 200

Campbell, California 95008

United States

is filing a Combined Declaration of Use and Incontestability Under Sections 8 & 15.

For International Class 035, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Screen captures from Applicant's website featuring descriptions of Applicant's services; a signed declaration by an authorized representative of Applicant..

**JPG file(s):**

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

**Original PDF file:**

[SPN0-3810219798-163124287 .. dvdplay\\_sec\\_8\\_15\\_declaration.pdf](#)

**Converted PDF file(s) (4 pages)**

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

For International Class 041, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Screen captures from Applicant's website featuring descriptions of Applicant's services; a signed declaration by an authorized representative of Applicant..

**JPG file(s):**

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

**Original PDF file:**

[SPN1-3810219798-163124287 .. dvdplay\\_sec\\_8\\_15\\_declaration.pdf](#)

**Converted PDF file(s) (4 pages)**

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

The registrant hereby appoints Curtis Vock of LATHROP & GAGE L.C.

4845 PEARL EAST CIR STE 302

BOULDER, Colorado 80301-6113

United States

to file this Combined Declaration of Use and Incontestability Under Sections 8 & 15 on behalf of the registrant. The attorney docket/reference number is 387942.

A fee payment in the amount of \$600 will be submitted with the form, representing payment for 2 class(es), plus any additional grace period fee, if necessary.

### **Declaration**

*The owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The owner, or its related company, has continuously used the mark in commerce on or in connection with the goods and/or services identified above, for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still using the mark in commerce on or in connection with the identified goods and/or services. There has been no final decision adverse to the owner's claim of ownership of such mark for such goods and/or services, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.*

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /thomas j. fitzgerald/ Date: 05/06/2008

Signatory's Name: Thomas J. FitzGerald

Signatory's Position: Attorney for the Applicant

Mailing Address:

LATHROP & GAGE L.C.

4845 PEARL EAST CIR STE 302

BOULDER, Colorado 80301-6113

Serial Number: 78027862

Internet Transmission Date: Tue May 06 16:51:30 EDT 2008

TEAS Stamp: USPTO/S08N15-XX.XXX.XXX.XX-2008050616513

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i'm your new video store



## hi. i love movies.

DVDPlay, video store meets vending machine.

### The New Way

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It's easy to use too. Just pick a movie by touching the screen, swipe a credit or debit card and within seconds your DVD is in your hands and ready for you to go home and enjoy.



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[Importance of Email](#)  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMBINED DECLARATION OF USE AND INCONTESTABILITY  
UNDER §§ 8 & 15 (15 U.S.C. §§ 1058 & 1065)

Mark: DVD PLAY

Reg. No.: 2,573,752

Reg. Date: May 28, 2002

Classes: 35 and 41

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P.O. Box 1451  
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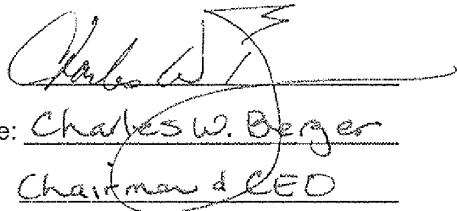
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DVDPlay, Inc.

Dated: May 6, 2008

By:



Charles W. Berger

Name: Charles W. Berger

Title: Chairman & CEO

Curtis Vock, Esq.  
Lathrop & Gage L.C.  
4845 Pearl East Circle  
Suite 302  
Boulder, CO 80301-6113





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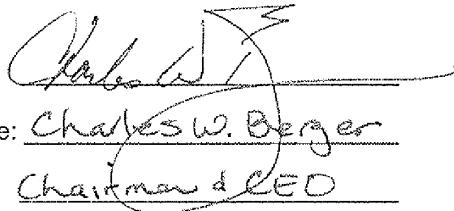
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By:



Charles W. Berger

Name: Charles W. Berger

Title: Chairman & CEO

Curtis Vock, Esq.  
Lathrop & Gage L.C.  
4845 Pearl East Circle  
Suite 302  
Boulder, CO 80301-6113

**ROUTING SHEET TO POST REGISTRATION (PRU)****Registration Number:** 2573752**Serial Number:** 78027862**RAM Sale Number:** 1993**RAM Accounting Date:** 20080507**Total Fees:** \$600

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<b><u>Transaction</u></b>	<b><u>Fee Code</u></b>	<b><u>Transaction Date</u></b>	<b><u>Fee per Class</u></b>	<b><u>Number of Classes</u></b>	<b><u>Number of Classes Paid</u></b>	<b><u>Total Fee</u></b>
§8 affidavit	7205	20080506	\$100	2	2	\$200
§15 affidavit	7208	20080506	\$200	2	2	\$400

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

**Transaction Date:** 20080506



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMBINED DECLARATION OF USE AND INCONTESTABILITY  
UNDER §§ 8 & 15 (15 U.S.C. §§ 1058 & 1065)

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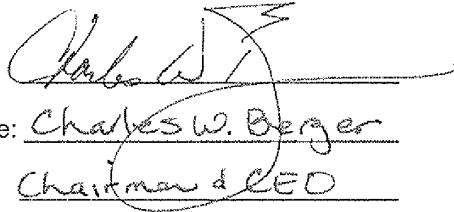
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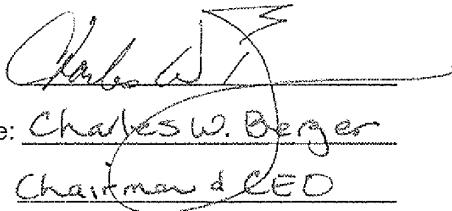
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## Change Of Owner's Address

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78027862
REGISTRATION NUMBER	2573752
LAW OFFICE ASSIGNED	LAW OFFICE 110
<b>MARK SECTION</b>	
MARK	DVD PLAY
<b>OWNER SECTION (current)</b>	
NAME	DVDPLAY, INC.
STREET	750 UNIVERSITY AVENUE, SUITE 280
CITY	LOS GATOS
STATE	California
ZIP/POSTAL CODE	95032
COUNTRY	United States
<b>CORRESPONDENCE SECTION (current)</b>	
ORIGINAL ADDRESS	CURTIS VOCK LATHROP & GAGE L.C. 4845 PEARL EAST CIR STE 302 BOULDER Colorado 80301-6113 United States
<b>NEW OWNER ADDRESS</b>	
INTERNAL ADDRESS	Suite 200
STREET	695 Campbell Technology Parkway
CITY	Campbell
STATE	California
ZIP/POSTAL CODE	95008
COUNTRY	United States
PHONE	408-583-1300
FAX	408-796-5560
<b>CURRENT CORRESPONDENCE ADDRESS</b>	
NAME	CURTIS VOCK
FIRM NAME	LATHROP & GAGE L.C.
STREET	4845 PEARL EAST CIR STE 302
CITY	BOULDER
STATE	Colorado

COUNTRY	United States
POSTAL/ZIP CODE	80301-6113
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Allison Amadia/
SIGNATORY NAME	Allison Amadia
SIGNATORY DATE	04/29/2008
SIGNATORY POSITION	Counsel
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Tue Apr 29 17:14:44 EDT 2008
TEAS STAMP	USPTO/COA-XX.XX.XXX.XXX-2 0080429171444663007-78027 862-400598bfaeeba2d11b9fc 4c3796545eec1e-N/A-N/A-20 080429170010942260

## Change Of Owner's Address

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78027862
REGISTRATION NUMBER	2573752
LAW OFFICE ASSIGNED	LAW OFFICE 110
<b>MARK SECTION</b>	
MARK	DVD PLAY
<b>OWNER SECTION (current)</b>	
NAME	DVDPLAY, INC.
STREET	750 UNIVERSITY AVENUE, SUITE 280
CITY	LOS GATOS
STATE	California
ZIP/POSTAL CODE	95032
COUNTRY	United States
<b>CORRESPONDENCE SECTION (current)</b>	
ORIGINAL ADDRESS	CURTIS VOCK LATHROP & GAGE L.C. 4845 PEARL EAST CIR STE 302 BOULDER Colorado 80301-6113 United States
<b>NEW OWNER ADDRESS</b>	
INTERNAL ADDRESS	Suite 200
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ZIP/POSTAL CODE	95008
COUNTRY	United States
PHONE	408-583-1300
FAX	408-796-5560
<b>CURRENT CORRESPONDENCE ADDRESS</b>	
NAME	CURTIS VOCK
FIRM NAME	LATHROP & GAGE L.C.
STREET	4845 PEARL EAST CIR STE 302
CITY	BOULDER
STATE	Colorado

COUNTRY	United States
POSTAL/ZIP CODE	80301-6113
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Allison Amadia/
SIGNATORY NAME	Allison Amadia
SIGNATORY DATE	04/29/2008
SIGNATORY POSITION	Counsel
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Tue Apr 29 17:14:44 EDT 2008
TEAS STAMP	USPTO/COA-XX.XX.XXX.XXX-2 0080429171444663007-78027 862-400598bfaeeba2d11b9fc 4c3796545eec1e-N/A-N/A-20 080429170010942260

## TM TRADEMARK EXAMINATION WORKSHEET

 AMENDMENT STAGE NO CHANGE PUBLICATION/REGISTRATION STAGE

Name: LAWRENCE COPELIN, SR. L.O. 112 Date 12/19/2001 Serial No. 75/7678 027862  
 INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

## Legal Instrument Examiner (LIE)

	Amended	Data Element
Class Data	<input type="checkbox"/> Prime/International Class	<input type="checkbox"/> Goods and Services
	<input type="checkbox"/> First Use Date	<input type="checkbox"/> First Use in Commerce Date
	<input type="checkbox"/> In Another Form	<input type="checkbox"/> Certification
	<input type="checkbox"/> 1b	
Mark Data	<input type="checkbox"/> Word Mark	<input type="checkbox"/> Pseudo Mark
	<input type="checkbox"/> Mark Drawing Code	<input type="checkbox"/> Design Search Code
	<input type="checkbox"/> Scan Sub Drawing	
Misc. Mark Data	<input type="checkbox"/> Mark Description	<input type="checkbox"/> Disclaimer
	<input type="checkbox"/> Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
	<input type="checkbox"/> Translation	
Section 2(f)	<input type="checkbox"/> Section 2(f) Entire Mark	
	<input type="checkbox"/> Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) in Part
	<input type="checkbox"/> Amended Register	<input type="checkbox"/> Amended Register Date
Foreign Reg. Data	<input type="checkbox"/> Foreign Country	<input type="checkbox"/> 44(d)
	<input type="checkbox"/> Foreign Application Number	<input type="checkbox"/> Foreign Application Filing Date
	<input type="checkbox"/> Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
	<input type="checkbox"/> Foreign Registration Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Number
	<input type="checkbox"/> Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
Owner Data	<input type="checkbox"/> Owner Name	<input type="checkbox"/> DBA/AKA/TA
	<input type="checkbox"/> Address 1	<input type="checkbox"/> Address 2
	<input type="checkbox"/> City	<input type="checkbox"/> State
	<input type="checkbox"/> Zip Code	
	<input type="checkbox"/> Citizenship	<input type="checkbox"/> Entity
	<input type="checkbox"/> Entity Statement	<input type="checkbox"/> Composed of
	<input type="checkbox"/> Assignment(s)/Name Change	
Amd/Corr Restr.	<input type="checkbox"/> Concurrent Use	
Prior U.S. Reg.	<input checked="" type="checkbox"/> Prior Registration	
Correspondence	<input type="checkbox"/> Attorney	<input type="checkbox"/> Domestic Representative
	<input type="checkbox"/> Attorney Docket Number	
	<input type="checkbox"/> Correspondence Firm Name/Address	
I certify that all corrections have been entered in accordance with text editing guidelines.		
LAWRENCECOPELIN, SR. LIE		DATE 12/3/2001
Other: _____		

## TM MARK EXAMINATION WORKSHEET

AMENDMENT STAGE       NO CHANGE       PUBLICATION/REGISTRATION STAGE

Name: Curtis Nellhouse L.O. 110 Date 10-26-01 Serial No. 78027862

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

## Legal Instrument Examiner (LIE)

	Amended	Data Element	
Class Data	<input checked="" type="checkbox"/>	<input type="checkbox"/> Prime/International Class	<input checked="" type="checkbox"/> Goods and Services
		<input type="checkbox"/> First Use Date	<input type="checkbox"/> First Use in Commerce Date
		<input type="checkbox"/> In Another Form	<input type="checkbox"/> Certification
		<input type="checkbox"/> 1b	
Mark Data		<input type="checkbox"/> Word Mark	<input type="checkbox"/> Pseudo Mark
		<input type="checkbox"/> Mark Drawing Code	<input type="checkbox"/> Design Search Code
		<input type="checkbox"/> Scan Sub Drawing	
Misc. Mark Data	<input checked="" type="checkbox"/>	<input type="checkbox"/> Mark Description	<input checked="" type="checkbox"/> Disclaimer
		<input type="checkbox"/> Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
		<input type="checkbox"/> Translation	
Section 2(f)		<input type="checkbox"/> Section 2(f) Entire Mark	
		<input type="checkbox"/> Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) in Part
		<input type="checkbox"/> Amended Register	<input type="checkbox"/> Amended Register Date
Foreign Reg. Data		<input type="checkbox"/> Foreign Country	<input type="checkbox"/> 44(d)
		<input type="checkbox"/> Foreign Application Number	<input type="checkbox"/> Foreign Application Filing Date
		<input type="checkbox"/> Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
		<input type="checkbox"/> Foreign Registration Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Number
		<input type="checkbox"/> Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
Owner Data		<input type="checkbox"/> Owner Name	<input type="checkbox"/> DBA/AKA/TA
		<input type="checkbox"/> Address 1	<input type="checkbox"/> Address 2
		<input type="checkbox"/> City	<input type="checkbox"/> State
		<input type="checkbox"/> Zip Code	
		<input type="checkbox"/> Citizenship	<input type="checkbox"/> Entity
		<input type="checkbox"/> Entity Statement	<input type="checkbox"/> Composed of
		<input type="checkbox"/> Assignment(s)/Name Change	
Amd/Corr Restr.		<input type="checkbox"/> Concurrent Use	
Prior U.S. Reg.		<input type="checkbox"/> Prior Registration	
Correspondence		<input type="checkbox"/> Attorney	<input type="checkbox"/> Domestic Representative
		<input type="checkbox"/> Attorney Docket Number	
		<input type="checkbox"/> Correspondence Firm Name/Address	

I certify that all corrections have been entered in accordance with text editing guidelines.

Curtis Nellhouse  
LIE

10-26-01  
DATE

Other:	_____
_____	_____
_____	_____

# TRADEMARK EXAMINATION WORKSHEET

AMENDMENT STAGE

NO CHANGE

PUBLICATION/REGISTRATION STAGE

Name: Regina Ennis \_\_\_\_\_

L.O. 110 \_\_\_\_\_

Date 7/12/01

Serial No. 107862

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

## Legal Instrument Examiner (LIE)

	Amended	Data Element	
<b>Class Data</b>	<input type="checkbox"/>	Prime/International Class	<input type="checkbox"/> Goods and Services
	<input type="checkbox"/>	First Use Date	<input type="checkbox"/> First Use in Commerce Date
	<input type="checkbox"/>	In Another Form	<input type="checkbox"/> Certification
	<input type="checkbox"/> 1b		
<b>Mark Data</b>	<input type="checkbox"/>	Word Mark	<input type="checkbox"/> Pseudo Mark
	<input type="checkbox"/>	Mark Drawing Code	<input type="checkbox"/> Design Search Code
	<input type="checkbox"/>	Scan Sub Drawing	
<b>Misc. Mark Data</b>	<input type="checkbox"/>	Mark Description	<input type="checkbox"/> Disclaimer
	<input type="checkbox"/>	Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
	<input type="checkbox"/>	Translation	
<b>Section 2(f)</b>	<input type="checkbox"/>	Section 2(f) Entire Mark	
	<input type="checkbox"/>	Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) in Part
	<input type="checkbox"/>	Amended Register	<input type="checkbox"/> Amended Register Date
<b>Foreign Reg. Data</b>	<input type="checkbox"/>	Foreign Country	<input type="checkbox"/> 44(d)
	<input type="checkbox"/>	Foreign Application Number	<input type="checkbox"/> Foreign Application Filing Date
	<input type="checkbox"/>	Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
	<input type="checkbox"/>	Foreign Registration Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Number
	<input type="checkbox"/>	Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
<b>Owner Data</b>	<input type="checkbox"/>	Owner Name	<input type="checkbox"/> DBA/AKA/TA
	<input type="checkbox"/>	Address 1	<input type="checkbox"/> Address 2
	<input type="checkbox"/>	City	<input type="checkbox"/> State
	<input type="checkbox"/>	Zip Code	
	<input type="checkbox"/>	Citizenship	<input type="checkbox"/> Entity
	<input type="checkbox"/>	Entity Statement	<input type="checkbox"/> Composed of
	<input type="checkbox"/>	Assignment(s)/Name Change	
<b>Amd/Corr Restr.</b>	<input type="checkbox"/> Concurrent Use		
<b>Prior U.S. Reg.</b>	<input type="checkbox"/> Prior Registration		
<b>Correspondence</b>	<input type="checkbox"/>	Attorney	<input type="checkbox"/> Domestic Representative
	<input type="checkbox"/>	Attorney Docket Number	
	<input checked="" type="checkbox"/>	Correspondence Firm Name/Address	

I certify that all corrections have been entered in accordance with text editing guidelines.

Regina Ennis \_\_\_\_\_  
LIE

7/12/01  
DATE

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20 110  
2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Freeflyr Inc.  
Serial No.: 78/027,862  
Mark: DVD PLAY  
Filed: September 27, 2000  
Examiner: Ramona F. Ortiga  
Law Office: 110  
Attorney #: 387942

05-21-2001  
U.S. Patent & TMOfc/TM Mail Rpt Dt #01



**Certificate of Mailing under 37 C.F.R. 1.8**

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22201-3513 with sufficient postage as U.S. First Class Mail on: May 16, 2001  
Signature: Ann Vashay Date: 5/16/01

**Commissioner for Trademarks**  
**2900 Crystal Drive**  
**Arlington, VA 22202-3513**

LAW OFFICE 110  
TMEO  
2001 MAY 23 P 1: 54  
RECEIVED

**CHANGE OF CORRESPONDENCE ADDRESS**

To the Commissioner for Trademarks:

I am the attorney of record for Applicant and am requesting to please change the Correspondence Address for the above-identified trademark to:

Curtis A. Vock., Esq., Reg. No. 38,356  
Lathrop & Gage, L.C.  
4845 Pearl East Circle, Suite 302  
Boulder, CO 80301  
Tel: 303-449-5800  
Fax: 303-443-6998

Respectfully submitted:  
**LATHROP & GAGE L.C.,**  
Applicant's Attorney,

*Curtis Vock*

Curtis A. Vock., Reg No 38,356  
4845 Pearl East Circle, Suite 302  
Boulder, CO 80301  
Tel: 303-449-5800  
Fax: 303-443-6998

UNITED STATES PATENT AND TRADEMARK OFFICE

		PAPER NO.
<b>SERIAL NO.</b> <u>78/027862</u> <b>APPLICANT</b> <u>FreeFlyr Inc.</u>		
<b>MARK</b> <u>DVD PLAY</u>		
<b>ADDRESS</b> Curtis Vock LATHROP & GAGE L.C. 2345 Grand Boulevard, Suite 2800 Kansas City MO 64108-2612	<b>ACTION NO.</b> 01	
	<b>MAILING DATE</b> 03/23/01	
	<b>REF. NO.</b> 387942	
FORM PTO-1525 (5-90)	U.S. DEPT. OF COMM. PAT. & TM OFFICE	

**ADDRESS:**  
**Commissioner for Trademarks**  
**2900 Crystal Drive**  
**Arlington, VA 22202-3513**  
**www.uspto.gov**

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

Please provide in all correspondence:

1. Filing Date, serial number, mark and Applicant's name.
2. Mailing date of this Office action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and ZIP code.

**A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.**  
*For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 78/027862

The assigned examining attorney has reviewed the referenced application and determined the following.

**Search of Office Records** TMEP section 1105.01.

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d).

**Recitation of Services** TMEP section 1301.05.

The recitation of services is unacceptable as indefinite. The applicant may adopt the following recitation, if accurate:

- Stand-alone retail kiosk vending machine services, featuring music, games, videos and other recorded materials, in International Class 035;
- On-line retail store services featuring music, games, videos and other recorded materials, in International Class 035;

- Network management and network administration services in the computer industry, in International Class 035;
- Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine, in International Class 041;
- On-line rental of music, games, videos and other recorded materials, in International Class 041.

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(a); TMEP section 804.09. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

The applicant may wish to consult the on-line identification manual on the PTO homepage for acceptable common names of goods.

<http://www.uspto.gov/web/offices/tac/doc/gsmanual/>

#### Disclaimer Requirement

Trademark Act Section 6(a), 15 U.S.C. Section 1056(a), permits the Office to require a disclaimer of an unregistrable component of a mark. Trademark Act Section 2(e), 15 U.S.C. Section 1052(e), bars the registration of a mark which is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive of the goods. Therefore, the Commissioner may require the disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive or deceptively misdescriptive, or primarily geographically descriptive. If an applicant does not comply with a disclaimer requirement, the examining attorney may refuse registration of the entire mark. TMEP section 1213.01(b).

The applicant must disclaim the descriptive acronym "DVD" apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1213 and 1213.02(a). The wording is merely descriptive because it describes of a type of recorded materials provided by the applicant's services.

The acronym dvd is defined as the following (see attachments).

#### **DVD**

Also known as Digital Videodisc and Digital Versatile Disc, it is the next-generation video CD and high-capacity CD-ROM. The disc is the same diameter as a CD-ROM, but can be recorded on both sides. Each side holds 4.7GB. A dual-layer version is also planned that yields 8.5GB per side.

DVD players are compatible with audio CDs, CD-ROMs, CD-I discs, and Video CDs, but not first generation CD-R disks. DVDs use MPEG-2 compression and provide about 135 minutes of LaserDisc-quality video per side. DVD-ROMs are read-only DVDs, DVD-Rs are write once, and DVD-RAMs are rewritable<sup>1</sup>.

---

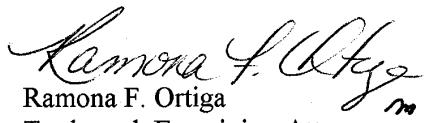
<sup>1</sup> *The Computer Glossary*, copyright © 1998 by The Computer Language Company Inc., 1998.

The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP section 1213.09(a)(i). A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use DVD apart from the mark as shown.

*See In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

  
Ramona F. Ortiga  
Trademark Examining Attorney  
Law Office 110  
(703) 308-9110 ext. 221

TRADEMARK LAW LIBRARY

## **The Computer Glossary**

**The Complete Illustrated Dictionary**

**Eighth Edition**

**Alan Freedman**

**AMACOM**

**American Management Association**

New York • Boston • Chicago • Kansas City • San Francisco • Washington, D.C.  
Brussels • Mexico City • Tokyo • Toronto

## DVD

digital circuit rather than an analog one.

### DVD

Also known as Digital Videodisc and Digital Versatile Disc, it is the next-generation video CD and high-capacity CD-ROM. The disc is the same diameter as a CD-ROM, but can be recorded on both sides. Each side holds 4.7GB. A dual-layer version is also planned that yields 8.5GB per side.

DVD players are compatible with audio CDs, CD-ROMs, CD-I discs and Video CDs, but not first-generation CD-R disks. DVDs use MPEG-2 compression and provide about 135 minutes of LaserDisc-quality video per side. DVD-ROMs are read-only DVDs, DVD-Rs are write once, and DVD-RAMs are rewritable.

### Dvorak keyboard

A keyboard layout designed in the 1930s by August Dvorak, University of Washington, and his brother-in-law, William Dealey. 70% of words are typed on the home row compared to 32% with qwerty, and, more words are typed using both hands. In eight hours, fingers of a qwerty typist travel 16 miles, but only one for the Dvorak typist.

### dweeb

Slang for a very technical person. Dweebs call sales people "slime," because they are interested in technology for profit rather than the art.

### DX

In an Intel 386 CPU, DX, or 386DX, refers to the full 386, which contains a 32-bit data path, in contrast to the slower 386SX, which uses a 16-bit data path. In an Intel 486 CPU, DX, or 486DX, refers to the full 486, which contains the math coprocessor, in contrast to the 486SX, which does not have the coprocessor. See [486](#).

### DXF

An AutoCAD 2-D graphics file format. Many CAD systems import and export the DXF format for graphics interchange.

### dyadic

Two. Refers to two components being used.

### dye polymer recording

An optical recording technique that uses dyed plastic layers as the recording medium. A single dye polymer layer is used in some WORM devices. Erasable optical disks use two dyed plastic layers, a top retention layer and a bottom expansion layer. A bit is written by shining a laser through the retention layer onto the expansion layer, which heats the area and forms a bump that expands into the retention layer. The retention layer bumps are the actual bits read by the unit. To erase a bit, another laser (different wavelength) strikes the retention layer and the bump subsides.

### dye sublimation

A printer process that produces continuous-tone images like photographic film. Its ribbon contains an equivalent panel of dye for each page to be printed. Color printers have three (CMY) or four (CMYK) consecutive panels for each page, thus the same amount of ribbon is used to print a full-page image as it is to print a tenth of the page. Special dye-receptive paper is used, and ribbon and paper cost more than other printer technologies.

The paper and ribbon are passed together over the printhead, which contains thousands of heating elements that can produce varying amounts of heat. The hotter the element, the more dye is released. By varying the temperature, shades of each color can be overlaid on top of each other. The dyes are transparent and blend into continuous-tone color.

### dynamic

Refers to operations performed while the program is running. The expression, "buffers are dynamically created," means that space was created when actually needed, not reserved beforehand.

### dynamic address translation

In a virtual memory system, the ability to determine what the real address is at the time of execution.

### dynamic binding

Linking a routine or object at runtime based on the conditions at that moment. See [polymorphism](#).

### dynamic

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### dynamic

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### DYNAST

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Mac and M  
creating thr

### DYNIX

A UND

### dynlink

See *dyn*

NAME FreeFlyr Inc.

STREET 1115 Del Verde

CITY Newbury Park

STATE CA

COUNTRY USA

ZIP/POSTAL CODE 91320

TELEPHONE NUMBER 888-933-4383

FAX NUMBER 240-332-6221

CORPORATION: Delaware

STATE/COUNTRY OF INCORPORATION

MARK DVD PLAY

TYPED FORM Yes

USE IN COMMERCE: SECTION 1(a) Yes

SPECIMEN Yes

SPECIMEN DESCRIPTION Scanned image from applicant's web page reflecting how one can buy recorded materials

INTERNATIONAL CLASS NUMBER 035

LISTING OF GOODS AND/OR SERVICES Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

FIRST USE ANYWHERE DATE 12/02/1999

FIRST USE IN COMMERCE DATE 12/05/1999

USE IN COMMERCE: SECTION 1(a) Yes

SPECIMEN Yes

SPECIMEN DESCRIPTION Scanned image from applicant's web page reflecting how one can rent recorded materials

INTERNATIONAL CLASS NUMBER 041

LISTING OF GOODS AND/OR SERVICES      Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network  
 FIRST USE ANYWHERE DATE      12/02/1999  
 FIRST USE IN COMMERCE DATE      12/05/1999  
 USE IN COMMERCE: SECTION 1(a)      Yes  
 SPECIMEN      Yes  
 SPECIMEN DESCRIPTION      Scanned image from applicant's web page at [www.dvdplay.net](http://www.dvdplay.net) of marketing materials regarding the services  
 INTERNATIONAL CLASS NUMBER      042  
 LISTING OF GOODS AND/OR SERVICES      Computer services, namely network management and network administration services for others  
 FIRST USE ANYWHERE DATE      12/02/1999  
 FIRST USE IN COMMERCE DATE      12/05/1999  
 PRIOR REGISTRATION(S)      "Applicant claims ownership of U.S. Registration Number(s) pending application 75/821,033 filed October 12, 1998." *Do Not Print*  
 NAME      Curtis Vock  
 STREET      2345 Grand Boulevard, Suite 2800  
 CITY      Kansas City  
 STATE      MO  
 COUNTRY      USA  
 ZIP/POSTAL CODE      64108-2612  
 E-MAIL ADDRESS      [cvock@lathropgage.com](mailto:cvock@lathropgage.com)  
 FIRM NAME      LATHROP & GAGE L.C.  
 TELEPHONE NUMBER      816-292-2000  
 FAX NUMBER      816-292-2001  
 ATTORNEY DOCKET NUMBER      387942

OTHER APPOINTED ATTORNEY(S) David R. Barnard; Stephen J. Horace; Alfred R. Hupp, Jr.; Ronald E. Manka; William A. Rudy, Registration No. 34,916; Dan Cleveland, Jr., Registration No. 36106; Peter Knops, Registration No. 37,659; Curtis Vock, Registration No. 38,356; Patrick C. Woolley, Registration No. 39,078; James M. Stipek, Registration No. 39,388; Joseph L. Johnson, Registration No. 39,718; Jeffrey B. Williams, Registration 43,269; and Robert J. Lambrechts, Registration No. P-46,854

TOTAL FEES PAID 975

NUMBER OF CLASSES PAID 3

NUMBER OF CLASSES 3

DEPOSIT ACCOUNT NUMBER 120600

NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY Curtis Vock

COMPANY/FIRM NAME Lathrop & Gage L.C.

E-MAIL ADDRESS FOR CORRESPONDENCE cvock@lathropgage.com

> SIGNATURE /William H. Barber/

DATE 09/27/2000

NAME William H. Barber

TITLE President and CEO

LINE Curtis Vock

LINE LATHROP & GAGE L.C.

LINE 2345 Grand Boulevard, Suite 2800

LINE Kansas City MO 64108-2612

SERIAL NUMBER 78/027862

INTERNET TRANSMISSION DATE Wednesday, 09-27-2000 14:00:25 EDT

TEAS STAMP USPTO-205243226101-20000927140028658-78/027862-122d1898ec9c05dbebb841e59bcae5e8e32-DA-120600-20000927135928658

-MAIL ADDRESS FOR tcawthon@lathropgage.com

**ACKNOWLEDGMENT-**

78027862

<SERIAL NUMBER> 78027862  
<FILING DATE> 09/27/2000

**<DOCUMENT INFORMATION>**

<TRADEMARK/SERVICEMARK APPLICATION>

<VERSION 1.22>

**<APPLICANT INFORMATION>**

<NAME>	FreeFlyr Inc.
<STREET>	1115 Del Verde
<CITY>	Newbury Park
<STATE>	CA
<COUNTRY>	USA
<ZIP/POSTAL CODE>	91320
<TELEPHONE NUMBER>	888-933-4383
<FAX NUMBER>	240-332-6221

**<APPLICANT ENTITY INFORMATION>**

<CORPORATION: STATE/COUNTRY OF INCORPORATION> Delaware

**<TRADEMARK/SERVICEMARK INFORMATION>**

<MARK> DVD PLAY

<TYPED FORM> Yes

\* Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). \*

**<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>**

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page reflecting how one can buy recorded materials

<INTERNATIONAL CLASS NUMBER> 035

<LISTING OF GOODS AND/OR SERVICES> Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

**<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>**

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page reflecting how one can rent recorded materials

<INTERNATIONAL CLASS NUMBER> 041

<LISTING OF GOODS AND/OR SERVICES> Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

#### **<BASES FOR FILING AND GOODS/SERVICES INFORMATION>**

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page at [www.dvdplay.net](http://www.dvdplay.net) of marketing materials regarding the services

<INTERNATIONAL CLASS NUMBER> 042

<LISTING OF GOODS AND/OR SERVICES> Computer services, namely network management and network administration services for others

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

#### **<OPTIONAL INFORMATION>**

<PRIOR REGISTRATION(S)> "Applicant claims ownership of U.S. Registration Number(s) pending application 75/821,033 filed October 12, 1998."

#### **<ATTORNEY INFORMATION>**

<NAME>

Curtis Vock

<STREET>

2345 Grand Boulevard, Suite 2800

<CITY>

Kansas City

<STATE>

MO

<COUNTRY>

USA

<ZIP/POSTAL CODE>

64108-2612

<E-MAIL ADDRESS>

[cvoock@lathropgage.com](mailto:cvoock@lathropgage.com)

<FIRM NAME>

LATHROP & GAGE L.C.

<TELEPHONE NUMBER> 816-292-2000  
<FAX NUMBER> 816-292-2001  
<ATTORNEY DOCKET NUMBER> 387942  
<OTHER APPOINTED ATTORNEY(S)> David R. Barnard; Stephen J. Horace; Alfred R. Hupp, Jr.; Ronald E. Manka; William A. Rudy, Registration No. 34,916; Dan Cleveland, Jr., Registration No. 36106; Peter Knops, Registration No. 37,659; Curtis Vock, Registration No. 38,356; Patrick C. Woolley, Registration No. 39,078; James M. Stipek, Registration No. 39,388; Joseph L. Johnson, Registration No. 39,718; Jeffrey B. Williams, Registration 43,269; and Robert J. Lambrechts, Registration No. P-46,854

**<FEE INFORMATION>**

<TOTAL FEES PAID> 975  
<NUMBER OF CLASSES PAID> 3  
<NUMBER OF CLASSES> 3

**<DEPOSIT ACCOUNT INFORMATION>**

<DEPOSIT ACCOUNT NUMBER> 120600  
\* The U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to the deposit account listed above. \*  
<NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY> Curtis Vock  
<COMPANY/FIRM NAME> Lathrop & Gage L.C.

**<LAW OFFICE INFORMATION>**

\* The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address \*  
<E-MAIL ADDRESS FOR CORRESPONDENCE> cvock@lathropgage.com

**<SIGNATURE AND OTHER INFORMATION>**

\* PTO-Application Declaration: The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true. \*

<SIGNATURE> /William H. Barber/  
<DATE> 09/27/2000  
<NAME> William H. Barber  
<TITLE> President and CEO

**<MAILING ADDRESS>**

<LINE> Curtis Vock  
<LINE> LATHROP & GAGE L.C.  
<LINE> 2345 Grand Boulevard, Suite 2800  
<LINE> Kansas City MO 64108-2612

**<SERIAL NUMBER INFORMATION>**

<SERIAL NUMBER> 78/027862  
<INTERNET TRANSMISSION DATE> Wednesday, 09-27-2000 14:00:25 EDT  
<TEAS STAMP>  
USPTO-205243226101-20000927140028658-78/027862-  
122d1898ec9c05dbebb841e59bcae5e8e32-DA-120600-20000927135928658  
<E-MAIL ADDRESS FOR ACKNOWLEDGMENT> tcawthon@lathropgage.com

**Internet Transmission Date:**

2000/09/27

**Serial Number:**

78027862

**Filing Date:**

2000/09/27



TRADEMARK APPLICATION

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

TOTAL FEES DUE: \$975

**DEPOSIT ACCOUNT NUMBER: 120600**



NO OCR



09-27-2000

<SERIAL NUMBER> 78027862  
<FILING DATE> 09/27/2000

**<DEPOSIT ACCOUNT INFORMATION>**

<DEPOSIT ACCOUNT NUMBER> 120600

\* The U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to the deposit account listed above. \*

<NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY> Curtis Vock

<COMPANY/FIRM NAME> Lathrop & Gage L.C.

**<LAW OFFICE INFORMATION>**

\* The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address \*

<E-MAIL ADDRESS FOR CORRESPONDENCE> cvock@lathropgage.com

**<SIGNATURE AND OTHER INFORMATION>**

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<SIGNATURE>

/William H. Barber/

<DATE>

09/27/2000

<NAME>

William H. Barber

<TITLE>

President and CEO



**RAM Fee History Query**  
Revenue Accounting and Management

Name/Number: 78027862

Total Records Found: 1

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/02/2000	00000051	<u>0</u>	<u>361</u>	\$975.00	09/27/2000	DA 120600

**Drawing Page**

**Serial Number:**

78027862

**Applicant:**

FreeFlyr Inc.  
1115 Del Verde  
Newbury Park CA USA 91320



**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

**Date of First Use:**

12/02/1999

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12/05/1999

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**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Computer services, namely network management and network administration services for others

**Mark:**

DVD PLAY

PUBLISHED  
03/05/02



NO OCR



09-27-2000

\*\*\* User: rortiga \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Search Duration	Search
01	2	0	2	2	0:01	"freeflyr"[on]
02	333	108	225	225	0:01	("dvd" "d vd" "dv d" "d v d" *dvd*) [bi,ti]
03	7308	N/A	0	0	0:01	*play*[bi,ti]
04	3	0	3	3	0:01	2 and 3
05	4	1	3	3	0:01	dvd[fm]
06	21	10	11	11	0:01	play[fm]

Session started 3/20/01 10:54:13 AM

Session finished 3/20/01 10:59:51 AM

Total search duration 0:06 minutes

Session Duration 5:38 minutes

Default NEAR limit= 1 ADJ limit= 1

ORIGINAL SPECIMEN

Internet Transmission Date:

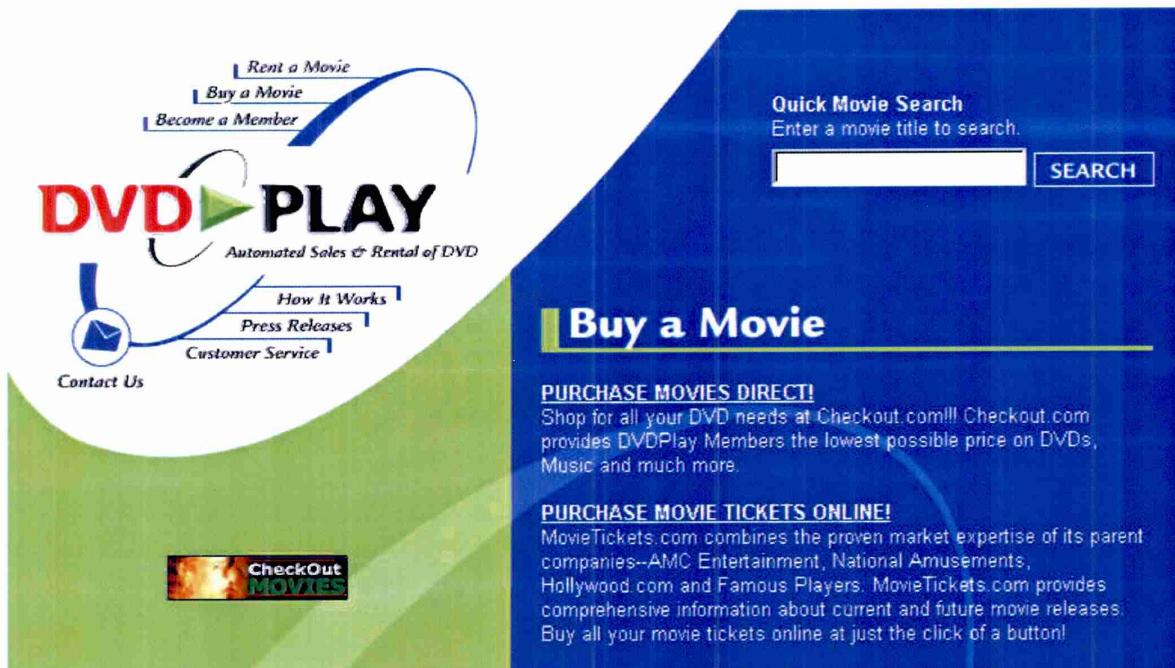
2000/09/27

Serial Number:

78027862

Filing Date:

2000/09/27



The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

ORIGINAL SPECIMEN

Internet Transmission Date:

2000/09/27

Serial Number:

78027862

Filing Date:

2000/09/27



The image displays a composite specimen for the DVDPLAY website and its kiosks. On the left, a screenshot of the DVDPLAY website is shown. The website has a green header with a white navigation bar containing 'Rent a Movie', 'Buy a Movie', and 'Become a Member'. Below this is a large 'DVDPLAY' logo with a red 'DVD' and a green 'PLAY' button. The text 'Automated Sales & Rental of DVD' is underneath. A blue swoosh graphic extends from the logo. Below the swoosh are links for 'How It Works', 'Press Releases', and 'Customer Service'. At the bottom left is a 'Contact Us' link. On the right, a blue section of the website features the text 'FREE Rental with new membership!!!' in white. Below this, a yellow box contains the heading 'Rent a Movie' in blue. To the right of the heading is a detailed description of the kiosks: 'The DVDisplay kiosks are fully automated DVD vending and return systems. A video store in a box. The small footprint allows them to be physically placed where they are most convenient to you. The kiosks supply Real-Time inventory data to the website and accept major credit cards and select debit cards at the point of sale.' Further down, under the heading 'Rentals or Purchase:', is a note: 'Simple touch screen commands lead quickly to selections. When prompted, insert your card and walk away with your DVD. [View rental agreement](#)'.

The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

ORIGINAL SPECIMEN

Internet Transmission Date:  
2000/09/27

Serial Number:  
78027862

Filing Date:  
2000/09/27



The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

Trademark

78027862

TRADEMARK



NEW CASE DELIVERED

MAR 15 2001

PROSECUTION HISTORY

LAW OFFICES LTD

Entry

Date

Initials

MAR 23 2001

NG OCT 31 2001

1.		
2.	Chg of Del	
3.	Amdt A	
4.	NOP	
5.	03/05/02	
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See inside of file for additional entries.

1/17/02  
MS

SEP

## Post Registration

Section 15
Acknowledged
(Signature)

Cancelled - Section 8  
(Date)

Expired - Section 9  
(Date)

REG NUM: 2573752  
REG DT: 05/28/2002  
S/N 78/027862

## Trademark

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

SEP

78-027862



TYPED DRAWING

**FILING DATE**  
September 27, 2000**ORIGINAL APPLICANT**  
FreeFlyr Inc.**GOODS/SERVICES (CLASS 035)**  
automated sales of music, games, videos (ETC)**GOODS/SERVICES (CLASS 041)**  
automated rental of music, games, videos (ETC)**GOODS/SERVICES (CLASS 042)**  
computer services, namely network manage (ETC)**FILING BASIS**  
USE**ORIGINAL CORRESPONDENT**  
Curtis Vock**PUBLISHED**  
03/05/02

DVD PLAY

PRINCIPAL

LAW OFFICE 102 110

ATTORNEY ADVISOR: *Romana Ortiga*

78-027862

Approved for Publication (Principal Register) (Signature/Date)

*Romana Ortiga 11/18/01**Romana Ortiga 11/4/01*

NOP

NOA

Approved for Registration (Section 1(d)) (Signature/Date)

Approved for Registration (Supplemental Register) (Signature/Date)

 Abandoned

(Date)

**Int. Cls.: 35 and 41**

**Prior U.S. Cls.: 100, 101, 102 and 107**

**United States Patent and Trademark Office**

**Reg. No. 2,573,752**

**Registered May 28, 2002**

**SERVICE MARK  
PRINCIPAL REGISTER**

**DVD PLAY**

FREEFLYR INC. (DELAWARE CORPORATION)  
1115 DEL VERDE  
NEWBURY PARK, CA 91320

FOR: STAND-ALONE RETAIL KIOSK VENDING MACHINE SERVICES, FEATURING MUSIC, GAMES, VIDEOS AND OTHER RECORDED MATERIALS; ON-LINE RETAIL STORE SERVICES FEATURING MUSIC, GAMES, VIDEOS AND OTHER RECORDED MATERIALS; NETWORK MANAGEMENT AND NETWORK ADMINISTRATION SERVICES IN THE COMPUTER INDUSTRY, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-2-1999; IN COMMERCE 12-5-1999.

FOR: AUTOMATED RENTAL OF MUSIC, GAMES, VIDEOS AND OTHER RECORDED MATERIALS VIA A STAND-ALONE KIOSK VENDING MACHINE; ON-LINE RENTAL OF MUSIC, GAMES, VIDEOS AND OTHER RECORDED MATERIALS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 12-2-1999; IN COMMERCE 12-5-1999.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DVD", APART FROM THE MARK AS SHOWN.

SER. NO. 78-027,862, FILED 9-27-2000.

RAMONA ORTIGA, EXAMINING ATTORNEY

**Int. Cls.: 35 and 41**

**Prior U.S. Cls.: 100, 101, 102 and 107**

**Reg. No. 2,573,752**

**United States Patent and Trademark Office**

**Registered May 28, 2002**

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PRINCIPAL REGISTER**

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SER. NO. 78-027,862, FILED 9-27-2000.

RAMONA ORTIGA, EXAMINING ATTORNEY



09-24-2001

U.S. Patent &amp; TMOfc/TM Mail Rcpt Dt #71

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Applicant:** FreeFlyr Inc.  
**Serial No.:** 78/027,862  
**Filed:** September 27, 2000  
**Mark:** DVD PLAY  
**Attny Ref #:** 387942  
**Law Office:** 110  
**Examiner:** Ramona F. Ortiga

3A

## Certificate of Mailing under 37 C.F.R. 1.8

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to Box: Responses, No Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22201-3513 with sufficient postage as U.S. First Class Mail on: Sept. 18, 2001  
 Signature: Ann Vashety Date: 9/18/01

**Box: Responses, No Fee**  
**Commissioner for Trademarks**  
**2900 Crystal Drive**  
**Arlington, Virginia 22201-3513**



## Response to Office Action

This communication responds to the office action dated March 23, 2001. The Examining Attorney has searched the Office records and has found no similar registered or pending mark which would bar registration. However, the recitation of services is unacceptable as indefinite and a disclaimer is required.

## Recitation of Services:

Please amend the recitation of services to read as follows:

- Stand-alone retail kiosk vending machine services, featuring music, games, videos and other recorded materials; on-line retail store services featuring music, games, videos and other recorded materials; network management and network administration services in the computer industry, all in International Class 35;
- Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music, games, videos and other recorded materials, all in International Class 41;

M9

**Disclaimer:**

Please amend this application to include the following disclaimer:

No claim is made to the exclusive right to use DVD apart from the mark as shown.] PR INT

**Request for Credit of Overpayment:**

The application filed on September 27, 2000, was applied for in three international classes. The fee paid at that time was \$975.00. This application, due to the Examiners recommendation, is now in two international classes. Applicant's attorney requests that the overpayment of \$325.00 be credited to deposit account 12-0600.

**Conclusion:**

It is believed that this response addresses the issues raised in the office action. Applicant's attorney requests that this application proceed to publication. It is believed no fees are due for this response. If fees are due for this response, the Commissioner of Trademarks is authorized to charge the appropriate amount to deposit account 12-0600.

Respectfully submitted,  
**LATHROP & GAGE L.C.**  
Attorneys for Applicant,

*Curtis Vock*

Curtis A. Vock, Reg. No. 38,356  
4845 Pearl East Circle, Suite 302  
Boulder, CO 80301  
303-449-5800, ext. 11  
303-443-6998, fax.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **FreeFlyr Inc.**  
Serial No.: **78/027,862**  
Filed: **September 27, 2000**  
Mark: **DVD PLAY**  
Attny Ref #: **387942**  
Law Office: **110**  
Examiner: **Ramona F. Ortiga**

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Signature: Ann Vashetz Date: 9/18/01

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**Disclaimer:**

Please amend this application to include the following disclaimer:

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**LATHROP & GAGE L.C.**  
Attorneys for Applicant,

*Curtis Vock*

Curtis A. Vock, Reg. No. 38,356  
4845 Pearl East Circle, Suite 302  
Boulder, CO 80301  
303-449-5800, ext. 11  
303-443-6998, fax.

**Drawing Page**

**Serial Number:**  
78027862

**Applicant:**

FreeFlyr Inc.  
1115 Del Verde  
Newbury Park CA USA 91320



**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

**Date of First Use:**

12/02/1999

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12/05/1999

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Computer services, namely network management and network administration services for others

**Mark:**

DVD PLAY



NO OCR



09-27-2000

**Internet Transmission Date:**  
2000/09/27

**Serial Number:**  
78027862

**Filing Date:**  
2000/09/27



TRADEMARK APPLICATION

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

TOTAL FEES DUE: \$975

DEPOSIT ACCOUNT NUMBER: 120600



NO OCR



09-27-2000

<SERIAL NUMBER> 78027862  
<FILING DATE> 09/27/2000

**<DEPOSIT ACCOUNT INFORMATION>**

<DEPOSIT ACCOUNT NUMBER> 120600

\* The U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to the deposit account listed above. \*

<NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY> Curtis Vock

<COMPANY/FIRM NAME> Lathrop & Gage L.C.

**<LAW OFFICE INFORMATION>**

\* The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address \*

<E-MAIL ADDRESS FOR CORRESPONDENCE> cvock@lathropgage.com

**<SIGNATURE AND OTHER INFORMATION>**

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\*

<SIGNATURE>

/William H. Barber/

<DATE>

09/27/2000

<NAME>

William H. Barber

<TITLE>

President and CEO

<SERIAL NUMBER> 78027862  
<FILING DATE> 09/27/2000

<DOCUMENT INFORMATION>  
<TRADEMARK/SERVICEMARK APPLICATION>  
<VERSION 1.22>

<APPLICANT INFORMATION>

<NAME>	FreeFlyr Inc.
<STREET>	1115 Del Verde
<CITY>	Newbury Park
<STATE>	CA
<COUNTRY>	USA
<ZIP/POSTAL CODE>	91320
<TELEPHONE NUMBER>	888-933-4383
<FAX NUMBER>	240-332-6221

<APPLICANT ENTITY INFORMATION>

<CORPORATION: STATE/COUNTRY OF INCORPORATION> Delaware

<TRADEMARK/SERVICEMARK INFORMATION>

<MARK> DVD PLAY

<TYPED FORM> Yes

\* Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). \*

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page reflecting how one can buy recorded materials

<INTERNATIONAL CLASS NUMBER> 035

<LISTING OF GOODS AND/OR SERVICES> Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

**<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>**

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page reflecting how one can rent recorded materials

<INTERNATIONAL CLASS NUMBER> 041

<LISTING OF GOODS AND/OR SERVICES> Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

**<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>**

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> Scanned image from applicant's web page at www.dvdplay.net of marketing materials regarding the services

<INTERNATIONAL CLASS NUMBER> 042

<LISTING OF GOODS AND/OR SERVICES> Computer services, namely network management and network administration services for others

<FIRST USE ANYWHERE DATE> 12/02/1999

<FIRST USE IN COMMERCE DATE> 12/05/1999

**<OPTIONAL INFORMATION>**

<PRIOR REGISTRATION(S)> "Applicant claims ownership of U.S. Registration Number(s) pending application 75/821,033 filed October 12, 1998."

**<ATTORNEY INFORMATION>**

<NAME>	Curtis Vock
<STREET>	2345 Grand Boulevard, Suite 2800
<CITY>	Kansas City
<STATE>	MO
<COUNTRY>	USA

<ZIP/POSTAL CODE> 64108-2612  
<E-MAIL ADDRESS> cvock@lathropgage.com  
<FIRM NAME> LATHROP & GAGE L.C.  
<TELEPHONE NUMBER> 816-292-2000  
<FAX NUMBER> 816-292-2001  
<ATTORNEY DOCKET NUMBER> 387942  
<OTHER APPOINTED ATTORNEY(S)> David R. Barnard; Stephen J. Horace; Alfred R. Hupp, Jr.; Ronald E. Manka; William A. Rudy, Registration No. 34,916; Dan Cleveland, Jr., Registration No. 36106; Peter Knops, Registration No. 37,659; Curtis Vock, Registration No. 38,356; Patrick C. Woolley, Registration No. 39,078; James M. Stipek, Registration No. 39,388; Joseph L. Johnson, Registration No. 39,718; Jeffrey B. Williams, Registration 43,269; and Robert J. Lambrechts, Registration No. P-46,854

**<FEE INFORMATION>**

<TOTAL FEES PAID> 975  
<NUMBER OF CLASSES PAID> 3  
<NUMBER OF CLASSES> 3

**<DEPOSIT ACCOUNT INFORMATION>**

<DEPOSIT ACCOUNT NUMBER> 120600

\* The U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to the deposit account listed above. \*

<NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY> Curtis Vock

<COMPANY/FIRM NAME> Lathrop & Gage L.C.

**<LAW OFFICE INFORMATION>**

\* The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address \*

<E-MAIL ADDRESS FOR CORRESPONDENCE> cvock@lathropgage.com

**<SIGNATURE AND OTHER INFORMATION>**

\* PTO-Application Declaration: The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause

confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.  
\*

<SIGNATURE> /William H. Barber/  
<DATE> 09/27/2000  
<NAME> William H. Barber  
<TITLE> President and CEO

**<MAILING ADDRESS>**

<LINE> Curtis Vock  
<LINE> LATHROP & GAGE L.C.  
<LINE> 2345 Grand Boulevard, Suite 2800  
<LINE> Kansas City MO 64108-2612

**<SERIAL NUMBER INFORMATION>**

<SERIAL NUMBER> 78/027862  
<INTERNET TRANSMISSION DATE> Wednesday, 09-27-2000 14:00:25 EDT  
<TEAS STAMP>  
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<E-MAIL ADDRESS FOR ACKNOWLEDGMENT> tcawthon@lathropgage.com

**Drawing Page**

**Serial Number:**  
78027862

**Applicant:**

FreeFlyr Inc.  
1115 Del Verde  
Newbury Park CA USA 91320



**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Automated sales of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Automated rental of music, games, videos and other recorded materials via a stand-alone kiosk vending machine or a global computer network

**Date of First Use:**

12/02/1999

**Date of First Use in Commerce:**

12/05/1999

**Goods and Services:**

Computer services, namely network management and network administration services for others

**Mark:**

DVD PLAY



NO OCR



09-27-2000

ORIGINAL SPECIMEN

Internet Transmission Date:  
2000/09/27

Serial Number:  
78027862

Filing Date:  
2000/09/27



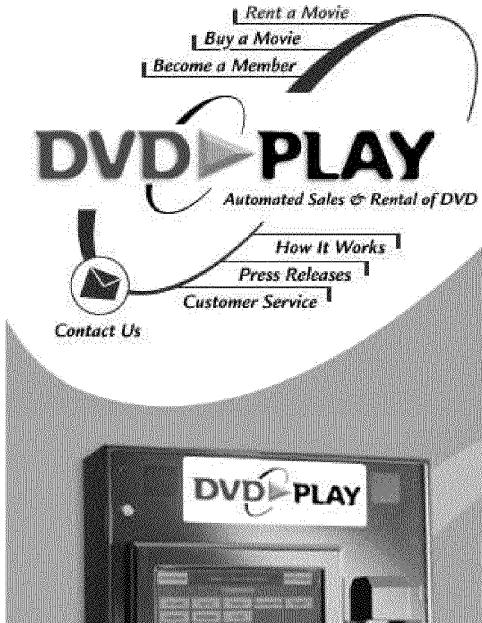
The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

ORIGINAL SPECIMEN

Internet Transmission Date:  
2000/09/27

Serial Number:  
78027862

Filing Date:  
2000/09/27



**FREE Rental  
with new  
membership!!!**

**Rent a Movie**

The DVDplay kiosks are fully automated DVD vending and return systems. A video store in a box. The small footprint allows them to be physically placed where they are most convenient to you. The kiosks supply Real-Time inventory data to the website and accept major credit cards and select debit cards at the point of sale.

**Rentals or Purchase:**

Simple touch screen commands lead quickly to selections. When prompted, insert your card and walk away with your DVD. [View rental agreement](#).

**Returns:**

The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

ORIGINAL SPECIMEN

Internet Transmission Date:  
2000/09/27

Serial Number:  
78027862

Filing Date:  
2000/09/27



The image is a grayscale advertisement for DVDPlay. At the top, the text "True Click & Mortar" is displayed. Below this, there are two interactive kiosks. A large arrow points from the kiosks down to the "DVDPlay Network Core" logo, which features a stylized play button icon and the text "DVDPLAY Network Core". To the right of the logo, there are two small icons: a 3D cube and a computer monitor. The right side of the advertisement lists the "DVDPlay Network Core" features, which include Kiosk Network Administration, Advertising Network Administration, Secure Credit Card Transactions, Information Management, Supplier Management, and Inventory Management.

**True Click & Mortar**

**Interactive Kiosks**

- *DVD Rental & Return*
- *Used DVD Sales*
- *Email Registration*
- *Advertising*

**DVDPlay Network Core**

- *Kiosk Network Administration*
- *Advertising Network Administration*
- *Secure Credit Card Transactions*
- *Information Management*
- *Supplier Management*
- *Inventory Management*

The applicant has submitted required color specimen.  
The USPTO has printed only one copy of the specimen,  
and extra copies can be produced in-house as needed.

[Rent a Movie](#)  
[Buy a Movie](#)  
[Become a Member](#)

# DVD PLAY

Automated Sales & Rental of DVD



[Contact Us](#)

[How It Works](#)

[Press Releases](#)

[Customer Service](#)



**Quick Movie Search**  
Enter a movie title to search.

**SEARCH**

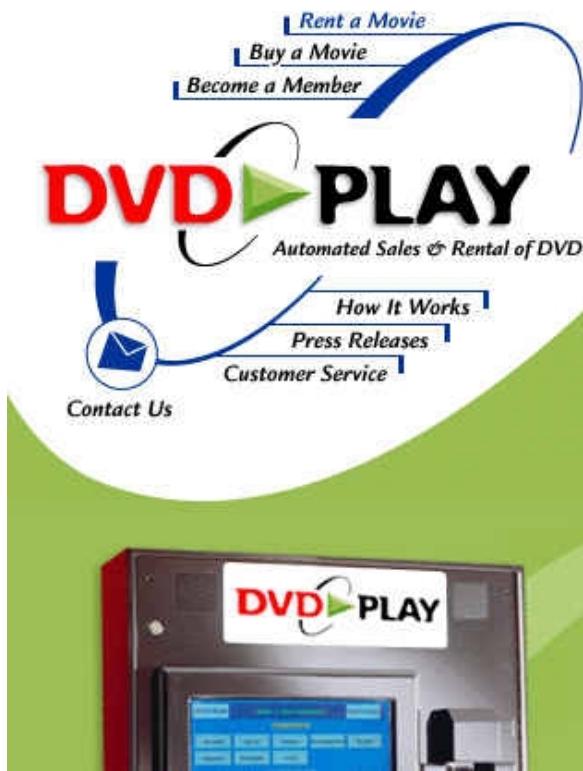
## Buy a Movie

### **PURCHASE MOVIES DIRECT!**

Shop for all your DVD needs at [Checkout.com](#)!!! Checkout.com provides DVDPlay Members the lowest possible price on DVDs, Music and much more.

### **PURCHASE MOVIE TICKETS ONLINE!**

MovieTickets.com combines the proven market expertise of its parent companies--AMC Entertainment, National Amusements, Hollywood.com and Famous Players. MovieTickets.com provides comprehensive information about current and future movie releases. Buy all your movie tickets online at just the click of a button!



**FREE Rental  
with new  
membership!!!**

## Rent a Movie

The DVDPay kiosks are fully automated DVD vending and return systems. A video store in a box. The small footprint allows them to be physically placed where they are most convenient to you. The kiosks supply Real-Time inventory data to the website and accept major credit cards and select debit cards at the point of sale.

### Rentals or Purchase:

Simple touch screen commands lead quickly to selections. When prompted, insert your card and walk away with your DVD. [View rental agreement.](#)

### Returns:

# True Click & Mortar



## Interactive Kiosks

- *DVD Rental & Return*
- *Used DVD Sales*
- *Email Registration*
- *Advertising*



## DVDPlay Network Core

- *Kiosk Network Administration*
- *Advertising Network Administration*
- *Secure Credit Card Transactions*
- *Information Management*
- *Supplier Management*
- *Inventory Management*