

Mark:



US Serial Number: 78865999

Application Filing Apr. 20, 2006  
Date:

US Registration 3300349  
Number:

Registration Date: Sep. 25, 2007

Register: Supplemental

Mark Type: Service Mark

TM5 Common Status  
Descriptor:



DEAD/REGISTRATION/Cancelled/Invalidated

Amended to No  
Principal Register:

Date Amended to Jun. 27, 2007  
Current Register:

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: May 02, 2014

Date Cancelled: May 02, 2014

## Mark Information

Mark Literal None  
Elements:

Standard Character No  
Claim:

Mark Drawing 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S) /NUMBER(S)  
Type:

Description of The mark consists of a 3-dimensional cube with rounded edges.  
Mark:

Design Search 26.19.04 - Cubes (geometric)  
Code(s):

## 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: Rental of DVDs featuring entertainment content through automated vending machines

International 041 - Primary Class  
Class(es):

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

Class Status: SECTION 8 - CANCELLED

First Use: Jun. 2005

Use in Commerce: Jun. 2005

## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Filed 44E: No

Filed 66A: No

Filed No Basis: No

Currently 44D: No

Currently 44E: No

Currently 66A: 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:** James P. Muraff

**Docket Number:** 2222 T 023

**Attorney Primary Email Address:** [docket@wwrfirm.com](mailto:docket@wwrfirm.com)

Attorney Email No  
Authorized:

## Correspondent

**Correspondent** JAMES P MURAFF

**Name/Address:** NEAL, GERBER & EISENBERG LLP

2 N LASALLE ST

CHICAGO, ILLINOIS UNITED STATES 60602

348 888 8888

312-269-8000

**Phone:** 312-269-8000

Fax: 312-269-1747

Correspondent e-mail: [IPDocket@ngelaw.com](mailto:IPDocket@ngelaw.com)

Correspondent e- No  
mail Authorized:

## Domestic Representative - Not Found

## **Prosecution History**

Date	Description	Proceeding Number
Oct. 05, 2016	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 02, 2014	CANCELLED SEC. 8 (6-YR)	
Aug. 03, 2011	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Sep. 25, 2007	REGISTERED-SUPPLEMENTAL REGISTER	
Aug. 23, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	
Aug. 23, 2007	ASSIGNED TO LIE	
Jul. 12, 2007	APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER	
Jun. 27, 2007	TEAS/EMAIL CORRESPONDENCE ENTERED	
Jun. 27, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jun. 27, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jan. 29, 2007	NON-FINAL ACTION E-MAILED	
Jan. 29, 2007	NON-FINAL ACTION WRITTEN	
Jan. 05, 2007	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan. 06, 2007	TEAS/EMAIL CORRESPONDENCE ENTERED	
Jan. 05, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jan. 05, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 29, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Oct. 23, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Sep. 25, 2006	NON-FINAL ACTION E-MAILED	
Sep. 25, 2006	NON-FINAL ACTION WRITTEN	
Sep. 25, 2006	ASSIGNED TO EXAMINER	
Apr. 27, 2006	NOTICE OF DESIGN SEARCH CODE MAILED	
Apr. 26, 2006	NEW APPLICATION ENTERED	

## TM Staff and Location Information

**TM Staff Information - None****File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Sep. 25, 2007**Assignment Abstract Of Title Information****Summary****Total Assignments:** 3**Registrant:** Redbox Automated Retail, LLC**Assignment 1 of 3****Conveyance:** SECURITY INTEREST**Reel/Frame:** [3952/0006](#)**Pages:** 8**Date Recorded:** Mar. 13, 2009**Supporting Documents:** [assignment-tm-3952-0006.pdf](#)**Assignor****Name:** [REDBOX AUTOMATED RETAIL, LLC](#)**Legal Entity Type:** LIMITED LIABILITY COMPANY**Execution Date:** Mar. 09, 2009**State or Country** DELAWARE  
**Where Organized:****Assignee****Name:** [BANK OF AMERICA, N.A.](#)**Legal Entity Type:** NATIONAL BANKING ASSOCIATION**State or Country** No Place of Organization Found  
**Where Organized:****Address:** 231 S. LASALLE STREET  
CHICAGO, ILLINOIS 60697**Correspondent****Correspondent** RYAN G. MOSHELL**Name:****Correspondent** HAYNES AND BOONE, LLP**Address:** 2323 VICTORY AVENUE, SUITE 700  
DALLAS, TX 75219**Domestic Representative - Not Found****Assignment 2 of 3****Conveyance:** AMENDED AND RESTATED SECURITY AGREEMENT**Reel/Frame:** [4590/0957](#)**Pages:** 8**Date Recorded:** Jul. 26, 2011**Supporting Documents:** [assignment-tm-4590-0957.pdf](#)**Assignor****Name:** [REDBOX AUTOMATED RETAIL, LLC](#)**Legal Entity Type:** LIMITED LIABILITY COMPANY**Execution Date:** Jul. 15, 2011**State or Country** DELAWARE  
**Where Organized:****Assignee****Name:** [BANK OF AMERICA, N.A.](#)**Legal Entity Type:** NATIONAL BANKING ASSOCIATION**State or Country** UNITED STATES  
**Where Organized:****Address:** 901 MAIN STREET  
MAIL CODE: TX1-492-14-14  
DALLAS, TEXAS 75202**Correspondent****Correspondent** GAVIN GEORGE**Name:****Correspondent** HAYNES AND BOONE, LLP**Address:** 2323 VICTORY AVENUE, SUITE 700  
DALLAS, TX 75219**Domestic Representative - Not Found**

### Assignment 3 of 3

**Conveyance:** RELEASE OF INTELLECTUAL PROPERTY SECURITY INTEREST

**Reel/Frame:** [5885/0636](#)

**Pages:** 16

**Date Recorded:** Sep. 27, 2016

**Supporting Documents:** [assignment-tm-5885-0636.pdf](#)

#### Assignor

**Name:** [BANK OF AMERICA, N.A.](#)

**Legal Entity Type:** NATIONAL BANKING ASSOCIATION

**Execution Date:** Sep. 27, 2016

**State or Country:** UNITED STATES  
**Where Organized:**

#### Assignee

**Name:** [REDBOX AUTOMATED RETAIL, LLC](#)

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country:** DELAWARE  
**Where Organized:**

**Address:** ONE TOWER LANE, SUITE 900  
OAKBROOK TERRACE, ILLINOIS 60181

#### Correspondent

**Correspondent:** VENISA DARK, HAYNES AND BOONE LLP  
**Name:**

**Correspondent:** 2323 VICTORY AVENUE, SUITE 700  
**Address:** DALLAS, TX 75219

#### Domestic Representative - Not Found

## Proceedings

#### Summary

**Number of:** 1

**Proceedings:**

#### Type of Proceeding: Opposition

**Proceeding:** [91203994](#)  
**Number:**

**Filing Date:** Feb 22, 2012

**Status:** Terminated

**Status Date:** Dec 28, 2012

**Interlocutory:** GEORGE POLOGEORGIS  
**Attorney:**

#### Defendant

**Name:** Hapa AG

**Correspondent:** LAWRENCE E ABELMAN  
**Address:** ABELMAN FRAYNE & SCHWAB  
666 THIRD AVENUE, 10TH FLOOR  
NEW YORK NY UNITED STATES, 10017

**Correspondent e-mail:** [fterranella@lawabel.com](mailto:fterranella@lawabel.com)

#### Associated marks

Mark	Application Status	Serial Number	Registration Number
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REDCUBE

[85212993](#)

#### Plaintiff(s)

**Name:** Redbox Automated Retail, LLC

**Correspondent:** JAMES P MURAFF  
**Address:** NEAL GERBER & EISENBERG LLP  
2 NORTH LASALLE STREET, SUITE 1700  
CHICAGO IL UNITED STATES, 60602

**Correspondent e-mail:** [jmuraff@ngelaw.com](mailto:jmuraff@ngelaw.com), [mhall@ngelaw.com](mailto:mhall@ngelaw.com), [khinner@ngelaw.com](mailto:khinner@ngelaw.com)

#### Associated marks

Mark	Application Status	Serial Number	Registration Number
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REDBOX	<a href="#">78201219</a>	<a href="#">2919854</a>
REDBOX	<a href="#">78201199</a>	<a href="#">2988869</a>
REDBOX	<a href="#">78514282</a>	<a href="#">3082012</a>
REDBOX	<a href="#">78866011</a>	<a href="#">3229436</a>
	<a href="#">78865999</a>	<a href="#">3300349</a>

Prosecution History		Date	Due Date
Entry Number	History Text		
21	TERMINATED	Dec 28, 2012	
20	BD'S DECISION: DISMISSED W/ PREJUDICE	Dec 28, 2012	
19	WITHDRAWAL OF OPPOSITION	Dec 21, 2012	
18	EXTENSION OF TIME GRANTED	Dec 09, 2012	
17	STIPULATION FOR AN EXTENSION OF TIME	Nov 28, 2012	
16	EXTENSION OF TIME GRANTED	Nov 06, 2012	
15	STIPULATION FOR AN EXTENSION OF TIME	Oct 26, 2012	
14	EXTENSION OF TIME GRANTED	Sep 28, 2012	
13	STIPULATION FOR AN EXTENSION OF TIME	Sep 27, 2012	
12	EXTENSION OF TIME GRANTED	Aug 27, 2012	
11	STIPULATION FOR AN EXTENSION OF TIME	Aug 23, 2012	
10	SUSPENDED	Aug 07, 2012	
9	STIPULATION FOR AN EXTENSION OF TIME	Jul 30, 2012	
8	EXTENSION OF TIME GRANTED	Jun 14, 2012	
7	STIPULATION FOR AN EXTENSION OF TIME	May 29, 2012	
6	TRIAL DATES REMAIN AS SET	May 15, 2012	
5	P'S MOT FOR EXTEN. OF TIME W/ CONSENT	May 02, 2012	
4	ANSWER	Mar 21, 2012	
3	PENDING, INSTITUTED	Feb 22, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE: FILED AND FEE	Feb 22, 2012	Apr 02, 2012
1		Feb 22, 2012	

Int. Cl.: 41

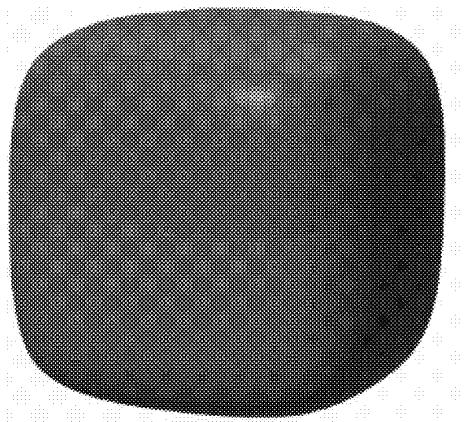
Prior U.S. Cls.: 100, 101, and 107

Reg. No. 3,300,349

**United States Patent and Trademark Office**

Registered Sep. 25, 2007

**SERVICE MARK  
SUPPLEMENTAL REGISTER**



REDBOX AUTOMATED RETAIL, LLC (DELAWARE LTD LIAB CO)  
ONE TOWER LANE, SUITE 1200  
OAKBROOK TERRACE, IL 60181

FOR: RENTAL OF DVDS FEATURING ENTERTAINMENT CONTENT THROUGH AUTOMATED VENDING MACHINES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 6-0-2005; IN COMMERCE 6-0-2005.

THE MARK CONSISTS OF A 3-DIMENSIONAL CUBE WITH ROUNDED EDGES.

SER. NO. 78-865,999, FILED P.R. 4-20-2006; AM. S.R. 6-27-2007.

GINA HAYES, EXAMINING ATTORNEY

## Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

### OVERVIEW

SERIAL NUMBER	78865999	FILING DATE	04/20/2006
REG NUMBER	0000000	REG DATE	09/25/2007
REGISTER	SUPPLEMENTAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HAYES, GINA CLARK	L.O. ASSIGNED	103

### PUB INFORMATION

RUN DATE	08/24/2007		
PUB DATE	N/A		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	08/23/2007		
LITERAL MARK ELEMENT			
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	06/27/2007		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	
MARK DRAWING CODE	2-AN ILLUSTRATION DRAWING WITHOUT ANY WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Redbox Automated Retail, LLC
ADDRESS	One Tower Lane, Suite 1200 Oakbrook Terrace, IL 60181
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

### GOODS AND SERVICES

INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Rental of DVDs featuring entertainment content through automated vending machines

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	041	FIRST USE DATE	06/00/2005	FIRST USE IN COMMERCE DATE	06/00/2005	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DESCRIPTION OF MARK	The mark consists of a 3-dimensional cube with rounded edges.

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
08/23/2007	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	019
08/23/2007	ALIE	A	ASSIGNED TO LIE	018
07/12/2007	CNTA	O	APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER	017
06/27/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	016
06/27/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	015
06/27/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	014
01/29/2007	GNRT	O	NON-FINAL ACTION E-MAILED	013
01/29/2007	CNRT	R	NON-FINAL ACTION WRITTEN	012
01/05/2007	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	011
01/06/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
01/05/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
01/05/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
11/29/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	007
10/23/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	006
09/25/2006	GNRT	F	NON-FINAL ACTION E-MAILED	005
09/25/2006	CNRT	R	NON-FINAL ACTION WRITTEN	004
09/25/2006	DOCK	D	ASSIGNED TO EXAMINER	003
04/27/2006	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
04/26/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James P. Muraff
CORRESPONDENCE ADDRESS	James P. Muraff Neal, Gerber & Eisenberg LLP Suite 2200 2 North LaSalle Street Chicago IL 60602
DOMESTIC REPRESENTATIVE	NONE



## Trademark Snap Shot Publication Stylesheet

(Table presents the data on Publication Approval)

### OVERVIEW

SERIAL NUMBER	78865999	FILING DATE	04/20/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	SUPPLEMENTAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HAYES, GINA CLARK	L.O. ASSIGNED	103

### PUB INFORMATION

RUN DATE	07/13/2007		
PUB DATE	N/A		
STATUS	680-APPROVED FOR PUBLICATION		
STATUS DATE	07/12/2007		
LITERAL MARK ELEMENT			
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	06/27/2007		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	
MARK DRAWING CODE	2-AN ILLUSTRATION DRAWING WITHOUT ANY WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Redbox Automated Retail, LLC
ADDRESS	One Tower Lane, Suite 1200 Oakbrook Terrace, IL 60181
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

### GOODS AND SERVICES

INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Rental of DVDs featuring entertainment content through automated vending machines

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	041	FIRST USE DATE	06/00/2005	FIRST USE IN COMMERCE DATE	06/00/2005	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DESCRIPTION OF MARK	The mark consists of a 3-dimensional cube with rounded edges.

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
07/12/2007	CNTA	O	APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER	017
06/27/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	016
06/27/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	015
06/27/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	014
01/29/2007	GNRT	O	NON-FINAL ACTION E-MAILED	013
01/29/2007	CNRT	R	NON-FINAL ACTION WRITTEN	012
01/05/2007	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	011
01/06/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
01/05/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
01/05/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
11/29/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	007
10/23/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	006
09/25/2006	GNRT	F	NON-FINAL ACTION E-MAILED	005
09/25/2006	CNRT	R	NON-FINAL ACTION WRITTEN	004
09/25/2006	DOCK	D	ASSIGNED TO EXAMINER	003
04/27/2006	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
04/26/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James P. Muraff
----------	-----------------

CORRESPONDENCE ADDRESS	James P. Muraff Neal, Gerber & Eisenberg LLP Suite 2200 2 North LaSalle Street Chicago IL 60602
DOMESTIC REPRESENTATIVE	NONE



## Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

### OVERVIEW

SERIAL NUMBER	78865999	FILING DATE	04/20/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	SUPPLEMENTAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HAYES, GINA CLARK	L.O. ASSIGNED	103

### PUB INFORMATION

RUN DATE	06/28/2007		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	06/27/2007		
LITERAL MARK ELEMENT			
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	06/27/2007		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	
MARK DRAWING CODE	2-AN ILLUSTRATION DRAWING WITHOUT ANY WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Redbox Automated Retail, LLC
ADDRESS	One Tower Lane, Suite 1200 Oakbrook Terrace, IL 60181
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

### GOODS AND SERVICES

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### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	041	FIRST USE DATE	06/00/2005	FIRST USE IN COMMERCE DATE	06/00/2005	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DESCRIPTION OF MARK	The mark consists of a 3-dimensional cube with rounded edges.

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/27/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	016
06/27/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	015
06/27/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	014
01/29/2007	GNRT	O	NON-FINAL ACTION E-MAILED	013
01/29/2007	CNRT	R	NON-FINAL ACTION WRITTEN	012
01/05/2007	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	011
01/06/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
01/05/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
01/05/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
11/29/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	007
10/23/2006	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	006
09/25/2006	GNRT	F	NON-FINAL ACTION E-MAILED	005
09/25/2006	CNRT	R	NON-FINAL ACTION WRITTEN	004
09/25/2006	DOCK	D	ASSIGNED TO EXAMINER	003
04/27/2006	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
04/26/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	James P. Muraff
CORRESPONDENCE ADDRESS	James P. Muraff

	Neal, Gerber & Eisenberg LLP Suite 2200 2 North LaSalle Street Chicago IL 60602
DOMESTIC REPRESENTATIVE	NONE



## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78865999
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 103
<b>MARK SECTION (no change)</b>	
<b>OWNER SECTION (current)</b>	
NAME	Redbox Automated Retail, LLC
STREET	One Tower Lane, Suite 1200
CITY	Oakbrook Terrace
STATE	Illinois
ZIP/POSTAL CODE	60181
COUNTRY	US
PHONE	630-756-8000
FAX	630-756-8888
<b>OWNER SECTION (proposed)</b>	
NAME	Redbox Automated Retail, LLC
STREET	One Tower Lane, Suite 1200
CITY	Oakbrook Terrace
STATE	Illinois
ZIP/POSTAL CODE	60181
COUNTRY	US
PHONE	630-756-8000
FAX	630-756-8888
EMAIL	XXXX
<b>LEGAL ENTITY SECTION (current)</b>	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	IL
<b>LEGAL ENTITY SECTION (proposed)</b>	
TYPE	LIMITED LIABILITY COMPANY
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Delaware
<b>ADDITIONAL STATEMENTS SECTION</b>	
SUPPLEMENTAL REGISTER	"The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register')."
<b>SIGNATURE SECTION</b>	

DECLARATION SIGNATURE	The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the <i>Trademark Rules of Practice</i> .
RESPONSE SIGNATURE	/James P. Muraff/
SIGNATORY'S NAME	James P. Muraff
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	06/27/2007
AUTHORIZED SIGNATORY	YES
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Wed Jun 27 13:13:53 EDT 2007
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XX-2 0070627131353556169-78865 999-370a9cc252eed498fa35e e3d89d687cce72-N/A-N/A-20 070627131152945373

PTO Form 1957 (Rev 9/2005)  
OMB No. 0651-0050 (Exp. 04/2009)

### Response to Office Action

#### To the Commissioner for Trademarks:

Application serial no. **78865999** has been amended as follows:

#### Procedural Matters/Informalities

##### Applicant proposes to amend the following:

Original: Redbox Automated Retail, LLC, a corporation of IL, having an address of One Tower Lane, Suite 1200 Oakbrook Terrace, Illinois US 60181, whose phone number is 630-756-8000, whose phone number is 630-756-8888.

Proposed: Redbox Automated Retail, LLC, a limited liability company legally organized under the laws of Delaware, having an address of One Tower Lane, Suite 1200 Oakbrook Terrace, Illinois US 60181, whose e-mail address is XXXX, whose phone number is 630-756-8000 and whose fax number is 630-756-8888.

#### Additional Statements

"The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register')."

#### Declaration Signature

I hereby elect to bypass the submission of a signed declaration, because I believe a declaration is not required by the rules of practice. I understand that the examining attorney could still, upon later review, require a signed declaration.

#### Response Signature

Signature: /James P. Muraff/ Date: 06/27/2007

Signatory's Name: James P. Muraff

Signatory's Position: Attorney of record

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

Serial Number: 78865999

Internet Transmission Date: Wed Jun 27 13:13:53 EDT 2007

TEAS Stamp: USPTO/ROA-XX.XXX.XXX.XX-2007062713135355

6169-78865999-370a9cc252eed498fa35ee3d89

d687cce72-N/A-N/A-20070627131152945373

**To:** Redbox Automated Retail, LLC ([IPDocket@ngelaw.com](mailto:IPDocket@ngelaw.com))  
**Subject:** TRADEMARK APPLICATION NO. 78865999 - 2222 T 023  
**Sent:** 1/29/2007 5:27:29 PM  
**Sent As:** ECOM112@USPTO.GOV  
**Attachments:**

## UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 78/865999

**APPLICANT:** Redbox Automated Retail, LLC

**\*78865999\***

**CORRESPONDENT ADDRESS:**

James P. Muraff  
Neal, Gerber & Eisenberg LLP  
Suite 2200  
2 North LaSalle Street  
Chicago IL 60602

**RETURN ADDRESS:**

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

**MARK:**

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 2222 T 023

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/865999

**PLEASE NOTE:** In light of the applicant's response and after further review of the application, registration is refused as follows.

**Specimen Refusal**

The specimen refusal is withdrawn and substituted by the failure to function refusal below.

**Drawing**

The applicant checked the box that color is not claimed as a feature of the mark, thus, the requirement that the applicant explain the gray in the drawing is withdrawn.

**Recitation of Services**

The applicant's revised recitation is accepted.

**Failure to Function Refusal**

Registration is refused because the proposed mark, as used on the specimen of record, is merely a background design that functions as part of a composite mark incorporating additional designs or wording, and as such does not function separately as a mark. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1052-1053, and 1127; *In re Benetton Group S.p.A.*, 48 USPQ2d 1214 (TTAB 1998); *In re Anton/Bauer, Inc.*, 7 USPQ2d 1380 (TTAB 1980); *In re Wendy's Int'l, Inc.*, 227 USPQ 884 (TTAB 1985); *Permatex Co., Inc. v. Cal. Tube Prods., Inc.*, 175 USPQ 764 (TTAB 1972); TMEP §§1202.11 and 1301.02(a).

The proposed mark does not function separately as a mark because it does not appear to be a source indicator for the services. The proposed mark appears on the applicant's website as several small cubes, none of which stand out as a mark. The fact that there are lots of cubes of different sizes gives more of an impression of a background design of a network or group of cubes.

A background design that is not sufficiently distinctive or unique so as to create a commercial impression separate and apart from the word and/or design mark in conjunction with which it is used can be registered only upon a showing of acquired distinctiveness. *Benetton*, 48 USPQ2d at 1215; see *In re Haggard Co.*, 217 USPQ 81, 83-84 (TTAB 1982).

Applicant may respond to this refusal by satisfying one of the following:

- (1) Claiming **acquired distinctiveness** under Trademark Act Section 2(f) by submitting **evidence** that the proposed mark has become distinctive of applicant's goods in commerce. 15 U.S.C. §1052(f). This evidence may include the following: examples of advertising and promotional materials that specifically promote, as a trademark, the subject matter for which registration is sought; dollar figures for advertising devoted to such promotion; dealer and consumer statements of recognition of the proposed mark as a trademark; and any other evidence that establishes recognition of the proposed mark as a trademark for the goods. See TMEP §1202.03(d);
- (2) Amending the application to seek registration on the **Supplemental Register**. Trademark Act Section 23, 15 U.S.C. §1091; 37 C.F.R. §§2.47 and 2.75(a); TMEP §§801.02(b), 815 and 816 *et seq.*

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informality:

#### **Entity**

The designation "LLC" is included in applicant's name, but the entity type is set forth as a "corporation." "LLC" is a designation for a "limited liability company," which is a different entity from a corporation. Therefore, applicant must specify whether it is a limited liability company or a corporation and amend the application accordingly. TMEP §§803.03(c) and (h).

If applicant is a limited liability company, the U.S. state under whose laws it is organized must be stated. TMEP §803.03(h).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration will be refused under Trademark Act Section 1, 15 U.S.C. §1051, because the application was void as filed. Only the owner of a mark may apply to register the mark. TMEP §§803.01, 803.06, and 1201.02(b).

A prompt response to this Office Action will expedite the handling of this matter.

/Gina C. Hayes/  
Trademark Examining Attorney  
Law Office 112  
(571) 272-9407 (Direct Line)  
(571) 273-9112 ( Law Office 112 fax)  
<http://www.uspto.gov/teas/index.html> (file responses)  
gina.hayes@uspto.gov (submit questions only)

#### **HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office**, not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

## NOTE TO THE FILE

SERIAL NUMBER: 78865999

DATE: 01/29/2007

NAME: ghayes1

### NOTE:

- Checked LEXIS/NEXIS
- Searched internet using [insert search engine or web site]
- Checked with Law Library re surname.
- Checked geographic significance.
- Checked with translations branch.
- Checked ID with ID/Class
- Checked ID with Senior Attorney/Managing Attorney
- Telephoned attorney/applicant leaving message re: \_\_\_\_\_
- Telephoned attorney/applicant, application was signed on \_\_\_\_\_
- Personal interview conducted with attorney/applicant re \_\_\_\_\_
- Attorney/applicant called to discuss \_\_\_\_\_
- Bulky specimens with examiner.
- Acronym website searched.
- Changed Tradeups to add. \_\_\_\_\_
- Changed Tradeups to delete. \_\_\_\_\_
- Changed Tradeups to add Examiner's Amendment.
- Letter of Protest Granted

OTHER (insert reason for Note) This application was filed before the new guideline on color and b&w drawings was issued. However, the application does have the box checked that color is not claimed as a feature of the mark, thus, under the new guideline the examiner would not make any further inquiry. The requirement is therefore withdrawn in accordance with the new rules.

## Change Of Correspondence Address

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78865999
LAW OFFICE ASSIGNED	LAW OFFICE 112
<b>MARK SECTION</b>	
MARK	Design only
<b>CORRESPONDENCE SECTION (current)</b>	
ORIGINAL ADDRESS	James P. Muraff Neal, Gerber & Eisenberg LLP 2 North LaSalle Street Chicago IL 60602
<b>NEW CORRESPONDENCE ADDRESS</b>	
NEW ADDRESS	James P. Muraff Neal, Gerber & Eisenberg LLP Suite 2200 2 North LaSalle Street Chicago Illinois United States 60602 312-269-8000 312-269-1747 IPDocket@ngelaw.com
<b>SIGNATURE SECTION</b>	
SIGNATURE	/James P. Muraff/
SIGNATORY NAME	James P. Muraff
SIGNATORY DATE	01/05/2007
SIGNATORY POSITION	Attorney of record
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Fri Jan 05 13:57:49 EST 2007
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XX-2 0070105135749204442-78865 999-3608b882f84c6ae18f14b 64c3b167404724-N/A-N/A-20 070105134046725140

## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78865999
LAW OFFICE ASSIGNED	LAW OFFICE 112
MARK SECTION (no change)	
ARGUMENT(S)	

### Objection to the Specimen

The Trademark Examining Attorney has objected to the specimen submitted with the application, alleging that the drawing differs from the display of the mark on the specimen. Specifically, the drawing shows a geometric cube alone, while the specimen shows many geometric cubes of the type shown in the drawing, spaced in perspective, only two of which have the word “redbox” on one face of such geometric cubes. Applicant submits that the original specimen should be accepted because the geometric cube creates a separate and distinct commercial impression apart from the word “redbox” and because many of the cubes in the specimen do not actually have the word “redbox” placed on such cubes.

It is well established that one may use a composite mark in connection with a service and register separately its several elements if each element is used in such a manner as to create a separate and distinct commercial impression from the other elements and does in fact, *per se*, identify and distinguish the service from the services of others. *In re Berg Electronics, Inc.*, 163 USPQ 487 (TTAB 1969). The determinative factor is whether or not the subject matter in question makes a separate and distinct commercial impression apart from the other element(s). See *In re Chemical Dynamics Inc.*, 5 USPQ2d 1828 (Fed. Cir. 1988); *In re Servel, Inc.*, 85 USPQ 257 (C.C.P.A. 1950); *In re Miller Sports Inc.*, 51 USPQ2d 1059 (TTAB 1999); *In re Boyd Coffee Co.*, 25 USPQ2d 2052 (TTAB 1993); *In re Raychem Corp.*, 12 USPQ2d 1399 (TTAB 1989); *In re Sperouleas*, 227 USPQ 166 (TTAB 1985); *In re Volante International Holdings*, 196 USPQ 188 (TTAB 1977); *In re Library Restaurant, Inc.*, 194 USPQ 446 (TTAB 1977); *In re Semans*, 193 USPQ 727 (TTAB 1976); *In re Mango Records*, 189 USPQ 126 (TTAB 1975). Applicant has some latitude in selecting the mark it wants to register. The mere fact that two or more elements form a composite mark does not necessarily mean that those elements are inseparable for registration purposes. An applicant may apply to register any element of a composite mark if that element presents a separate and distinct commercial impression apart from any other matter with which the mark is used on the specimen. TMEP § 807.12(d).

As indicated above, the drawing for the present application shows a three-dimensional geometric cube without any words on any of the faces of the geometric cube. The specimen shows many geometric cubes of the type shown in the drawing, spaced in perspective. Some of the geometric cubes in the specimen are closer to the viewer and many of the geometric cubes are much farther away from the viewer. For the two “closer” geometric cubes, the word “redbox” (with an arc above this word) is viewable and is relatively small in relation to the one face of these geometric cubes on which this word is placed. Moreover, in these two “closer” geometric cubes, the word “redbox” is even smaller when viewing the overall geometric cubes on which this word is placed. In addition, for the geometric cubes which are farther away, the word “redbox” does not even appear on such geometric cubes, and exactly match the drawing. This can be more easily seen by going to [www.redbox.com](http://www.redbox.com), clicking on “The Big Picture”, and waiting for the right most animation to execute. When this animation executes, it starts with a much closer view of the “farther” away cubes, and the viewer can clearly see that such cubes do not have the word “redbox” on such cubes. Based on the small sizing of the word “redbox” on the two closer geometric cubes and based on the word “redbox” not appearing on the other geometric cubes, Applicant asserts that the geometric cube alone creates a separate and distinct commercial impression apart from word “redbox.” Thus, for at least these reasons, the specimen should be acceptable and Applicant respectfully requests that the present objection be withdrawn.

NGEDOCS: 1359550.1

GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	041
DESCRIPTION	
Automated DVD rental services; providing vending machines for the automated rental of DVDs; providing DVDs to renters and end-viewers through the automated rental of DVDs through vending machines	

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/00/2005
FIRST USE IN COMMERCE DATE	At least as early as 06/00/2005
<b>GOODS AND/OR SERVICES SECTION (proposed)</b>	
INTERNATIONAL CLASS	041
DESCRIPTION	
Rental of DVDs featuring entertainment content through automated vending machines	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/00/2005
FIRST USE IN COMMERCE DATE	At least as early as 06/00/2005
<b>ADDITIONAL STATEMENTS SECTION</b>	
MISCELLANEOUS STATEMENT	The mark is not in color.
<b>CORRESPONDENCE SECTION</b>	
NAME	James P. Muraff
CONFIRM NAME	Neal, Gerber & Eisenberg LLP
STREET	2 North LaSalle Street
CITY	Chicago
STATE	Illinois
ZIP/POSTAL CODE	60602
COUNTRY	United States
PHONE	312-269-8000
FAX	312-269-1747
EMAIL	IPDocket@ngelaw.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
<b>SIGNATURE SECTION</b>	
DECLARATION SIGNATURE	The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the <i>Trademark Rules of Practice</i> .
RESPONSE SIGNATURE	/James P. Muraff/
SIGNATORY'S NAME	James P. Muraff
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	01/05/2007
AUTHORIZED SIGNATORY	YES
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Fri Jan 05 13:57:49 EST 2007
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XX-2 0070105135749204442-78865 999-3608b882f84c6ae18f14b 64c3b167404724-N/A-N/A-20 070105134046725140

## Response to Office Action

### To the Commissioner for Trademarks:

Application serial no. **78865999** has been amended as follows:

#### **Argument(s)**

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

#### **Objection to the Specimen**

The Trademark Examining Attorney has objected to the specimen submitted with the application, alleging that the drawing differs from the display of the mark on the specimen. Specifically, the drawing shows a geometric cube alone, while the specimen shows many geometric cubes of the type shown in the drawing, spaced in perspective, only two of which have the word “redbox” on one face of such geometric cubes. Applicant submits that the original specimen should be accepted because the geometric cube creates a separate and distinct commercial impression apart from the word “redbox” and because many of the cubes in the specimen do not actually have the word “redbox” placed on such cubes.

It is well established that one may use a composite mark in connection with a service and register separately its several elements if each element is used in such a manner as to create a separate and distinct commercial impression from the other elements and does in fact, *per se*, identify and distinguish the service from the services of others. *In re Berg Electronics, Inc.*, 163 USPQ 487 (TTAB 1969). The determinative factor is whether or not the subject matter in question makes a separate and distinct commercial impression apart from the other element(s). See *In re Chemical Dynamics Inc.*, 5 USPQ2d 1828 (Fed. Cir. 1988); *In re Servel, Inc.*, 85 USPQ 257 (C.C.P.A. 1950); *In re Miller Sports Inc.*, 51 USPQ2d 1059 (TTAB 1999); *In re Boyd Coffee Co.*, 25 USPQ2d 2052 (TTAB 1993); *In re Raychem Corp.*, 12 USPQ2d 1399 (TTAB 1989); *In re Sperouleas*, 227 USPQ 166 (TTAB 1985); *In re Volante International Holdings*, 196 USPQ 188 (TTAB 1977); *In re Library Restaurant, Inc.*, 194 USPQ 446 (TTAB 1977); *In re Semans*, 193 USPQ 727 (TTAB 1976); *In re Mango Records*, 189 USPQ 126 (TTAB 1975). Applicant has some latitude in selecting the mark it wants to register. The mere fact that two or more elements form a composite mark does not necessarily mean that those elements are inseparable for registration purposes. An applicant may apply to register any element of a composite mark if that element presents a separate and distinct commercial impression apart from any other matter with which the mark is used on the specimen. TMEP § 807.12(d).

As indicated above, the drawing for the present application shows a three-dimensional geometric cube without any words on any of the faces of the geometric cube. The specimen shows many geometric cubes of the type shown in the drawing, spaced in perspective. Some of the geometric cubes in the specimen are closer to the viewer and many of the geometric cubes are much farther away from the viewer. For the two “closer” geometric cubes, the word “redbox” (with an arc above this word) is viewable and is relatively small in relation to the one face of these geometric cubes on which this word is placed. Moreover, in these two “closer” geometric cubes, the word “redbox” is even smaller when viewing the overall geometric cubes on which this word is placed. In addition, for the geometric cubes which are farther away, the word “redbox” does not even appear on such geometric cubes, and exactly match the drawing. This can be more easily seen by going to [www.redbox.com](http://www.redbox.com), clicking on “The Big Picture”, and waiting for the right most animation to execute. When this animation executes, it starts with a much closer view of the “farther” away cubes, and the viewer can clearly see that such cubes do not have the word “redbox” on such cubes. Based on the small sizing of the word “redbox” on the two closer geometric cubes and based on the word “redbox” not appearing on the other geometric cubes, Applicant asserts that the geometric cube alone creates a separate and distinct commercial impression apart from word “redbox.” Thus, for at least these reasons, the specimen should be acceptable and Applicant respectfully requests that the present objection be withdrawn.

NGEDOCS: 1359550.1

### Classification and Listing of Goods/Services

#### **Applicant hereby amends the following class of goods/services in the application as follows:**

Current: Class 041 for Automated DVD rental services; providing vending machines for the automated rental of DVDs; providing DVDs to renters and end-viewers through the automated rental of DVDs through vending machines

Original Filing Basis: 1(a).

Proposed: Class 041 for Rental of DVDs featuring entertainment content through automated vending machines

Filing Basis: 1(a).

### Correspondence Address Change

Applicant proposes to amend the following:

Original: James P. Muraff Neal, Gerber & Eisenberg LLP 2 North LaSalle Street Chicago IL 60602

Proposed: James P. Muraff of Neal, Gerber & Eisenberg LLP, having an address of Suite 2200 2 North LaSalle Street Chicago, Illinois United States 60602, whose e-mail address is IPDocket@ngelaw.com, whose phone number is 312-269-8000 and whose fax number is 312-269-1747.

**Additional Statements**

The mark is not in color.

**Declaration Signature**

I hereby elect to bypass the submission of a signed declaration, because I believe a declaration is not required by the rules of practice. I understand that the examining attorney could still, upon later review, require a signed declaration.

**Response Signature**

Signature: /James P. Muraff/ Date: 01/05/2007

Signatory's Name: James P. Muraff

Signatory's Position: Attorney of record

Mailing Address: James P. Muraff

Neal, Gerber & Eisenberg LLP  
Suite 2200  
2 North LaSalle Street  
Chicago, Illinois 60602

Serial Number: 78865999

Internet Transmission Date: Fri Jan 05 13:57:49 EST 2007

TEAS Stamp: USPTO/ROA-XX.XXX.XXX.XX-2007010513574920

4442-78865999-3608b882f84c6ae18f14b64c3b

167404724-N/A-N/A-20070105134046725140

## Change Of Correspondence Address

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**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78865999
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>MARK SECTION</b>	
<b>MARK</b>	Design only
<b>CORRESPONDENCE SECTION (current)</b>	
<b>ORIGINAL ADDRESS</b>	James P. Muraff Neal, Gerber & Eisenberg LLP Suite 2200 2 North LaSalle Street Chicago Illinois 60602 United States 312-269-1747 312-269-8000 IPDocket@ngelaw.com
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NEW ADDRESS</b>	James P. Muraff Neal, Gerber & Eisenberg LLP 2 North LaSalle Street Chicago Illinois United States 60602 312-269-8000 312-2691747 IPdocket@ngelaw.com
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/James P. Muraff/
<b>SIGNATORY NAME</b>	James P. Muraff
<b>SIGNATORY DATE</b>	11/29/2006
<b>SIGNATORY POSITION</b>	Attorney of Record
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Wed Nov 29 16:58:05 EST 2006
<b>TEAS STAMP</b>	USPTO/CCA-XX.XXX.XX.XXX-2 0061129165805492824-76270 515-35012cbc6c13ee1a3407b c451208a81af42-N/A-N/A-20 061129164642071831

## Change Of Correspondence Address

---

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78865999
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>MARK SECTION</b>	
<b>MARK</b>	Design only
<b>CORRESPONDENCE SECTION (current)</b>	
<b>ORIGINAL ADDRESS</b>	<p>JAMES P. MURAFF          WALLENSTEIN WAGNER &amp; ROCKEY, LTD.          311 SOUTH WACKER DRIVE, 53RD FLOOR          CHICAGO Illinois 60606-6630          United States          312-554-3301          312-554-3300          docket@wwrfirm.com</p>
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NEW ADDRESS</b>	<p>James P. Muraff          Neal, Gerber &amp; Eisenberg LLP          Suite 2200          2 North LaSalle Street          Chicago          Illinois          United States          60602          312-269-8000          312-269-1747          IPDocket@ngelaw.com</p>
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/James P Muraff/
<b>SIGNATORY NAME</b>	James P. Muraff
<b>SIGNATORY DATE</b>	10/23/2006
<b>SIGNATORY POSITION</b>	Attorney
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Oct 23 15:20:50 EDT 2006
<b>TEAS STAMP</b>	<p>USPTO/CCA-XXX.XXX.XXX.XX-          20061023152050152899-7886          6011-35031929865da1b75402          c1e73a71522392-N/A-N/A-20          061023145140218823</p>

**To:** Redbox Automated Retail, LLC ([docket@wwrfirm.com](mailto:docket@wwrfirm.com))  
**Subject:** TRADEMARK APPLICATION NO. 78865999 - 2222 T 023  
**Sent:** 9/25/2006 3:10:37 PM  
**Sent As:** ECOM112@USPTO.GOV  
**Attachments:**

## UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 78/865999

**APPLICANT:** Redbox Automated Retail, LLC

**\*78865999\***

**CORRESPONDENT ADDRESS:**

JAMES P. MURAFF  
WALLENSTEIN WAGNER & ROCKEY, LTD.  
311 SOUTH WACKER DRIVE, 53RD FLOOR  
CHICAGO, IL 60606-6630

**RETURN ADDRESS:**

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

**MARK:**

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 2222 T 023

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/865999

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

**Search Results**

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. §1052(d). TMEP §704.02.

The applicant must address the following informalities:

**Classification and Recitation of Services in International Class 41**

The wording "providing vending machines for the automated rental of DVDs, providing DVDs to renters and end-viewers through the automated rental of DVDs through vending machines" in the recitation of services is unacceptable as indefinite. The applicant must amend the recitation to specify the common commercial name of the services or to indicate their nature. TMEP §1402.11.

The applicant may amend to adopt the following, if accurate:

International Class 35: Rental of vending machines for the automated rental of DVDs

International Class 41: Rental of DVDs featuring movies through automated vending machines.

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. §2.71(a); TMEP §1402.06. Therefore, the applicant may not amend to include any services that are not within the scope of the services recited in the present identification.

### **Combined Applications**

If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the requirements below for those goods and/or services based on actual use in commerce under Trademark Act Section 1(a):

- (1) Applicant must list the goods/services by international class with the classes listed in ascending numerical order;
- (2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid (current fee information should be confirmed at <http://www.uspto.gov>); and
- (3) For each additional class of goods and/or services, applicant must submit:
  - (a) dates of first use of the mark anywhere and dates of first use of the mark in commerce, or a statement that the dates of use in the initial application apply to that class; the dates of use, both anywhere and in commerce, must be at least as early as the filing date of the application;
  - (b) one specimen showing use of the mark for each class of goods and/or services; the specimen must have been in use in commerce at least as early as the filing date of the application;
  - (c) a statement that “the specimen was in use in commerce on or in connection with the goods and/or services listed in the application at least as early as the filing date of the application;” and
  - (d) verification of the statements in 3(a) and 3(c) in an affidavit or a signed declaration under 37 C.F.R. §2.20. (NOTE: Verification is *not* required where (1) the dates of use for the added class are stated to be the same as the dates of use specified in the initial application, or (2) the original specimens are acceptable for the added class.)

37 C.F.R. §§2.6, 2.34(a), 2.59, 2.71(c), and 2.86(a); TMEP §§810, 904.09, 1403.01 and 1403.02(c).

### **Drawing**

Applicant must clarify whether the gray tones in the drawing are intended to indicate the color gray. TMEP §807.07(e).

- (1) If the color gray is a feature of the mark, then applicant must submit a color claim and description for all the colors in the mark, including black and/or white, as follows: “The color(s) [specify gray, black and/or white] are claimed as a feature of the mark. The color(s) [name of color(s)] appear in [indicate where the color appears in the mark].” 37 C.F.R. §§2.52(b) and (b)(1); TMEP §§807.07(a)(i) and (a)(ii).

If the color gray is intended to indicate shading or contrast only, then applicant must submit a statement that “the mark is not in color.”

### **Specimen Doesn't Match the Drawing**

The drawing displays the mark as a geometric cube. However, this differs from the display of the mark on the specimen, where it appears as a geometric cube with the wording “red box” on the front. The applicant must submit a substitute specimen that shows use of the mark shown in the drawing. 37 C.F.R. §2.51; TMEP §§807.14 and 807.14(a)(i). The applicant may not amend the drawing because this amendment would materially alter the character of the mark. 37 C.F.R. §2.72(a); TMEP §807.14(a).

If a substitute specimen is submitted, the applicant must verify, with an affidavit or a declaration under 37 C.F.R. §2.20, that the substitute specimen was in use in commerce at least as early as the filing date of the application. 37 C.F.R. §§2.59(a) and 2.72(a); TMEP §904.09.

The following is a sample declaration under 37 C.F.R. §2.20 with a supporting statement for a substitute specimen:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting there from, declares that *the substitute specimen was in use in commerce at least as early as the filing date of the application*; all

statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

---

(Signature)

---

(Print or Type Name and Position)

---

(Date)

A prompt response to this Office Action will expedite the handling of this matter.

/Gina C. Hayes/  
Trademark Examining Attorney  
Law Office 112  
(571) 272-9407 (Direct Line)  
(571) 273-9112 ( Law Office 112 fax)  
<http://www.uspto.gov/teas/index.html> (file responses)  
gina.hayes@uspto.gov (submit questions only)

**HOW TO RESPOND TO THIS OFFICE ACTION:**

- ONLINE RESPONSE: You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- REGULAR MAIL RESPONSE: To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office**, not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

\*\*\* User:ghayes1 \*\*\*

#	Total	Dead	Live	Live	Status/	Search
	Marks	Marks	Viewed	Viewed	Search	
			Docs	Images	Duration	
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03	1013	N/A	0	0	0:01	2 not dead
04	557	0	53	550	0:03	3 and "041"[cc]

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Session finished 9/25/2006 3:00:52 PM

Total search duration 0 minutes 7 seconds

Session duration 7 minutes 3 seconds

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Sent to TICRS as Serial Number: 78865999

\*\*\* User:ghayes1 \*\*\*

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04	557	0	53	550	0:03	3 and "041"[cc]

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Total search duration 0 minutes 7 seconds

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Sent to TICRS as Serial Number: 78865999

# Trademark/Service Mark Application, Principal Register

**Serial Number: 78865999**  
**Filing Date: 04/20/2006**

**The table below presents the data as entered.**

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<b>MARK SECTION</b>	
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STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a 3-dimensional cube with rounded edges.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	500 x 451
<b>OWNER SECTION</b>	
NAME	Redbox Automated Retail, LLC
STREET	One Tower Lane, Suite 1200
CITY	Oakbrook Terrace
STATE	Illinois
ZIP/POSTAL CODE	60181
COUNTRY	United States
PHONE	630-756-8000
FAX	630-756-8888
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Illinois
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	041
DESCRIPTION	Automated DVD rental services; providing vending machines for the automated rental of DVDs; providing DVDs to renters and end-viewers through the automated rental of DVDs through vending machines.
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/00/2005

FIRST USE IN COMMERCE DATE	At least as early as 06/00/2005
SPECIMEN FILE NAME(S)	<a href="\\TICRS\EXPORT6\IMAGEOUT6\788\659\78865999\xml1\AP P0003.JPG">\\TICRS\EXPORT6\IMAGEOUT6\788\659\78865999\xml1\AP P0003.JPG</a>
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SPECIMEN DESCRIPTION	3 pages from website
<b>SIGNATURE SECTION</b>	
SIGNATURE	/gregg kaplan/
SIGNATORY NAME	Gregg Kaplan
SIGNATORY DATE	04/20/2006
SIGNATORY POSITION	CEO
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	325
TOTAL AMOUNT	325
PAYMENT METHOD	DA
<b>ATTORNEY</b>	
NAME	James P. Muraff
FIRM NAME	Wallenstein Wagner & Rockey, Ltd.
STREET	311 South Wacker Drive, 53rd Floor
CITY	Chicago
STATE	Illinois
ZIP/POSTAL CODE	60606-6630
COUNTRY	United States
PHONE	312-554-3300
FAX	312-554-3301
EMAIL	docket@wwrfirm.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	2222 T 023
OTHER APPOINTED ATTORNEY(S)	Joseph T. Bernstein, Daniel N. Christus, Jeffrey R. Gargano, Matthew J. Gryzlo, Brent A Hawkins, Richard C. Himelhoch, Peter M. Klobuchar, Linda A. Kuczma, Kathleen A. Lyons, Monique A. Morneault, James P. Muraff, Paul J. Nykaza, Avani C. Patel, Bradley F. Rademaker, Keith V. Rockey, Gregory G. Schlenz, David L. Schwartz, Peter M. Siavelis, Roger H. Stein, Maurice E. Teixeira
<b>CORRESPONDENCE SECTION</b>	
NAME	James P. Muraff

FIRM NAME	Wallenstein Wagner & Rockey, Ltd.
STREET	311 South Wacker Drive, 53rd Floor
CITY	Chicago
STATE	Illinois
ZIP/POSTAL CODE	60606-6630
COUNTRY	United States
PHONE	312-554-3300
FAX	312-554-3301
EMAIL	docket@wwrfirm.com
AUTHORIZED EMAIL COMMUNICATION	Yes
<b>FILING INFORMATION</b>	
SUBMIT DATE	Thu Apr 20 16:40:18 EDT 2006
TEAS STAMP	USPTO/BAS-XXXXXXX-200604 20164018762443-78865999-2 002ac12a19a5d94d9d1fb3249 781d228e-DA-315-200604071 72553769812

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## Trademark/Service Mark Application, Principal Register

**Serial Number: 78865999**  
**Filing Date: 04/20/2006**

### To the Commissioner for Trademarks:

**MARK:** (Stylized and/or Design, see [mark](#))

The mark consists of a 3-dimensional cube with rounded edges.

The applicant, Redbox Automated Retail, LLC, a corporation of Illinois, residing at One Tower Lane, Suite 1200, Oakbrook Terrace, Illinois, United States, 60181, requests registration of the trademark/service mark identified above 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.

The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 041: Automated DVD rental services; providing vending machines for the automated rental of DVDs; providing DVDs to renters and end-viewers through the automated rental of DVDs through vending machines.

In International Class 041, the mark was first used at least as early as 06/00/2005, and first used in commerce at least as early as 06/00/2005, and is now in use in such commerce. The applicant is submitting or will submit 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, consisting of a(n) 3 pages from website.

[Specimen - 1](#)

[Specimen - 2](#)

[Specimen - 3](#)

The applicant hereby appoints James P. Muraff and Joseph T. Bernstein, Daniel N. Christus, Jeffrey R. Gargano, Matthew J. Gryzlo, Brent A Hawkins, Richard C. Himelhoch, Peter M. Klobuchar, Linda A. Kuczma, Kathleen A. Lyons, Monique A. Morneau, James P. Muraff, Paul J. Nykaza, Avani C. Patel, Bradley F. Rademaker, Keith V. Rockey, Gregory G. Schlenz, David L. Schwartz, Peter M. Siavelis, Roger H. Stein, Maurice E. Teixeira of Wallenstein Wagner & Rockey, Ltd., 311 South Wacker Drive, 53rd Floor, Chicago, Illinois, United States, 60606-6630 to submit this application on behalf of the applicant. The attorney docket/reference number is 2222 T 023.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: docket@wwrfirm.com.

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

### 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, and the like, 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: /gregg kaplan/ Date: 04/20/2006

Signatory's Name: Gregg Kaplan

Signatory's Position: CEO

Mailing Address:

James P. Muraff  
311 South Wacker Drive, 53rd Floor  
Chicago, Illinois 60606-6630

RAM Sale Number: 315

RAM Accounting Date: 04/21/2006

Serial Number: 78865999

Internet Transmission Date: Thu Apr 20 16:40:18 EDT 2006

TEAS Stamp: USPTO/BAS-XXXXXXX-20060420164018762443-  
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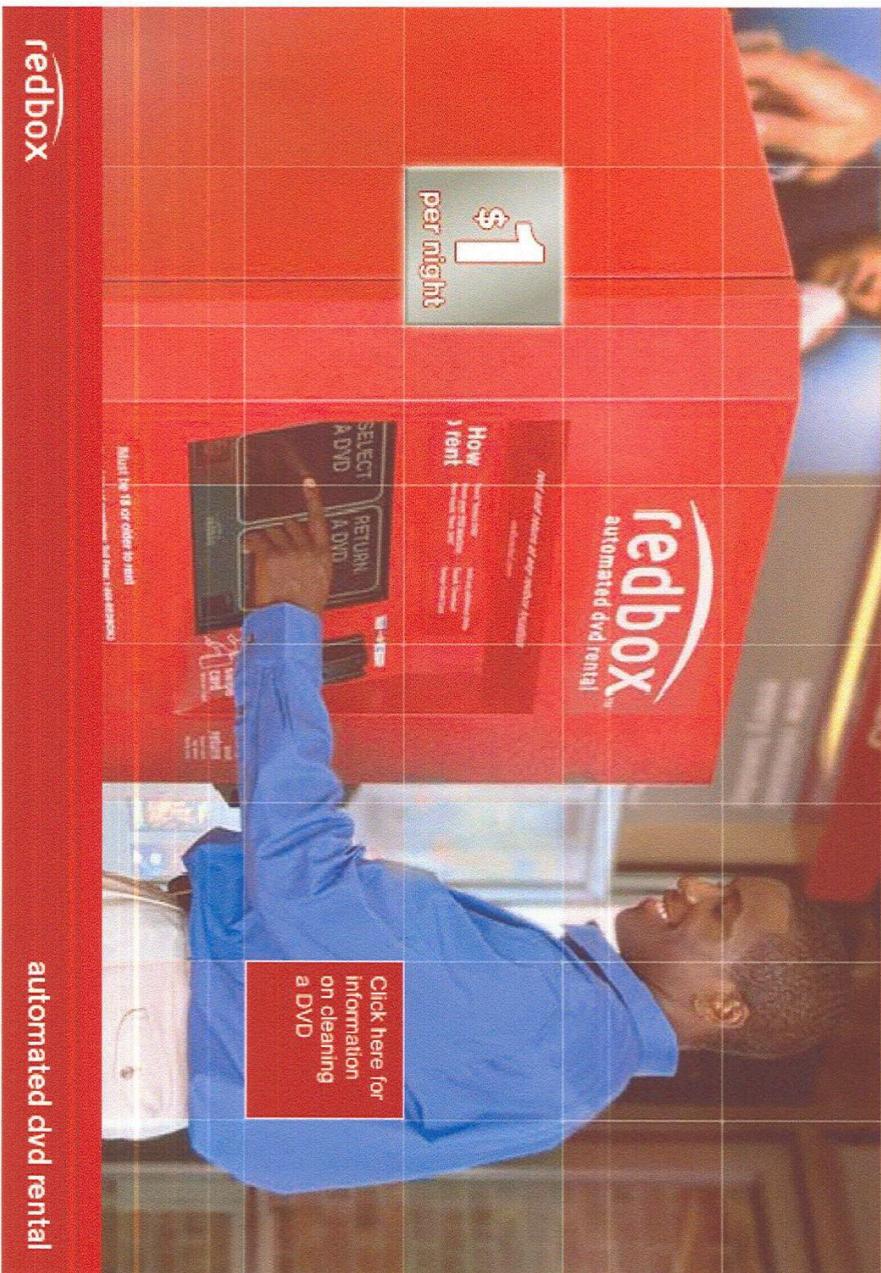
 <p>redbox automated dvd rental</p> <p>\$1 per night</p> <p>Click here for Information on cleaning a DVD</p>	 <p>i choose. i rent. i enjoy. every tuesday</p>	<p>REDBOX HOME</p> <p>REDBOX OVERVIEW</p> <p>REDBOX LOCATIONS</p> <p>REDBOX TITLES</p> <p>REDBOX OFFERS</p> <p>REDBOX PRESS</p> <p>REDBOX FAQS</p> <p>CUSTOMER SUPPORT</p>
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**redbox**

automated dvd rental

If you sign up for email alerts now, redbox will give you one night's free rental

**SUBMIT**



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REDBOX OVERVIEW

REDBOX LOCATIONS

REDBOX TITLES

REDBOX OFFERS

REDBOX PRESSES

REDBOX FAQS

CUSTOMER SUPPORT

**redbox**  
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**\$1 per night**

How to rent

SELECT A DVD

RETURN A DVD

Must be 18 or older to rent

Click here for information on cleaning a DVD

If you sign up for email alerts now, redbox will give you one night's free rental

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**SUBMIT**

