

Generated on: This page was generated by TSDR on 2025-07-19 18:42:23 EDT

Mark: DVD PLAY



US Serial Number: 78366702

Application Filing Date: Feb. 12, 2004

US Registration Number: 2959630

Registration Date: Jun. 07, 2005

Register: Principal

Mark Type: Trademark, 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: Oct. 05, 2012

Publication Date: Mar. 15, 2005

Date Cancelled: Oct. 05, 2012

Mark Information

Mark Literal Elements: DVD PLAY

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S) /NUMBER(S)

Description of Mark: The mark consists of a white oval with a beveled edge represented by the black outline. In the left one-third of the oval is a dark button that has a beveled edge. In the center of the button is a white triangle that also has beveled edges. To the right of the button are the words DVD and PLAY in black block letters with DVD blocked above PLAY.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "DVD"

Design Search Code(s): 26.01.21 - Circles that are totally or partially shaded.
26.05.02 - Plain single line triangles; Triangles, plain single line
26.11.26 - Oblongs as carriers for words, letters or designs

Related Properties Information

Claimed Ownership of US Registrations: 2463432, 2573752

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: Automated vending machine that dispenses prerecorded media for sale or rental

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: SECTION 8 - CANCELLED

First Use: Feb. 2001

Use in Commerce: Feb. 2001

For: Retail kiosk services featuring prerecorded media, namely, musical sound recordings, computer game programs and discs and video game software and discs, video game cartridges and discs, DVDs and other recorded materials via a stand-alone kiosk vending machine

International Class(es): 035 - Primary Class

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

Class Status: SECTION 8 - CANCELLED

First Use: Feb. 2001

Use in Commerce: Feb. 2001

For: Rental of prerecorded media, namely, rental of music recordings, computer game programs and video games, DVDs and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music recordings, computer game programs and video games, DVDs and other recorded materials

International Class(es): 041 - Primary Class

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

Class Status: SECTION 8 - CANCELLED

First Use: Feb. 2001

Use in Commerce: Feb. 2001

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 Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jason S. Howell

Docket Number: 72292.4000.0

Attorney Primary Email Address: pctrademarks@perkinscoie.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Jason S. Howell
Perkins Cole LLP
1201 Third Avenue, Suite 4900
Seattle, WASHINGTON UNITED STATES 98101

Phone: (206) 359-8000

Fax: (206) 359-9000

Correspondent e-mail: pctrademarks@perkinscoie.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 05, 2012	CANCELLED SEC. 8 (6-YR)	
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	
May 07, 2012	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
May 07, 2012	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 30, 2010	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	

Apr. 29, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED
Apr. 29, 2008	TEAS CHANGE OF OWNER ADDRESS RECEIVED
Jun. 07, 2005	REGISTERED-PRINCIPAL REGISTER
Mar. 15, 2005	PUBLISHED FOR OPPOSITION
Feb. 23, 2005	NOTICE OF PUBLICATION
Dec. 30, 2004	LAW OFFICE PUBLICATION REVIEW COMPLETED
Dec. 17, 2004	ASSIGNED TO LIE
Dec. 13, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER
Dec. 10, 2004	EXAMINER'S AMENDMENT ENTERED
Dec. 09, 2004	FAX SENT
Dec. 09, 2004	EXAMINERS AMENDMENT E-MAILED
Dec. 09, 2004	EXAMINERS AMENDMENT -WRITTEN
Sep. 07, 2004	NON-FINAL ACTION E-MAILED
Sep. 07, 2004	NON-FINAL ACTION WRITTEN
Sep. 03, 2004	ASSIGNED TO EXAMINER
Feb. 24, 2004	NEW APPLICATION ENTERED

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jun. 07, 2005

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: DVDPlay, Inc.

Assignment 1 of 2

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 Where Organized: DELAWARE

Assignee

Name: [NCR CORPORATION](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: MARYLAND

Address: 1700 S. PATTERSON BLVD.
DAYTON, OHIO 45479

Composed Of: COMPOSED OF ASSET PURCHASE AGREEMENT

Correspondent

Correspondent Name: SHIRLEY A. BYRD

Correspondent Address: 1700 S. PATTERSON BLVD.
WHQ-3E
DAYTON, OH 45479

Domestic Representative - Not Found

Assignment 2 of 2

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 Where Organized: MARYLAND

Assignee

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

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

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

Correspondent

Correspondent Name: JASON S. HOWELL, C/O PERKINS COIE LLP

Correspondent Address: 1201 THIRD AVENUE, SUITE 4900
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	78366702
REGISTRATION NUMBER	2959630
LAW OFFICE ASSIGNED	LAW OFFICE 103
ATTORNEY DOCKET NUMBER	72292.4000.0005.US001
MARK SECTION	
MARK	DVD PLAY (stylized and/or with design)
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	72292.4000.0005.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
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
AUTHORIZED TO COMMUNICATE VIA E-MAIL	YES
SIGNATURE SECTION	
SIGNATORY FILE	
ORIGINAL PDF FILE	hw_198221004-180803531_.NCR_to_Redbox_POA.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\783\667\78366702\xml1\RAA0002.JPG
SIGNATORY NAME	Donald R. Rench
SIGNATORY POSITION	Vice President
SIGNATORY PHONE NUMBER	N/A
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jul 09 20:03:24 EDT 2012
TEAS STAMP	USPTO/RAA-XXX.XX.XXX.X-20 120709200324800927-780278 62-4908d1a90913cf014fba4e a2d383883f40-N/A-N/A-2012 0709194742603144

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

To the Commissioner for Trademarks:

MARK: DVD PLAY (stylized and/or with design)

SERIAL NUMBER: 78366702

REGISTRATION NUMBER: 2959630

ATTORNEY DOCKET NUMBER 72292.4000.0005.US001

Original Correspondence Address :

PAUL W. MARTIN

700 BUILDING

3097 SATELLITE BOULEVARD

DULUTH Georgia 30096

US

678-808-5231

404-487-8949

ptomail.law@ncr.com;tammy.brackett@ncr.com;paul.w.martin@ncr.com

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

72292.4000.0005.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](#)

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: 78366702

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

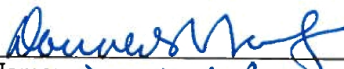
REVOCATION OF POWER OF
ATTORNEY AND APPOINTMENT
OF NEW ATTORNEY

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

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	78366702
REGISTRATION NUMBER	2959630
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION	
MARK	DVD PLAY (stylized and/or with design)
ATTORNEY SECTION	
ORIGINAL ADDRESS	CURTIS VOCK 4845 PEARL EAST CIR STE 302 BOULDER Colorado (CO) 80301-6113 US ipdocketing@lathropgage.com
STATEMENT TEXT	By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above.
NEW CORRESPONDENCE ADDRESS	
NAME	Paul W. Martin
FIRM NAME	NCR Corporation
INTERNAL ADDRESS	700 Building
STREET	3097 Satellite Boulevard
CITY	Duluth
STATE	Georgia
COUNTRY	United States
POSTAL/ZIP CODE	30096
PHONE	678-808-5231
FAX	404-487-8949
EMAIL	ptomail.law@ncr.com;tammy.brackett@ncr.com; paul.w.martin@ncr.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	YES
SIGNATURE SECTION	
SIGNATURE	/martipw/
SIGNATORY NAME	Paul W. Martin
SIGNATORY DATE	05/07/2012
SIGNATORY POSITION	Attorney of Record
SIGNATORY PHONE NUMBER	678-808-5231

FILING INFORMATION SECTION**SUBMIT DATE**

Mon May 07 16:57:39 EDT 2012

TEAS STAMP

USPTO/RAA-XXX.XXX.XX.X-20
120507165739954082-783667
02-4908038cfc2584b99bbac2
28be68799-N/A-N/A-2012050
7153814216239

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

To the Commissioner for Trademarks:

MARK: DVD PLAY (stylized and/or with design)

SERIAL NUMBER: 78366702

REGISTRATION NUMBER: 2959630

The original attorney

CURTIS VOCK

4845 PEARL EAST CIR STE 302

BOULDER Colorado 80301-6113

US

ipdocketing@lathropgage.com

By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above.

Original Correspondence Address :

CURTIS VOCK

4845 PEARL EAST CIR STE 302

BOULDER Colorado 80301-6113

US

ipdocketing@lathropgage.com

The following is to be used as the correspondence address:

Paul W. Martin

NCR Corporation

700 Building

3097 Satellite Boulevard

Duluth, Georgia 30096

United States

678-808-5231

404-487-8949

ptomail.law@ncr.com;tammy.brackett@ncr.com; paul.w.martin@ncr.com

Signature: /martipw/ Date: 05/07/2012

Signatory's Name: Paul W. Martin

Signatory's Position: Attorney of Record

Signatory's Phone Number: 678-808-5231

Serial Number: 78366702

Internet Transmission Date: Mon May 07 16:57:39 EDT 2012

TEAS Stamp: USPTO/RAA-XXX.XXX.XX.X-20120507165739954

082-78366702-4908038cfc2584b99bbac228be6

8799-N/A-N/A-20120507153814216239

Change Of Owner's Address

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78366702
REGISTRATION NUMBER	2959630
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION	
MARK	DVD PLAY (stylized and/or with design)
OWNER SECTION (current)	
NAME	DVDPlay, Inc.
STREET	750 University Avenue, Suite 280
CITY	Los Gatos
STATE	California
ZIP/POSTAL CODE	95032
COUNTRY	United States
PHONE	408-395-1727
FAX	408-395-1997
CORRESPONDENCE SECTION (current)	
ORIGINAL ADDRESS	Curtis A. Vock LATHROP & GAGE L.C. 4845 Pearl East Circle, Suite 300 Boulder Colorado 80301 United States 720-931-3001 720-931-3000 ipdocketing@lathropage.com
NEW OWNER ADDRESS	
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
CURRENT CORRESPONDENCE ADDRESS	
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
SIGNATURE SECTION	
SIGNATURE	/Allison Amadia/
SIGNATORY NAME	Allison Amadia
SIGNATORY DATE	04/29/2008
SIGNATORY POSITION	Counsel
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Apr 29 17:14:44 EDT 2008
TEAS STAMP	USPTO/COA-XX.XX.XXX.XXX-2 0080429171444663007-78027 862-400598bfaceba2d11b9fc 4c3796545eec1e-N/A-N/A-20 080429170010942260

Int. Cls.: 9, 35 and 41

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101, 102 and 107

Reg. No. 2,959,630

United States Patent and Trademark Office

Registered June 7, 2005

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



DVDPLAY, INC. (DELAWARE CORPORATION)
750 UNIVERSITY AVENUE, SUITE 280
LOS GATOS, CA 95032

FOR: AUTOMATED VENDING MACHINE THAT
DISPENSES PRERECORDED MEDIA FOR SALE OR
RENTAL, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND
38).

FIRST USE 2-0-2001; IN COMMERCE 2-0-2001.

FOR: RETAIL KIOSK SERVICES FEATURING
PRERECORDED MEDIA, NAMELY, MUSICAL
SOUND RECORDINGS, COMPUTER GAME PRO-
GRAMS AND DISCS AND VIDEO GAME SOFT-
WARE AND DISCS, VIDEO GAME CARTRIDGES
AND DISCS, DVDS AND OTHER RECORDED MA-
TERIALS VIA A STAND-ALONE KIOSK VENDING
MACHINE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-0-2001; IN COMMERCE 2-0-2001.

FOR: RENTAL OF PRERECORDED MEDIA,
NAMELY, RENTAL OF MUSIC RECORDINGS,
COMPUTER GAME PROGRAMS AND VIDEO
GAMES, DVDS AND OTHER RECORDED MA-
TERIALS VIA A STAND-ALONE KIOSK VENDING
MACHINE; ON-LINE RENTAL OF MUSIC RE-

CORDINGS, COMPUTER GAME PROGRAMS
AND VIDEO GAMES, DVDS AND OTHER RECOR-
DED MATERIALS, IN CLASS 41 (U.S. CLS. 100, 101
AND 107).

FIRST USE 2-0-2001; IN COMMERCE 2-0-2001.

OWNER OF U.S. REG. NOS. 2,463,432 AND
2,573,752.

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

THE MARK CONSISTS OF A WHITE OVAL WITH
A BEVELED EDGE REPRESENTED BY THE BLACK
OUTLINE. IN THE LEFT ONE-THIRD OF THE
OVAL IS A DARK BUTTON THAT HAS A BEVELED
EDGE. IN THE CENTER OF THE BUTTON IS A
WHITE TRIANGLE THAT ALSO HAS BEVELED
EDGES. TO THE RIGHT OF THE BUTTON ARE
THE WORDS DVD AND PLAY IN BLACK BLOCK
LETTERS WITH DVD BLOCKED ABOVE PLAY.

SER. NO. 78-366,702, FILED 2-12-2004.

GINA FINK, EXAMINING ATTORNEY

Feb 23, 2005

NOTICE OF PUBLICATION UNDER 12(a)

- | | |
|--|------------------------------------|
| 1. Serial No.:
78/366,702 | 2. Mark:
DVD PLAY
and design |
| 3. International Class(es):
9, 35, 41 | |
| 4. Publication Date:
Mar 15, 2005 | 5. Applicant:
DVDPlay, Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: (202) 512-1800

By direction of the Commissioner.

Correspondence Address:

Curtis A. Vock
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

TMP&I



Trademark Law Office 103

Facsimile Transmission

TO: **Name:** Beth Atkins
 Company:
 Fax Number: 912128506221
 Voice Phone:

FROM: **Name:** Gina Fink
 Fax Number: 703-746-8103
 Voice Phone: (571) 272-9275

The fax number used to transmit this document should not be used to submit responses to Office Actions or any other official communications with the Patent and Trademark Office. All such papers intended for this Law Office/section of the Office that are eligible for transmission via facsimile should only be submitted to the 'Official Fax Number' listed above in the "From" section of the heading of this page. Please see the Trademark Manual of Examining Procedure (TMEP) section 702.04 *et seq.* and 37 CFR 1.8(a) for the Office's complete policy concerning facsimile transmissions.

Fax Notes:

Date and time of transmission: Thursday, December 09, 2004 5:33:38 PM
Number of pages including this cover sheet: 04

To: DVDPlay, Inc. (ipdocketing@lathropgage.com)
Subject: TRADEMARK APPLICATION NO. 78366702 - DVD PLAY - 412548
Sent: 12/9/04 5:28:18 PM
Sent As: ECOM103@USPTO.GOV
Attachments: Attachment - 1

UNITED STATES PATENT AND TRADEMARK OFFICE**SERIAL NO:** 78/366702**APPLICANT:** DVDPlay, Inc.**CORRESPONDENT ADDRESS:**

Curtis A. Vock
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

RETURN ADDRESS:

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

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

MARK: DVD PLAY**CORRESPONDENT'S REFERENCE/DOCKET NO:** 412548

CORRESPONDENT EMAIL ADDRESS:
ipdocketing@lathropgage.com

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 email address.

Serial Number 78/366702

EXAMINER'S AMENDMENT

In accordance with the authorization granted by Beth Atkins on December 9, 2004, the application has been AMENDED as indicated below. Please note that if the identification of goods or services has been amended below, any future amendments must be in accordance with 37 C.F.R. 2.71(a); TMEP section 1402.07(e). No response is necessary unless there is an objection to the amendment. If there is an objection to the amendment, the applicant should notify the examining attorney immediately.

Authorization to Charge Deposit Account for Additional Class of Services

The applicant has authorized the Office to charge Deposit Account #12-0600 in the amount of \$335 for one (1) additional class of services. See attached e-mail for authorization.

Identification of Goods/Recitation of Services

The identification of goods and services is amended to read as follows:

Automated vending machine that dispenses prerecorded media for sale or rental, in Class 9;

Retail kiosk services featuring prerecorded media, namely, musical sound recordings, computer game programs and discs and video game software and discs, video game cartridges and discs, DVDs and other recorded materials via a stand-alone kiosk vending machine, in Class 35;

Rental of prerecorded media, namely, rental of music recordings, computer game programs and video games, DVDs and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music recordings, computer game programs and video games, DVDs and other recorded materials, in Class 41.

Disclaimer

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

With this Examiner's Amendment all refusals and/or requirements are met and/or withdrawn. Following this Examiner's Amendment, the application will be approved for publication.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

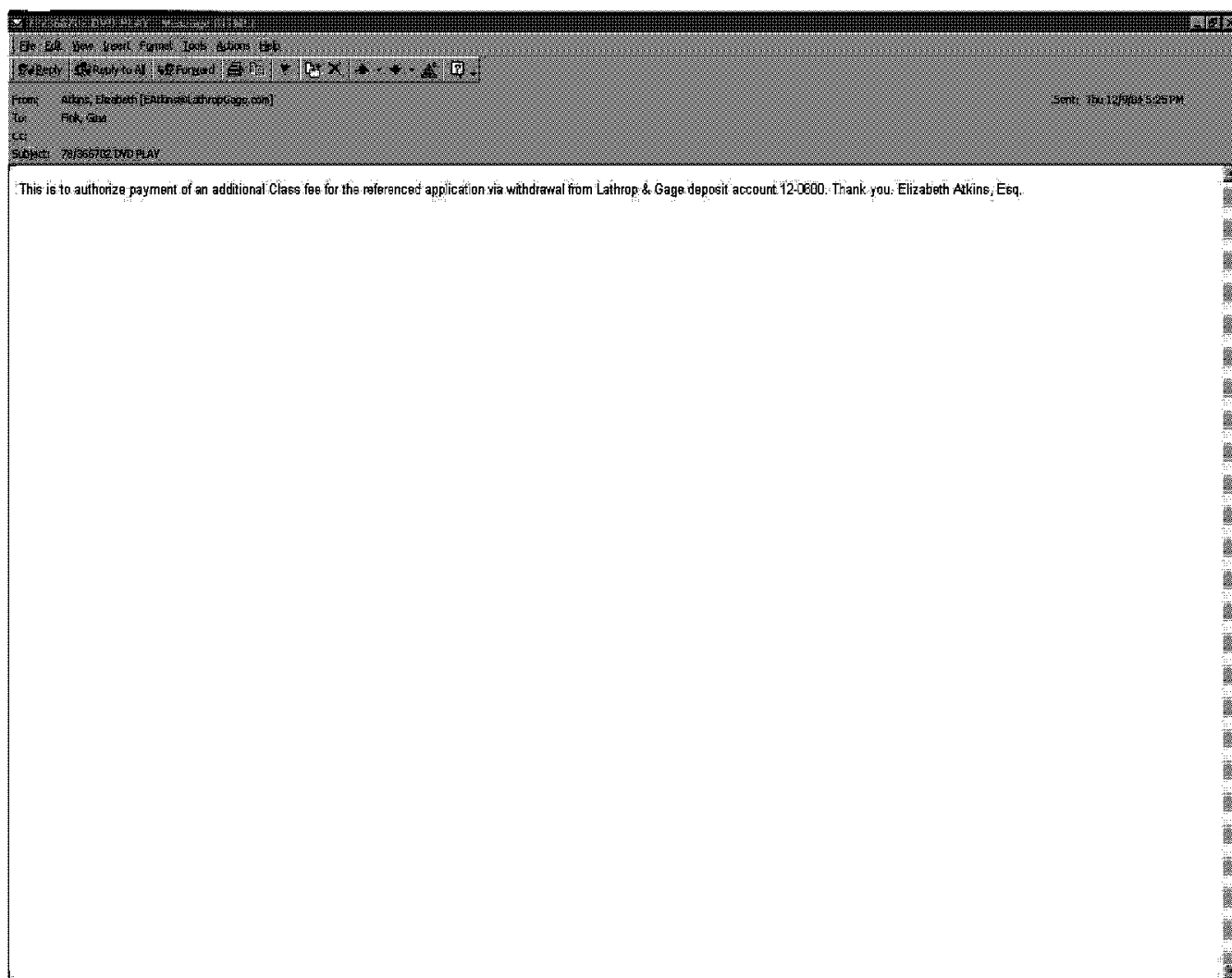
Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

My Law Office moved on or about 10/19/04. To reach me by phone please call (571) 272-9275.

To submit a **fax** response to this Office action, send your response to the Law Office fax number, namely (571) 273-9103.

If the applicant has any questions, please telephone the assigned examining attorney.

/Gina M. Fink/
Trademark Attorney - Law Office 103
Phone: (571) 272-9275
Law Office 103 Fax: (571) 273-9103



To: DVDPlay, Inc. (ipdocketing@lathropgage.com)
Subject: TRADEMARK APPLICATION NO. 78366702 - DVD PLAY - 412548
Sent: 12/9/04 5:28:18 PM
Sent As: ECOM103@USPTO.GOV
Attachments: [Attachment - 1](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/366702

APPLICANT: DVDPlay, Inc.

78366702

CORRESPONDENT ADDRESS:

Curtis A. Vock
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

RETURN ADDRESS:

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

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

MARK: DVD PLAY

CORRESPONDENT'S REFERENCE/DOCKET NO : 412548

CORRESPONDENT EMAIL ADDRESS:

ipdocketing@lathropgage.com

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 email address.

Serial Number 78/366702

EXAMINER'S AMENDMENT

In accordance with the authorization granted by Beth Atkins on December 9, 2004, the application has been AMENDED as indicated below. Please note that if the identification of goods or services has been amended below, any future amendments must be in accordance with 37 C.F.R. 2.71(a); TMEP section 1402.07(e). No response is necessary unless there is an objection to the amendment. If there is an objection to the amendment, the applicant should notify the examining attorney immediately.

Authorization to Charge Deposit Account for Additional Class of Services

The applicant has authorized the Office to charge Deposit Account #12-0600 in the amount of \$335 for one (1) additional class of services. See attached e-mail for authorization.

Identification of Goods/Recitation of Services

The identification of goods and services is amended to read as follows:

Automated vending machine that dispenses prerecorded media for sale or rental, in Class 9;

Retail kiosk services featuring prerecorded media, namely, **musical sound recordings, computer game programs and discs and video game software and discs, video game cartridges and discs, DVDs** and other recorded materials via a stand-alone kiosk vending machine, **in Class 35;**

Rental of prerecorded media, namely, **rental** of music **recordings**, **computer** game **programs and** video **games**, **DVDs** and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music **recordings**, **computer** game **programs and** video **games**, **DVDs** and other recorded materials, in Class 41.

Disclaimer

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

With this Examiner's Amendment all refusals and/or requirements are met and/or withdrawn. Following this Examiner's Amendment, the application will be approved for publication.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

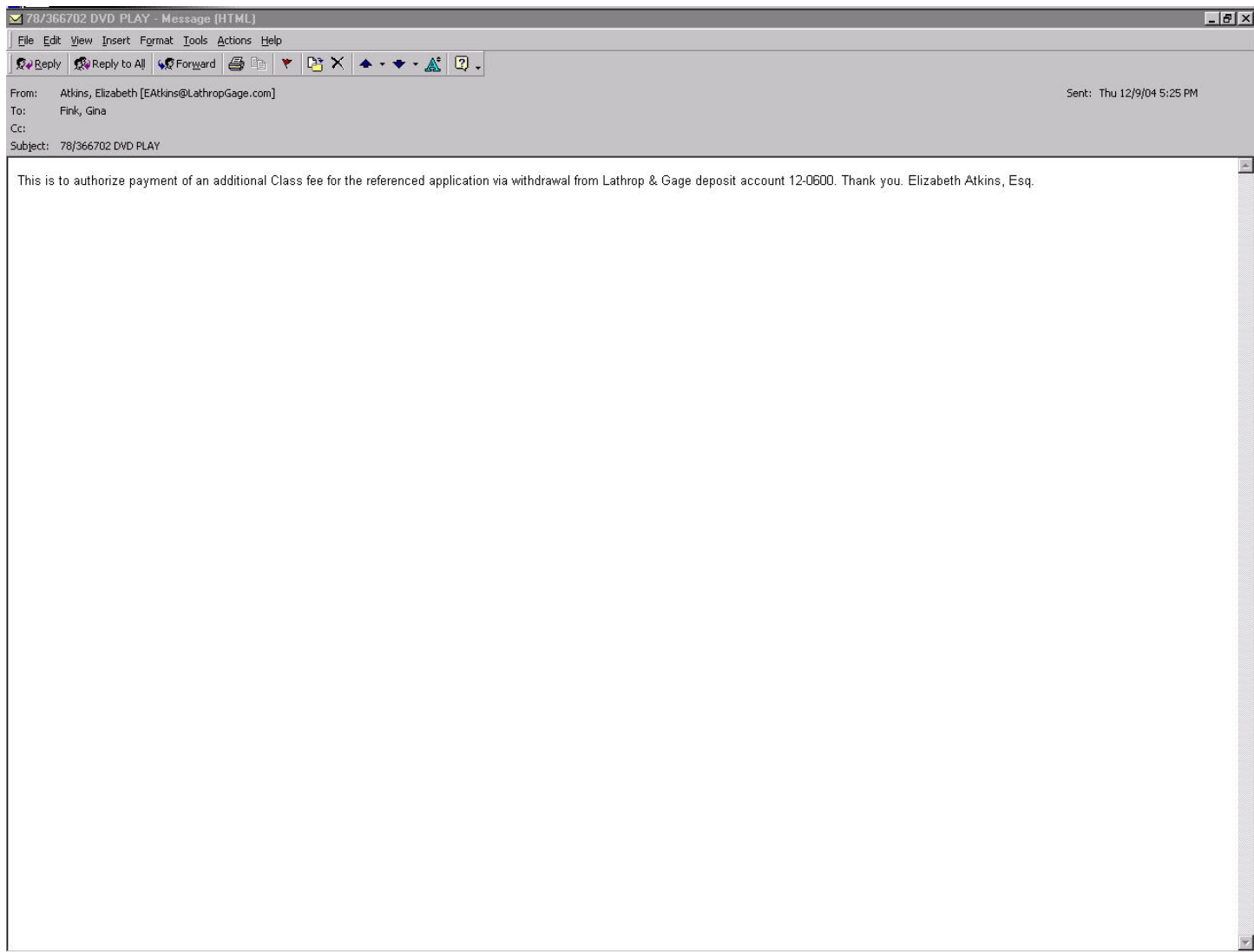
Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

My Law Office moved on or about 10/19/04. To reach me by phone please call (571) 272-9275.

To submit a **fax** response to this Office action, send your response to the Law Office fax number, namely (571) 273-9103.

If the applicant has any questions, please telephone the assigned examining attorney.

/Gina M. Fink/
Trademark Attorney - Law Office 103
Phone: (571) 272-9275
Law Office 103 Fax: (571) 273-9103



To: DVDPlay, Inc. (ipdocketing@lathropgage.com)
Subject: TRADEMARK APPLICATION NO. 78366702 - DVD PLAY - 412548
Sent: 9/7/04 8:01:59 AM
Sent As: ECOM103@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/366702

APPLICANT: DVDPlay, Inc.

CORRESPONDENT ADDRESS:

Curtis A. Vock
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

78366702

RETURN ADDRESS:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

MARK: DVD PLAY

CORRESPONDENT'S REFERENCE/DOCKET NO : 412548

CORRESPONDENT EMAIL ADDRESS:

ipdocketing@lathropgage.com

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

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/366702

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

No Conflicting Marks Noted

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.

Recitation of Services

The identification of goods in Class 9 is acceptable as is. The recitation of services is unacceptable as indefinite. The wording "distribution" causes the recitation to be unacceptable. The applicant may adopt the following recitation, if accurate:

Automated vending machine that dispenses prerecorded media for sale or rental, in Class 9;

Retail distributorships featuring prerecorded media, namely, musical **sound recordings**, computer game **programs and discs and video game software and discs**, video **game cartridges and discs** and other recorded materials via a stand-alone kiosk vending machine, in **Class 35**;

Rental of prerecorded media, namely, **rental** of music **recordings**, **computer** game **programs and** video **games** and other recorded materials via a stand-alone kiosk vending machine; on-line rental of music **recordings**, **computer** game **programs and** video **games** and other recorded materials, in Class 41.

TMEP §1402.11.

Note: 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 goods and/or services that are not within the scope of the goods and/or services recited in the present identification.

Note: The applicant may also refer to the Acceptable Identification of Goods and Services Manual located on-line at <http://www.uspto.gov/web/offices/tac/doc/gsmmanual> for additional suggestions of acceptable identifications.

Requirements for a Combined Application in a Use-Based Application

If the applicant prosecutes this application as a combined, or multiple-class application based on use in commerce under Trademark Act Section 1(a), 15 U.S.C. §1051(a), the applicant must comply with each of the following:

- (1) The applicant must specifically identify the goods and/or services in each class and list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP §1403.01.
- (2) The applicant must submit a filing fee for each international class of goods/services not covered by the fee already paid. 37 C.F.R. §§2.6(a)(1) and 2.86(b); TMEP §§810.01 and 1403.01. Effective January 1, 2003, the fee for filing a trademark application is \$335 for each class. This applies to classes added to pending applications as well as to new applications filed on or after that date. **Note: The applicant has paid for two (2) classes to date.**
- (3) The applicant must submit:
 - (a) Dates of first use and first use in commerce and one specimen for each class that includes goods or services based on use in commerce under Trademark Act Section 1(a). The dates of use must be at least as early as the filing date of this application, 37 C.F.R. §§2.34(a)(1) and 2.86(a), and the specimen(s) must have been in use in commerce at least as early as the filing date of the application, and/or
 - (b) A statement of a bona fide intention to use the mark in commerce on or in connection with all the goods or services specified in each class that includes goods or services based on a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), where such statement was not included for the goods or services in the original application.
- (4) The applicant must submit an affidavit or a declaration under 37 C.F.R. §2.20 signed by the applicant to verify (3) above. 37 C.F.R. §§2.59(a) and 2.71(c).

Disclaimer

Applicant must insert a disclaimer of DVD in the application because the applicant's goods dispense DVDs and the applicant's services are selling and/or renting DVDs. The term DVD describes a feature of the applicant's goods and services and nothing more. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.08(a)(i).

The following is the accepted standard format for a disclaimer:

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

NOTICE: TRADEMARK OPERATION RELOCATING OCTOBER AND NOVEMBER 2004

The Trademark Operation is relocating to Alexandria, Virginia, in October and November 2004. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

Applicants, registration owners, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at www.uspto.gov.

My Law Office will move on or about 10/19/04. To reach me by phone after that date call (571) 272-9275.

To submit a **fax** response to this Office action after that date, send your response to the Law Office fax number, namely (571) 273-9103.

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

/Gina M. Fink/
Trademark Attorney - Law Office 103
Phone: (703) 308-9103 ext. 232
Law Office 103 Fax: (703) 746-8103

How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

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

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

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

*** User:gfink ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:02	78366702[SN]
02	676	N/A	0	0	0:04	*dvd*[bi,ti]
03	9743	N/A	0	0	0:05	*play*[bi,ti]
04	14	0	14	9	0:01	2 and 3 not dead[ld]
05	69657	N/A	0	0	0:03	"260121"[dc]
06	10633	N/A	0	0	0:02	"260502"[dc]
07	10409	N/A	0	0	0:01	"261127"[dc]
08	9	0	9	9	0:01	5 and 6 and 7 not (4 dead[ld])
09	141	0	5	141	0:02	(2 3) and (5 6 7) not (4 8 dead[ld])

Session started 9/7/04 7:21:28 AM

Session finished 9/7/04 7:40:49 AM

Total search duration 0 minutes 21 seconds

Session duration 19 minutes 21 seconds

Default NEAR limit=1ADJ limit=1

Sent to TIGRS as Serial Number: 78366702

Trademark/Service Mark Application, Principal Register

Serial Number: 78366702

Filing Date: 02/12/2004

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
MARK FILE NAME	\\tirs\EXPORT9\IMAGEOUT9\783\667\78366702\xml1\AP0002.JPG
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	DVD PLAY
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a white oval with a beveled edge represented by the black outline. In the left one-third of the oval is a dark button that has a beveled edge. In the center of the button is a white triangle that also has beveled edges. To the right of the button are the words DVD and PLAY in black block letters with DVD blocked above PLAY.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	574 x 260
OWNER SECTION	
NAME	DVDPlay, Inc.
STREET	750 University Avenue, Suite 280
CITY	Los Gatos
STATE	CA
ZIP/POSTAL CODE	95032
COUNTRY	USA
PHONE	408-395-1727
FAX	408-395-1997
AUTHORIZED EMAIL COMMUNICATION	No
LEGAL ENTITY SECTION	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	009
DESCRIPTION	Automated vending machine that dispenses prerecorded media for sale or rental.

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 02/00/2001
FIRST USE IN COMMERCE DATE	At least as early as 02/00/2001
SPECIMEN FILE NAME(S)	\\tirs\EXPORT9\IMAGEOUT9 \783\667\78366702\xml1\AP P0003.JPG
SPECIMEN DESCRIPTION	A digital photograph of the applicant's automated entertainment machine where one can buy or rent prerecorded media
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	041
DESCRIPTION	Distribution services of prerecorded media, namely distribution 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.
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 02/00/2001
FIRST USE IN COMMERCE DATE	At least as early as 02/00/2001
SPECIMEN FILE NAME(S)	\\tirs\EXPORT9\IMAGEOUT9 \783\667\78366702\xml1\AP P0004.JPG
	\\tirs\EXPORT9\IMAGEOUT9 \783\667\78366702\xml1\AP P0005.JPG
	\\tirs\EXPORT9\IMAGEOUT9 \783\667\78366702\xml1\AP P0006.JPG
	\\tirs\EXPORT9\IMAGEOUT9 \783\667\78366702\xml1\AP P0007.JPG
SPECIMEN DESCRIPTION	Scanned images from applicant's web site at www.dvdplay.net offering distribution of automated entertainment machines for the sale or rent of prerecorded media
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	Applicant claims ownership of U.S. Registration Number(s) 2463432 2573752.
SIGNATURE SECTION	
SIGNATURE	/william h barber/
SIGNATORY NAME	William H. Barber
SIGNATORY DATE	02/11/2004
SIGNATORY POSITION	Founder and Director
PAYMENT SECTION	
NUMBER OF CLASSES	2
NUMBER OF CLASSES PAID	2
SUBTOTAL AMOUNT	670
TOTAL AMOUNT	670
ATTORNEY	

NAME	Curtis A. Vock
FIRM NAME	LATHROP & GAGE L.C.
STREET	4845 Pearl East Circle, Suite 300
CITY	Boulder
STATE	CO
ZIP/POSTAL CODE	80301
COUNTRY	USA
PHONE	720-931-3000
FAX	720-931-3001
EMAIL	ipdocketing@lathropgage.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	412548
OTHER APPOINTED ATTORNEY(S)	the law firm of LATHROP & GAGE L.C, with offices in Kansas City, Missouri; Overland Park, Kansas; St. Louis, Missouri; Jefferson City, Missouri; Springfield, Missouri; and Boulder, Colorado; which has associated with it the following attorneys admitted to practice in their respective states: David R. Barnard; David V. Clark; Stephen J. Horace; Alfred R. Hupp, Jr.; Ronald E. Manka; Xinsheng Wang; Michael Byorick, Registration No. 34,131; Janelle Strode, Registration No. 34,738; Gerald M. Kraai, Registration No. 34,854; William A. Rudy, Registration No. 34,916; Dan Cleveland, Jr., Registration No. 36,106; Peter Knops, Registration No. 37,659; Curtis A. Vock, Registration No. 38,356; James M. Stipek, Registration No. 39,388; Joseph L. Johnson, Registration No. 39,718; Neil L. Arney, Registration No. 41,589; David J. Lee, Registration No. 41,935; Kimberly A. Wingate, Registration No. 43,776; Robert J. Lambrechts, Registration No. 46,854; Daniel W. Roberts, Registration No. 52,172
CORRESPONDENCE SECTION	
NAME	Curtis A. Vock
FIRM NAME	LATHROP & GAGE L.C.
STREET	4845 Pearl East Circle, Suite 300
CITY	Boulder
STATE	CO
ZIP/POSTAL CODE	80301
COUNTRY	USA
PHONE	720-931-3000
FAX	720-931-3001
EMAIL	ipdocketing@lathropgage.com
AUTHORIZED EMAIL COMMUNICATION	Yes
FILING INFORMATION	
SUBMIT DATE	Thu Feb 12 10:19:29 EST 2004
	USPTO/BAS-XXXXXXXXX-20040

TEAS STAMP

212101929578039-78366702-
200af15e12570d6a0cad34609
d141cec59-DA-819-20040211
160008325714

Trademark/Service Mark Application, Principal Register

Serial Number: 78366702

Filing Date: 02/12/2004

To the Commissioner for Trademarks:

MARK: DVD PLAY (stylized and/or with design, see [mark](#))

The literal element of the mark consists of DVD PLAY.

The mark consists of a white oval with a beveled edge represented by the black outline. In the left one-third of the oval is a dark button that has a beveled edge. In the center of the button is a white triangle that also has beveled edges. To the right of the button are the words DVD and PLAY in black block letters with DVD blocked above PLAY.

The applicant, DVDPlay, Inc., a corporation of Delaware, residing at 750 University Avenue, Suite 280, Los Gatos, CA, USA, 95032, 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 009: Automated vending machine that dispenses prerecorded media for sale or rental.

International Class 041: Distribution services of prerecorded media, namely distribution 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 International Class 009, the mark was first used at least as early as 02/00/2001, and first used in commerce at least as early as 02/00/2001, 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) A digital photograph of the applicant's automated entertainment machine where one can buy or rent prerecorded media.

[Specimen - 1](#)

In International Class 041, the mark was first used at least as early as 02/00/2001, and first used in commerce at least as early as 02/00/2001, 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) Scanned images from applicant's web site at www.dvdplay.net offering distribution of automated entertainment machines for the sale or rent of prerecorded media.

[Specimen - 1](#)

[Specimen - 2](#)

[Specimen - 3](#)

[Specimen - 4](#)

Applicant claims ownership of U.S. Registration Number(s) 2463432 2573752.

The applicant hereby appoints Curtis A. Vock and the law firm of LATHROP & GAGE L.C, with offices in Kansas City, Missouri; Overland Park, Kansas; St. Louis, Missouri; Jefferson City, Missouri; Springfield, Missouri; and Boulder, Colorado; which has associated with it the following attorneys admitted to practice in their respective states: David R. Barnard; David V. Clark; Stephen J. Horace; Alfred R. Hupp, Jr.; Ronald E. Manka; Xincheng Wang; Michael Byorick, Registration No. 34,131; Janelle Strode, Registration No. 34,738; Gerald M. Kraai, Registration No. 34,854; William A. Rudy, Registration No. 34,916; Dan Cleveland, Jr., Registration No. 36,106; Peter Knops, Registration No. 37,659; Curtis A. Vock, Registration No. 38,356; James M. Stipek, Registration No. 39,388; Joseph L. Johnson, Registration No. 39,718; Neil L. Arney, Registration No. 41,589; David J. Lee, Registration No. 41,935; Kimberly A. Wingate, Registration No. 43,776; Robert J. Lambrechts, Registration No. 46,854; Daniel W. Roberts, Registration No. 52,172 of LATHROP & GAGE L.C., 4845 Pearl East Circle, Suite 300, Boulder, CO, USA, 80301 to submit this application on behalf of the applicant. The attorney docket/reference number is 412548.

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

A fee payment in the amount of \$670 will be submitted with the application, representing payment for 2 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: /william h barber/ Date: 02/11/2004

Signatory's Name: William H. Barber

Signatory's Position: Founder and Director

Mailing Address:

Curtis A. Vock

4845 Pearl East Circle, Suite 300

Boulder, CO 80301

RAM Sale Number: 819

RAM Accounting Date: 02/12/2004

Serial Number: 78366702

Internet Transmission Date: Thu Feb 12 10:19:29 EST 2004

TEAS Stamp: USPTO/BAS-XXXXXXXXX-20040212101929578039

-78366702-200af15e12570d6a0cad34609d141c

ec59-DA-819-20040211160008325714






DVDPLAY > Products > The AEM - Microsoft Internet Explorer provided by Lathrop & Gage L.L.C.


File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print View Source Go

Address http://www.dvdplay.net/Main-model=corporate_website&view=html&style=tCBS&id=2.htm

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PRODUCTS

- ▶ The AEM
- ▶ Generating revenue

The AEM, The Big Red DVD Machine

These simple, friendly machines have created a completely new franchise category whose opportunities are wide open. All we ask consumers to do are two things they're already comfortable doing today: Operate an ATM and rent or buy DVDs. It's as easy as that.

What is an AEM?

It is a bright red machine (about the same size as an ATM) that rents or sells the latest hit DVDs in less than a minute, and accepts returned DVDs back into its inventory in less than 20 seconds, so they can be rented again and again. What more could you ask for than a machine that is designed to work 24/7, earn money, and automatically report on all its business activities.


It will require some attention from time to time, but nothing on the scale of managing a big video store, with employees to take care of, and long-term leases to pay.

How do AEMs work?

Our AEM machines operate exclusively by credit card, so there are no application forms to fill out, no video store clerks to pay, and no cash that needs to be collected daily. Regardless of how many a franchisee operates (10 - 1,000), The entire system is simple, secure and friendly. AEMs are Internet connected and can be managed almost 100% remotely from the office, at home, or even from the beach. This is about as close to management independence as any business can be. The AEM's small footprint is ideal for placing AEMs inside locations where consumers come and go every day, such as restaurants, colleges, convenience stores, and business lobbies. They fit just about anywhere your imagination wants them to, but of course, the best choices are income-producing locations.

AEM Operations

From our centralized server operation, we provide franchisees with a personal, secure and protected web-based administration site that allows owners to view up-to-the-minute reports of: current sales, promotions, advertising and a host of other items to help franchisees succeed. Not only is our system highly scalable, it's extremely flexible, allowing owners to make changes on the fly, including such important items as pricing, movie listings, and promotions.



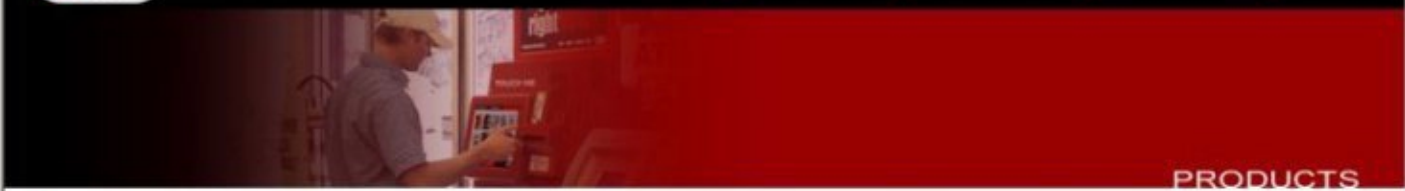
DVDPLAY > Products > Generating Revenue - Microsoft Internet Explorer provided by Lathrop & Gage L.L.C.

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print Mail News RSS Feeds

Address http://www.dvdplay.net/Main-model=corporate_website&view=html&style=tC&ilo=2&pg=2.htm Go

DVD PLAY Products Franchising Company Our Story



PRODUCTS


- The AEM
- Generating revenue

Generating Revenue


Six ways to make money from an AEM

From day one, DVDPlay generates revenue for the franchisee in three important ways: Rental fees, DVD sales, and late fees. Additionally, three other powerful revenue opportunities exist: on-screen 10 - 60 second TV spots, on machine and jewel case display advertising, email promotions that enable each AEM location to send timely email promotions 24/7 to its local customer base. What makes advertising particularly rewarding is that a sales commission is always paid. And paid every time the commercial runs.


Flat screen Advertising



Touch Screen Advertising



Pedestal Advertising



All Content © 2000-2003 DVDPlay Privacy Policy

Internet

Start In... M... L... A... W... W... D...

3:12 PM

DVDPLAY > Company > Overview - Microsoft Internet Explorer provided by Lathrop & Gage L.C.

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print View Source Go

Address http://www.dvdplay.net/Main-model=corporate_website&view=html&style=tC&id=4.htm

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DVD PLAY

Products Franchising **Company** Our Story

COMPANY

Company overview
Management
News

Company Overview

Creators of the Worlds First Internet Connected Automated Entertainment Machine: The AEM

Founded in 1999, DVDPlay is the creator, manufacturer and franchisor of the worlds first Automated Entertainment Machines (AEMs) These patent pending AEMs are an effortless new way to rent and sell the latest hit DVD movies and games. All AEMs are Internet connected, screen navigable, cashless and require minimum personnel. And when consumers return their DVDs the movies are automatically accepted into the machine inventory pool to be rented again and again. Franchisees can remotely manage all of their machines from their home, their office, or even from a beach in Hawaii. Daily reports keep owner/operators informed 24/7 on all rentals, sales and other revenue streams, including advertising and email promotions.


Think of DVDPlay franchise as a Blockbuster in an ATM-sized box, conveniently located throughout your community, instead of the single giant video store located across town or miles away! Our business model is to make AEMs as ubiquitous and convenient to consumers as ATMs are today. To meet this goal, we provide entrepreneurial franchisees with the machines and technical support they need to economically and profitably install multiple AEMs into today's \$20 billion DVD market stream. We also plan to help you successfully ride the DVD revenue wave that is predicted to reach \$40 billion by 2007.

DVDPlay is a perfect merger of Hollywood, machines, deep technology, retail and the Internet. When Captain Kirk of the Starship Enterprise announced; "We will boldly go where no man has gone before", he must have had DVDPlay in mind, because our mission, like the Captain's, is to "take consumers to places where they have never gone to rent movies before"...

Okay, you're right, that's kind of corny, and not as thrilling as traveling to the far ends of the universe, but what the heck, at least we make it easy for your customers to rent Star Trek at work, in their apartment complex, or at the local coffee shop.

DVDPlay has built a centralized operations and technology management center that is world-class. Our system is fully scalable, and our client-based AEMs abound with features and revenue drivers that will blow the doors off any traditional video store... so to speak. To have fun, and learn more about franchising please peruse the rest of our site, view our own DVD movie, or give us a call. Our phones may be a little antiquated, but our Internet connection is world class and we are always here to help.

Oh, one more thing, remember that line uttered by Tom Cruise in the movie Jerry McGuire; "Show me the MONEY". Well that pretty much explains what owning a DVDPlay franchise is about, because our AEMs are designed to "show you the money" every day from every AEM you own.



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Franchising Overview

Successful entrepreneurs look to the future to determine the correct business opportunity to pursue. A part of that future is the Automated Entertainment Machine (AEM) from DVDPlay. We've developed a system that enables the consumer to rent and buy their favorite new release DVDs and video games in their community where they work, live, shop and play. The full parking lots and long lines at video stores will become nothing but a memory. Imagine picking up videos at the drug store, convenience store, gas station, health club, office building, etc. while continuing your daily routine. A rental can take less than a minute and a return less than 20 seconds. What could be more in tune with the fast-paced society of today?



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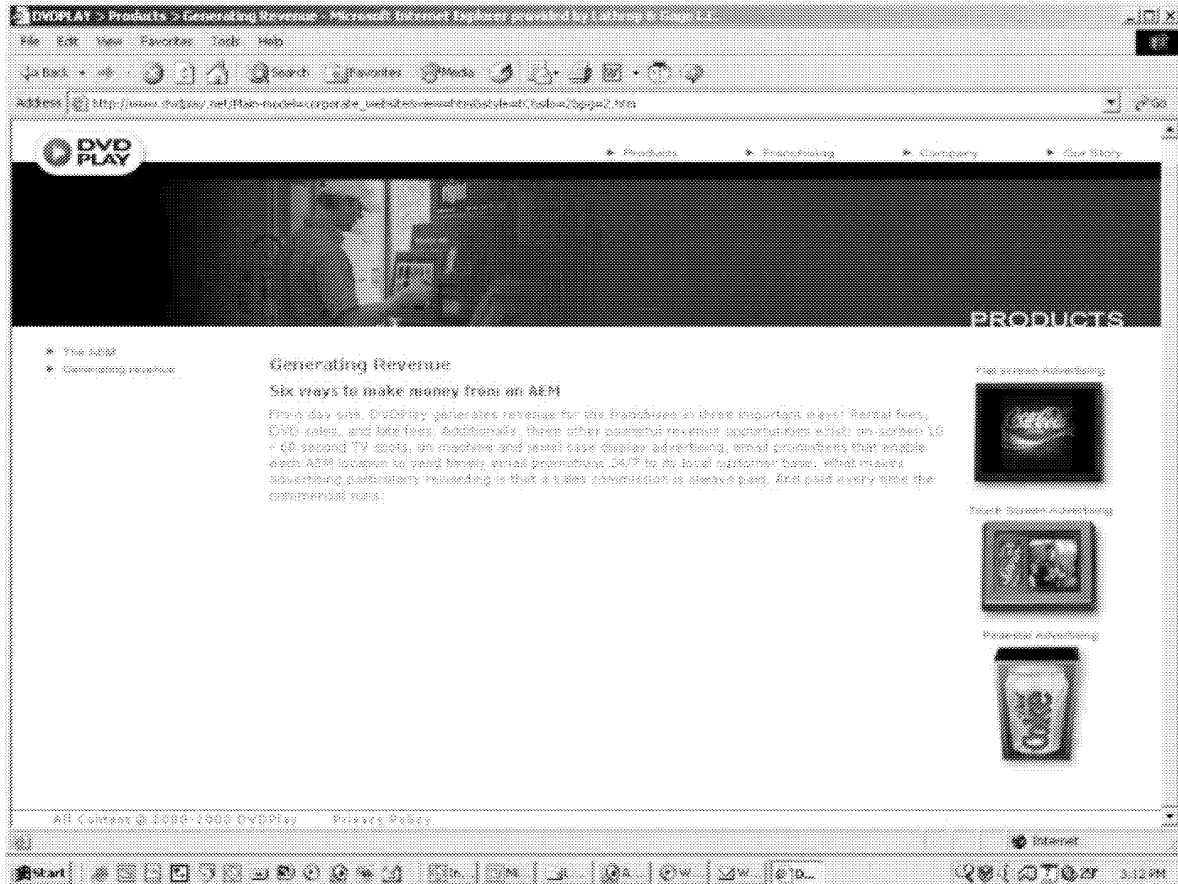
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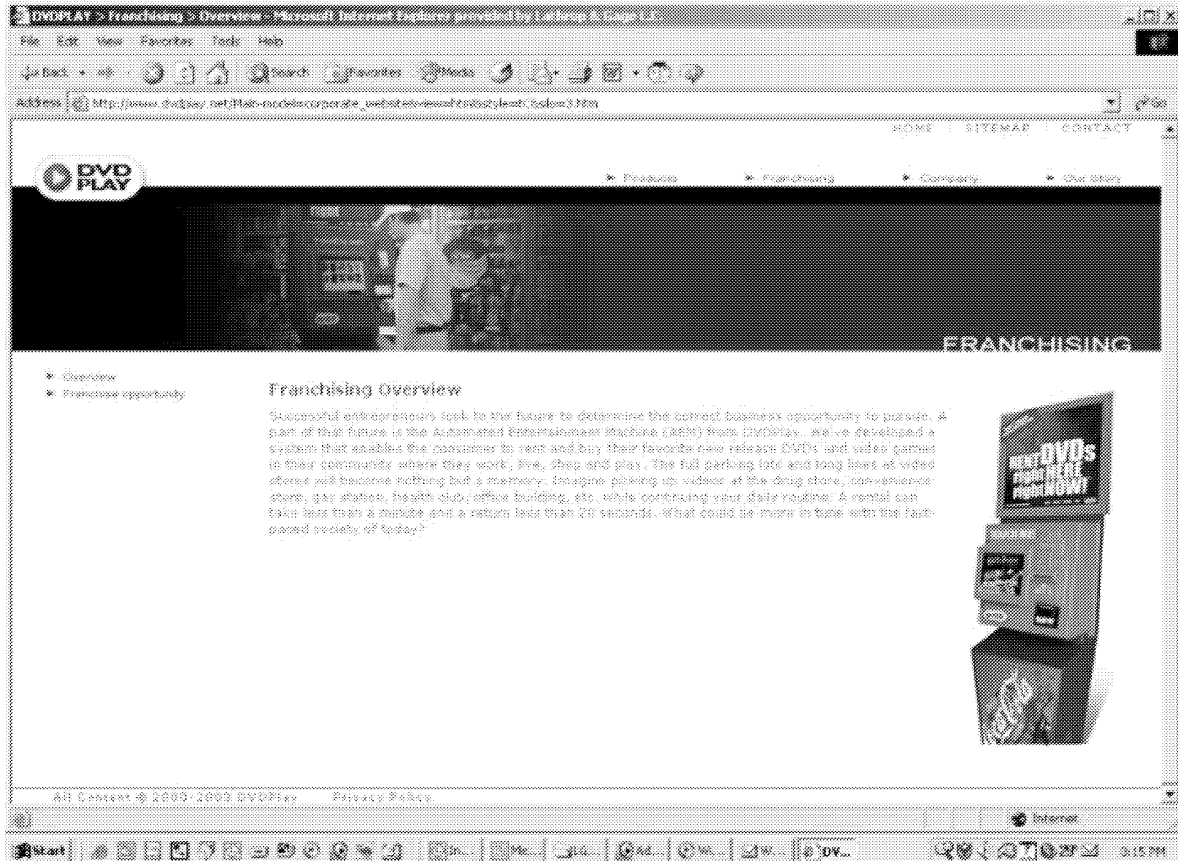
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PRODUCTS

- ▶ The AEM
- ▶ Generating revenue

The AEM, The Big Red DVD Machine

These simple, friendly machines have created a completely new franchise category whose opportunities are wide open. All we ask consumers to do are two things they're already comfortable doing today: Operate an ATM and rent or buy DVDs. It's as easy as that.

What is an AEM?

It is a bright red machine (about the same size as an ATM) that rents or sells the latest hit DVDs in less than a minute, and accepts returned DVDs back into its inventory in less than 20 seconds, so they can be rented again and again. What more could you ask for than a machine that is designed to work 24/7, earn money, and automatically report on all its business activities.


It will require some attention from time to time, but nothing on the scale of managing a big video store, with employees to take care of, and long-term leases to pay.

How do AEMs work?

Our AEM machines operate exclusively by credit card, so there are no application forms to fill out, no video store clerks to pay, and no cash that needs to be collected daily. Regardless of how many a franchisee operates (10 - 1,000), The entire system is simple, secure and friendly. AEMs are Internet connected and can be managed almost 100% remotely from the office, at home, or even from the beach. This is about as close to management independence as any business can be. The AEM's small footprint is ideal for placing AEMs inside locations where consumers come and go every day, such as restaurants, colleges, convenience stores, and business lobbies. They fit just about anywhere your imagination wants them to, but of course, the best choices are income-producing locations.

AEM Operations

From our centralized server operation, we provide franchisees with a personal, secure and protected web-based administration site that allows owners to view up-to-the-minute reports of: current sales, promotions, advertising and a host of other items to help franchisees succeed. Not only is our system highly scalable, it's extremely flexible, allowing owners to make changes on the fly, including such important items as pricing, movie listings, and promotions.



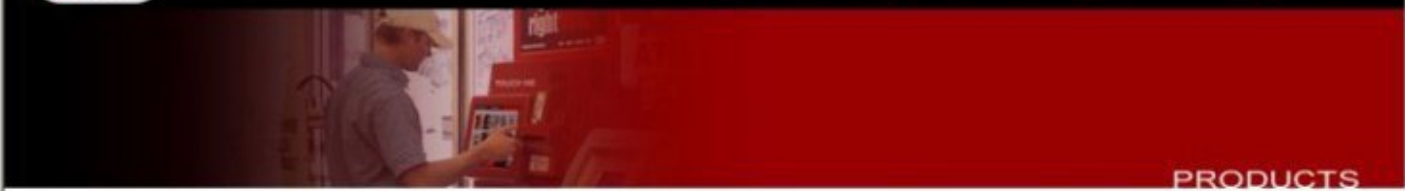
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PRODUCTS


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Generating Revenue


Six ways to make money from an AEM

From day one, DVDPlay generates revenue for the franchisee in three important ways: Rental fees, DVD sales, and late fees. Additionally, three other powerful revenue opportunities exist: on-screen 10 - 60 second TV spots, on machine and jewel case display advertising, email promotions that enable each AEM location to send timely email promotions 24/7 to its local customer base. What makes advertising particularly rewarding is that a sales commission is always paid. And paid every time the commercial runs.


Flat screen Advertising



Touch Screen Advertising



Pedestal Advertising



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