

EXHIBIT “C”

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. 75/656348		APPLICANT E-Fax Communications, Inc.		PAPER NO.	
MARK E-FAX		ADDRESS BRIAN BEVERLY 1 KAISER PLZ STE 2360 OAKLAND CA 94612		ADDRESS: Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov	
FORM PTO-1525 (5-90)		U.S. DEPT. OF COMM. PAT. & TM OFFICE		ACTION NO. 01	If no fees are enclosed, the address should include the words "Box Responses - No Fee."
				MAILING DATE 06/12/00	Please provide in all correspondence: <ol style="list-style-type: none">1. Filing Date, serial number, mark and Applicant's name.2. Mailing date of this Office action.3. Examining Attorney's name and Law Office number.4. Your telephone number and ZIP code.
				REF. NO. 1874.203	

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

RE: Serial Number: 75/656348

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

CLAIM OF ACQUIRED DISTINCTIVENESS

The applicant's mark is highly descriptive as applied to the services. Therefore, the applicant's allegation of five years' use alone is insufficient evidence of distinctiveness. The applicant may submit actual evidence to prove the distinctiveness of the mark in commerce. The Office will decide each case on its own merits. The examining attorney will consider the following principal factors in this decision: (1) how long the applicant has used the mark, (2) the type and amount of advertising of the mark and (3) the applicant's efforts to associate the mark with the goods. See *Ralston Purina Co. v. Thomas J. Lipton, Inc.*, 341 F. Supp. 129, 173 USPQ 820 (S.D.N.Y. 1972); *In re Packaging Specialists, Inc.*, 221 USPQ 917 (TTAB 1984); 37 C.F.R. Section 2.41; TMEP sections 1212, 1212.01 and 1212.06. This evidence may include specific dollar sales under the mark, advertising figures, samples of advertising, consumer or dealer statements of recognition of the mark and any other evidence that establishes the distinctiveness of the mark as an indicator of source.

Pending the applicant's response to the above, registration is refused under Section 2(e)(1) of the Trademark Act on the ground that the proposed mark is descriptive of the services. E-FAX is

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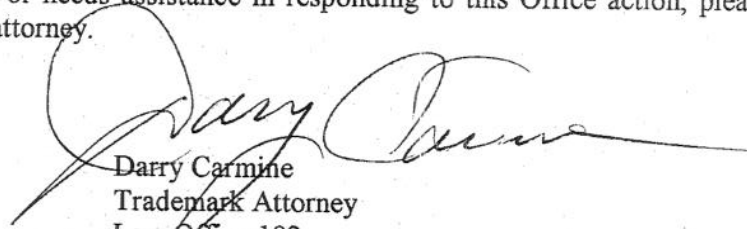
likely to be perceived as meaning "electronic facsimile" and electronic facsimile transmission appears to be the precise nature of the applicant's services.

EARLIER-FILED PENDING APPLICATION MAY BAR REGISTRATION

The examining attorney encloses information regarding pending Application Serial No. 75-611475. The filing date of the referenced application precedes the applicant's filing date. There may be a likelihood of confusion between the two marks under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). If the referenced application matures into a registration, the examining attorney may refuse registration in this case under Section 2(d). 37 C.F.R. Section 2.83; TMEP section 1208.01.

The examining attorney has searched the Office records and has found no similar registered mark which bars registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01. Please note that the examining attorney has found a potentially conflicting pending application.

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



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Office Hours: 9:30 - 6:00

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