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Comments and suggestions are welcome by e-mail to ruth.nyblod@uspto.gov.

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Nicholas P. Godici

Acting Under Secretary of Commerce for Intellectual Property and
Acting Director of the United States Patent and Trademark Office

We were all shocked and saddened by the tragic events of September 11, 2001. Our thoughts and prayers are with the families and friends of the lost and injured, and we extend our deepest sympathies to our employees and members of the intellectual property community who have been affected by these events.

The proximity of the United States Patent and Trademark Office (USPTO) buildings to the Pentagon made these events particularly difficult. I want to personally thank all USPTO employees that helped to coordinate and participate in the safe evacuation of our facilities on that day. The safety and security of our employees and customers is always our primary concern. The USPTO has put into place enhanced security measures and is reviewing our security and evacuation procedures. Employees and visitors should keep abreast of notices being posted concerning these issues.

I also want to thank our customers for their cooperation and patience. The USPTO also is working closely with customers that were directly affected in order to mitigate the impact on their business. Our Web site has a special section for notices related to the events and closure on September 11, 2001.

The agency has received many letters of condolence and support from our international intellectual property counterparts all over the world. We appreciate these sentiments that make clear we are all one global community. I have shared these letters with employees, and the expressions of support have been very helpful to all of us.

The firefighters, police, and rescue workers who dutifully perform their jobs in the face of such tragedy have our full support and appreciation. These brave and dedicated workers, together with ordinary citizens who put their own lives at risk to save others, have inspired an overwhelming pride in America. It is with the same

sense of pride and purpose that the business of America will continue.

The President has indicated that one way the United States can show strength is for all of us to get back to work, and while we get back to business, it will not be business as usual. We will never forget the tragic events of September 11, 2001. The USPTO will continue to support our employees and customers in dealing with the aftermath of these tragic events in the coming weeks and months, and we will support the President's desire to continue with the business of the U.S Government.

I am proud of all USPTO employees, as both citizens and as public servants, for the work they do for their country. I am also grateful for the support of our intellectual property community and the important role we play in the U.S. economy. Together, we all stand tall for America.

This Month in History

September

On September 4, 1888, George Eastman received patent number 388,850 for the roll film camera.

Reverend Hannibal Goodwin was granted a patent on September 13, 1898, for celluloid photographic film.

Johannes Ostermeier was issued a patent on September 23, 1930, for the flash bulb.

Fire destroyed nearly 80,000 patent models on September 24, 1877, but important records were spared.

October

On October 6, 1942, Chester Carlson received a patent for electric photography (Xerography).

Henry Ford received a patent on October 10, 1911, for an automobile transmission mechanism.

Trademark E-Government Initiatives Continue

Mandatory E-Filing on the Horizon

by Craig K. Morris, Office of the Commissioner for Trademarks

During fiscal year 2001, the trademark operation continued to promote the e-government concept by striving to create a single approach for serving all customers, relying on effective use of information technology and the resources available at the USPTO Web site (<http://www.uspto.gov>). Short and long term operational and process changes continued to be structured, wherever appropriate, based on electronic filing and electronic communications. The goal is to perform all communications with USPTO customers electronically by 2003. The greatest potential for performance improvement will come from reducing or eliminating the number of processing activities in the production process, thereby improving customer service, quality and timeliness. Also, achieving the e-government goal to provide and deliver information and services electronically will allow the agency to better manage its resources.

Trademark Electronic Application System (TEAS)

Over the past year, the trademark operation continued to take steps to make the Trademark Electronic Application System (TEAS) the cornerstone of the overall transformation of the trademark operation into an effective e-government operation. Many benefits of electronic filing have been identified:

- ***Improved customer service.*** TEAS provides a dramatic increase in the speed with which applications can be filed; the ability to file virtually 24 hours a day, seven days a week, permitting filing



Ice Sculpture at TEAS kickoff in Houston.

on days the USPTO is officially closed; online help screens and an automated validation function to ensure submission of applications that meet USPTO requirements; almost instantaneous provision of a filing receipt and serial number for an initial application via email; and more accurate filing receipt information because data is transferred directly to USPTO databases. Customer surveys demonstrate high levels of satisfaction with electronic filing.

- ***Improved USPTO business efficiencies and quality.*** Receiving and storing all data electronically would tremendously reduce application processing costs; handling large amounts of paper is extremely labor-intensive. Electronic systems eliminate manual data entry, paper file movement, and “lost or misrouted” papers and files, thereby increasing efficiency and improving quality. Moreover, electronic applications would permit the USPTO to optimize work-at-home capabilities, which in turn would allow more flexibility in effectively using limited office space.

As part of its efforts to transform into an e-government operation, the trademark operation has focused on two specific strategies: (1) to increase the number of applications filed electronically; and (2) to increase the number of applicants changing their business methods. Through August 2001, almost 115,000 electronically-filed applications were submitted, meaning that TEAS filings accounted for almost 25 percent of all applications filed. While pro se applicants and corporations were initially the primary users of TEAS, by the end of fiscal year 2001, use by attorneys had risen to nearly 50 percent.

The USPTO is pleased to see this upward trend in usage within the trademark bar, and continues its efforts to ensure that use of TEAS increases. For example, enhancements were made to the electronic filing site throughout the fiscal year. Most significant were the introduction of new simplified methods for obtaining signatures from clients—one allowing for direct e-mail of a completed form for signature; the other, a method whereby a completed form could be mailed or faxed for a conventional pen-and-ink signature, followed by creation of an image file of the signed declaration for attachment to the electronic form. Also, the first of many TEAS promotional events planned for around the country were held in Chicago, Dallas, Houston, and Washington, D.C. Future programs are planned for Atlanta, Boston, Philadelphia, and Los Angeles.

Although use of the electronic filing system continues to grow, it is questionable whether the dramatic increases that the USPTO desires—50 percent for fiscal year 2002—will occur. While the USPTO is doing all that it can to convince its customers of the

benefits of changing how they interact with the USPTO, the legal community is sometimes often slow to change established methods of doing business; unfortunately, most of these established methods are heavily paper-based. Therefore, the USPTO is carefully considering whether to mandate electronic filing.

On August 30, 2001, a notice of proposed rulemaking was published in the *Federal Register* (RIN 0651-AB31), in which the USPTO proposes to amend its rules to make electronic filing mandatory for all trademark documents available in TEAS, with certain exceptions. The USPTO proposal would not require TEAS filing by anyone lacking Internet access, or if TEAS is temporarily unavailable. TEAS filing also would not be required for filings pursuant to certain international agreements to which the United States is a party. However, the option of using U. S. Postal Service Express Mail would be eliminated for any document for which an electronic form exists. The full text of the notice is available at <http://www.uspto.gov/web/offices/com/sol/notices/ab31.html>.

As part of the rulemaking process, the public is invited to submit comments, which must be received by October 29, 2001, to ensure consideration. Also, a public hearing will be held in October, in Arlington, Virginia. For further information, please contact Craig Morris, Office of the Commissioner for Trademarks, (703) 308-8910, extension 136; or e-mail comments to tmefiling@uspto.gov.

Trademark Work@Home

The trademark operation continued to expand its program whereby employees could work from home for a portion of the work week. Currently, approximately 90 examining attorneys and three post registration paralegals are participating in this program. An analysis of production for the first quarter of fiscal year 2001 shows that work-at-home employees produced a significantly higher number of action points than those employees working in the office. This can be attributed to the fact that the work-at-home employees can now contribute more examining hours to the system.

USPTO needs complete electronic filing to provide ease of access to applications from remote locations in order to optimize work-at-home capabilities. The successful transition to a total electronic environment would enable the agency to provide many more work-at-home opportunities for its employees, which in turn would allow more flexibility in effectively using limited office space.

Official Gazette (Trademarks)

The USPTO published the first *Official Gazette (Trademarks)*

through the Trademark In-house Proofing System (TIPS) in March 2001. The trademark operation sends a post script file directly to the Government Printing Office for publication of the hard copy *Official Gazette*. Also, the weekly *Official Gazette* now appears in an “online” PDF searchable format on the USPTO Web site, at www.uspto.gov/web/trademarks/tmog. At this site, the current issue is posted, plus the four prior weeks, for a rotating total of five issues. The USPTO is considering whether to publish the *Official Gazette* only electronically, for a potential saving of \$1.4 million annually.

The TIPS-published *Official Gazette* is available for internal review prior to actual publication, and consequently customers won't be subjected to the pitfalls of any “bounces.” The USPTO will not have to return an application to prosecution status due to an error discovered after the mark has already published in the *Official Gazette*. Since the *Official Gazette* is being prepared internally, it is critical that submitted drawings comply completely with USPTO drawing rules (e.g., that all marks consist of crisp black-and-white images, with no gray tones).

Trademark Information Capture and Retrieval (TICRS)

All incoming applications filed since April 1999, whether filed electronically or on paper, are currently available on TICRS. By late 2001, all incoming and outgoing correspondence will be on TICRS.

During fiscal year 2001, TICRS was made available to all trademark employees at their desktop computers, as well as to search terminals in our public search library. At some point in the future, TICRS should also be available from the USPTO Web site, accessible by everyone from any location.

Board Information System Index (BISX)

This past spring, BISX was added as a Web site resource, to search proceedings of the Trademark Trial and Appeal Board. This supplements the Trademark Applications and Registrations Retrieval (TARR), which the USPTO put online earlier for searching the status of applications and registrations. Both TARR and BISX are available from <http://www.uspto.gov/web/menu/tmebc/index.html>.

Upcoming Challenges

While the USPTO clearly has a Concept of Operations in place that relies heavily on e-government initiatives, it cannot succeed in a vacuum; that is, USPTO's customers must be willing to change how they do business. Technology is predictable; people are not.

Therefore, the USPTO hopes to partner with its external customers to ensure a successful transition to a total e-government environment. Also, in the near future, the USPTO will need to address the many internal workforce issues that will arise from the transition to an e-government operation. The USPTO must train much of its workforce in new electronic processes, and in some instances, deal with the effect of the elimination of certain positions that are based exclusively on a paper process.

The agency also must adjust to dramatically reduced workloads, as a result of lower trademark application filing levels in fiscal year 2001. However, this may provide the trademark operation an opportunity to better position itself for doing work a new way, since the trademark operation will be able to “catch up” on almost all of its paper processing. Absent huge paper backlogs, the trademark operation can more easily transition to full electronic communication. Working with its customers, the USPTO is confident of reaching its goal of performing all communications electronically by 2003.

Independent Inventors Get Valuable Information at USPTO’s Sixth Annual Independent Inventors’ Conference

by Richard Apley, Director, Office of Independent Inventor Programs

The United States Patent and Trademark Office (USPTO) held its Sixth Annual Independent Inventors’ Conference in Arlington, Virginia on August 3 and 4, 2001. Over 180 independent inventors seeking guidance on subjects ranging from patent application preparation, claim construction, and trademark registration to marketing, licensing, and funding for the development of their inventions came from all over the United States.

Robert Anderson, deputy commissioner for trademark operations, welcomed the inventors to the weekend conference and pointed out the growing need for intellectual property protection.

Joanne Hayes-Rines, editor and publisher of *Inventor's Digest* magazine and founder of National Inventor's Month, captured the audience with tales of obstacles and hardships that independent inventors have to overcome to achieve success. She noted that the Sixth Annual Independent Inventors Conference was being held in August for a reason: August is National Inventor's Month.



photo: Dennis Forbes

Two successful inventors, Richard Levy, inventor of the FURBY, and Dan Lauer, inventor of WATERBABIES, spent an hour giving marketing tips and strategies to the inventors.

from left: Dan Lauer, Joanne Hayes-Rines, and Richard Levy

Clarence Crawford, USPTO's chief financial officer, moderated a plenary session and reminded the audience that a successful invention requires a practical idea and adequate capital.

The inventors were treated to an hour discussion on the importance of invention evaluation by two of America's leading evaluators: Dr. Gerry Udell, executive director of the Center for Economic Development, Southwest Missouri State University; and Milissa Rick, program manager, Wisconsin Innovation Service Center. They each explained the importance of, "doing your homework," by completing a new product assessment that looks at everything from market assessment to competitive products to current and potential customer demand. Each of these experts also emphasized the importance of doing a patent search in order to gauge the level and type of protection that can be expected.



photo: Dennis Forbes

Gerry Udell (left) and Richard Apley

Esther Kepplinger, deputy commissioner for patent operations, moderated the morning plenary session on sales and marketing on

Saturday. She explained the value of a strong patent and encouraged the inventors to use a registered patent attorney or agent because the value of a patent is largely determined by skill in drafting the specification and claims.

Ron Docie, inventor and author of the *Inventor's Bible*, and Mike Marks, inventor of the GATOR-GRIP and president of WorkTools Inc. and Invention City, took the inventors through the ups and downs of a sales and marketing strategy for their products. They mesmerized the audience with their abundant knowledge of sales and marketing.

The attendees were treated to two dynamic luncheon speakers. Kaz Kazenske, deputy commissioner for patent resources and planning, enlightened the Friday crowd with an overview of the patent system and a vision of the future. On Saturday, Steve Kunin, deputy commissioner for patent examination policy, educated the inventors with a power point presentation on Patent Cooperation Treaty reform and the growing importance of international protection.

The East Coast Star Trek Convention and Trade Show was being held at the same time. Both groups of attendees presented the hotel and conference organizers with a unique and diverse blend of characters. While the Star Trek convention was populated by Klingons and their followers, the Sixth Annual Independent Inventors

Conference was visited by different kinds of followers... those that follow their dreams.



photo: Dennis Forbes

from left: Richard Apley, a Treckie from neighboring conference, Corine Gore and Cathie Kirik from the Office of Independent Inventor Programs



photo: Dennis Forbes

Attendees of the Sixth Annual Independent Inventors Conference

Helpful Hints

for patent applicants

The Patent Application Information Retrieval (PAIR) system makes it easy for patent applicants or their designated attorneys or agents to obtain up-to-the-minute information on their pending patent applications. Follow these helpful hints to access the PAIR system.

1. You must be a registered patent attorney or agent or an independent inventor.
2. You must have a customer number. Only those cases that are associated with the requestor's customer number can be accessed using PAIR. Request forms for a customer number are available on the USPTO electronic business center Web site.
3. You must have a digital PKI (Public Key Infrastructure) certificate to secure the transmission of the application to the USPTO.
4. Make sure you have installed USPTO direct software on your local drive. The USPTO will provide the PKI software free of charge to those individuals approved for use of the PAIR system.
5. Be sure you meet our minimum system requirements for PAIR. The PAIR system is intended to run under existing technology and adhere to policies, procedures, and guidelines issued by USPTO. Agency policy currently requires a Web browser compatibility at, or above, Netscape version 3.0 or Internet Explorer 3.0. However, USPTO does not endorse these products. These are the products that have been tested so far.
6. You may use your Digital Certificate only once. If you have already created your profile on your PC and would like to set up a second PC, go to the USPTO folder usually c:\program files\uspto on the first PC and copy all of the files that contain the profile name onto a floppy disk. Take the disk to the second PC and go to the USPTO folder on that PC. Paste the files from the disk into the USPTO folder on the second PC. However, a digital certificate is only licensed for the application and one other user under the applicant's direct control.
7. Make sure that your applications are associated with your customer number. If there are no applications associated with your

customer number, you will receive an error message that says “Customer Number is Invalid.” To associate all of your applications with your customer number, send in the excel spreadsheet located on our Web site.

8. Make any required changes to your computer to access PAIR. The USPTO/Direct client requires the ability to directly communicate with special USPTO Internet servers using TCP/IP port 443 at each login and during the creation, recovery, or update of a profile. These servers are part of the USPTO’s Public Key Infrastructure, or PKI, that manages the digital certificates issued by the USPTO. It is important to note that for these operations, the USPTO/Direct client does not use the proxy settings of your browser. If direct access to servers (through a firewall or proxy) using port 443 is prohibited in your environment, see TCP/IP port requirements for USPTO/Direct below.

Alternate ports supported by USPTO/Direct

By default, the USPTO/Direct client is configured to use TCP/IP port 443 for communications with the USPTO’s PKI servers. TCP/IP port 443 was chosen as the default because in network environments where firewalls are in use, client workstations are normally allowed to access servers on the Internet using this port. However, in environments where proxy servers are used, or a combination of firewall and proxy server, it is often undesirable to enable direct communication on port 443 through the firewall. For this reason, the USPTO Direct client may be configured to use an alternate set of ports for communicating with the USPTO’s PKI servers. These alternate ports are port 389 for communicating with the USPTO’s Directory servers, and port 709 for the Certificate Authority. To configure Direct to use these ports, make the following changes to the entrust.ini file located in the C:\Program Files\USPTO directory:

Change:	To:
[Entrust Settings]	[Entrust Settings]
ClientType=Heavy	ClientType=Heavy
Server=dir-01.uspto.gov+443	Server=dir-01.usptogov+389
Manager=ca-01.uspto.gov+443	Manager=ca-01.uspto.gov+709

After saving the changes to the entrust.ini file, restart the USPTO Direct client to use the new configuration.

Technology Fairs

Increase Examination Quality

by Sharlamar Taliaferro, Office of Quality Services

The United States Patent and Trademark Office (USPTO) held its first technology fair approximately two years ago. Since then, over 100 corporations, law firms, and independent inventors have voluntarily lectured and demonstrated their inventions and related products to patent examiners and technical support personnel. The presentations are designed to increase patent examiners' up-to-the-minute knowledge with the technology in their art units for which they determine patentability.

Each technology center hosts a tech fair. These events are increasing in popularity and are well attended. Several thousand USPTO employees attended this year, alone. Technology centers start planning months ahead to showcase their art units "cutting edge" technology. A committee that includes supervisory patent examiners, tech center directors, and analysts plan a one- or two-day program featuring 10 to 20 companies, law firms, independent inventors, and others interested in presenting their state-of-the-art technologies at the tech fairs.

Most examiners find the tech fairs to be an excellent re-

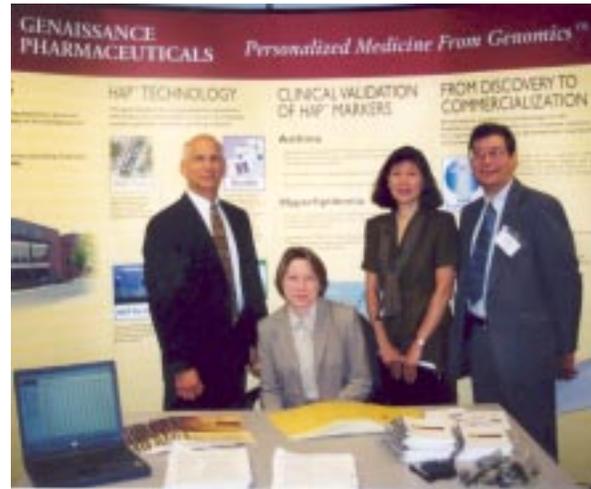


photo: Frankie Cox

Technology Center 1600 Tech Fair: (from left: John Doll, director, tech center 1600; Melodie Henderson of Genaissance; Jasmine Chambers, director, tech center 1600; and Steve Kunin, deputy commissioner for patent examination policy.



photo: Frankie Cox

Technology Centers 3600 and 3700 Tech Fair: (from left) Chuck Yocum of Black & Decker, and Terry Melius, quality assurance specialist, tech center 3600.

source to keep abreast of the technologies that impact their ability to provide high quality patent examinations.

The USPTO does not compensate companies, law firms, or independent inventors for presenting at the technology fairs. However, because companies are willing to come and lecture on their own, USPTO personnel are given an opportunity to gain insights and enhance their knowledge of new technology. Both the USPTO and their corporate guests have found the technology fairs to be informative and rewarding. Companies, law firms, and independent inventors interested in making presentations at the USPTO's technology fairs should send an email to Sharlamar.Taliaferro@uspto.gov.

Faces of the USPTO

PETER N. FOWLER is chief of staff to the under secretary of commerce for intellectual property and director of the United States Patent and Trademark Office. He joined the USPTO in 1995 as an attorney-advisor in the Office of Legislative and International Affairs, and then served as executive assistant to the assistant secretary of commerce and commissioner of patents and trademarks.



photo: Frankie Cox

As a specialist in intellectual property policy, Fowler has traveled extensively for the U.S. Government, particularly to Asia and the Middle East, providing technical assistance and training on legislative, policy, and intellectual property enforcement issues. Prior to joining USPTO, he was a partner in the San Francisco law firm of Lilienthal & Fowler, where he practiced copyright, trademark, and entertainment law.

Professional career highlights include serving from September 1995-November 1998 as facilitator of the Conference on Fair Use,

for which he authored three reports; serving as a member and executive secretary of the U.S. Delegation to the WIPO Diplomatic Conference on Copyright and Neighboring Rights in 1996; organizing the 1996 Intellectual Property Conference of the Americas; and in 1989, arguing successfully on behalf of appellants and amici in *General Conference Corporation of the Seventh-Day Adventists v. Seventh-Day Adventist Congregational Church*, a highly publicized and controversial trademark case before the U.S. Court of Appeals for the Ninth Circuit. He received the Department of Commerce Gold Medal Award in 1997 for his work in connection with the 1996 WIPO Diplomatic Conference and treaties.

Admitted to practice in California, Nevada, and before several federal courts, Fowler was previously active in California Lawyers for the Arts. Over the years, he has had the experiences of being an actor, film producer, movie critic, nonprofit organization executive director, radio and cable talkshow host, and judge pro tem of the San Francisco Municipal Court. An inveterate writer, his latest law review article is on copyright and fair use in research photocopying, to be published in the *Journal of the Copyright Society of the U.S.A.* in September 2001. From 1988-95, he was an Adjunct Associate Professor of Law at Golden Gate University School of Law, and has taught at University of California Hastings College of the Law, University of San Francisco, California State University-Hayward, and Bolivarian Pontifical University in Medellín, Colombia.

Fowler received a J.D. from Golden Gate University School of Law; an M.A. in Secondary Education from the University of Alabama; an M.A. in Political Science from Ball State University; and a B.A. in Political Science from John Carroll University.

Editor's Note:

The National Inventors Hall of Fame induction ceremony and related activities that were planned for September 15 have been rescheduled. The induction ceremony will take place in Akron, OH, on December 8, 2001.

Patents Electronic Filing System (EFS) Hands-on Training

The United States Patent and Trademark Office (USPTO) is offering hands-on training classes in Arlington, VA, detailing the electronic filing of patent applications.

A beginner course is designed for the novice Electronic Filing System (EFS) user with basic computer and word-processing skills. Based on customer demand, an advanced class is now offered as well. All patent customers desiring to use the EFS will benefit, including legal support staff, technical support staff, attorneys, and independent inventors.

The topics covered during the beginner classes include: an overview of EFS, creation of TIFF images for EFS submission, authoring a specification in the PASAT software, submission using the ePAVE software, Patent's Customer Number; PKI (Public Key Infrastructure), and PAIR (Patent Application Information Retrieval) on the Web. Advanced topics include: September 2001 enhancements in PASAT, ePAVE, and PAIR.

Beginner 2001 classes now open for registration are: October 24 and 25, November 28 and 29, and December 4 and 5. Advanced 2001 classes available are: October 26, November 30, and December 6. For registration and details, go to <http://www.uspto.gov/web/offices/dcom/olia/aipa/aipaseminar/EFIndex.htm> or contact Mary Small at mary.small2@uspto.gov or (703) 306-5849.

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