ESTTA Tracking number: **ESTTA241318**
Filing date: **10/07/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	78093634
Applicant	Gungner, David J.
Applied for Mark	MISSING A RIB, XY INSTEAD OF XX
Correspondence Address	david gungner Post Office Area 3302 Los Angeles County, CA 90408-3302 UNITED STATES e9pxbkwmrp1u5o3@pacbell.net
Submission	Request for Reconsideration
Attachments	TTAB_USPTO_2008-October-07.pdf (11 pages)(183613 bytes)
Filer's Name	david gungner
Filer's e-mail	e9pxbkwmrp1u5o3@pacbell.net
Signature	/0a9h5a3wh9topev5i8sw/
Date	10/07/2008

United States Patent and Trademark Office (USPTO) (www.uspto.gov)
Trademark Trial and Appeal Board
Post Office Area 1451
stateless ZIP Code 22313-1451

gungner, david j. ,	) SERIAL NO. 78093634
applicant,	) MISSING A RIB, XY INSTEAD OF XX
regarding	) SERIAL NO. 78134559
United States Patent and	) REMOVE A RIB, XY LESSER THAN XX
Trademark Office,	)
Trademark Trial and Appeal Board.	) REQUEST REGARDING RECONSIDERATION
	) AND MODIFICATION OF A DECISION WITH
	) APPLICANT'S SUPPLEMENTAL LEGAL BRIEF

david gungner, "individual inventor", requests issuance of "certificate of registration" as defined with United States Code Title 15 Section 1051(d)1 regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" (United States Patent and Trademark Office, Tuesday July 15th 2003 "notice of allowance", United States Code Title 15 Section 1063(b)2) and SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX" (United States Patent and Trademark Office, Tuesday March 11th 2003, "notice of allowance", United States Code Title 15 Section 1063(b)2).

INDEX OF EXHIBITS

EXHIBIT 001: USPTO International Trademark Protection (enpreent 10 of 11).

EXHIBIT 002: USPTO "one-size-fits-all" Service Mark / Trademark (enpreent 11 of 11).

FACTS

Summary of the Facts

1. The Constitution of the United States Article I, Section 8, Clause 8 grants Congress the authority power {regarding} "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

2. The Constitution of the United States Amendment 8 (Eighth Amendment) specifies that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

3. United States Code Title 15 Section 1070 provides that "An appeal may be taken to the Trademark Trial and Appeal Board from any final decision of the examiner in charge of the registration of marks upon the {monetary} payment of the prescribed {monetary} fee."

4. United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 102.03 General Description of Board Proceedings defines that "An ex parte appeal, being appellate in nature, is a much simpler and shorter {timeInterval} procedure, involving only the filing of {legal} briefs by {viaVirtueOf} the applicant and examining attorney, and, if requested by {viaVirtueOf} the applicant, an oral hearing {verbal gathering}."

5. The plaintiff is of continuing "interest in the case." (United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 801.02(a) Plaintiff's Main {Legal} Brief).

6. United States Patent and Trademark Office, Trademark Trial and Appeal Board "Notice of Appeal" / "Ex Parte Appeal" was implemented during Sunday January 16th 2005 timeInterval regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" and during Sunday July 25th 2004 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX", respectively.

7. United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 801.02(a) Plaintiff's Main {Legal} Brief defines that "It is the policy of the Board {Trademark Trial and Appeal Board} not to {shan't} enter judgment against a plaintiff, for failure to file {regarding the file of} a main brief on the case, where the plaintiff, in its response to the {plaintiff's response regarding} show cause order, indicates that it has not {hasn't} lost interest in the case." The plaintiff is of continuing "interest in the case."

8. United States Code Title 15 Section 1063(b)2 provides that when the "applicant applied for registration" during Thursday November 15th 2001 timeInterval regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" that the issuance accrues regarding a United States Patent and Trademark Office, Tuesday July 15th 2003 "notice of allowance" of "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 016.

9. United States Code Title 15 Section 1063(b)2 provides that when the "applicant applied for registration" during Tuesday June 11th 2002 timeInterval regarding SERIAL NO. 78134559 "REMOVE A RIB, XY LESSER THAN XX" that the issuance accrues regarding a United States Patent and Trademark Office, Tuesday March 11th 2003 "notice of allowance" of "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 042.

10. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" "statement of use" United States Code Title 15 Section 1051(d)1 starting Thursday January 15th 2004 and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" "statement of use" United States Code Title 15 Section 1051(d)1 starting Thursday September 11th 2003 included "specimens or facsimiles of the mark as used in commerce" with both unicode U+00AE ® and unicode U+2122 ™ (in unicode numeric ordering) describing how SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" exist utilized in the context of "commerce" (United States Code Title 15 Section 1051(d)1), "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 016 and "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" aggregation 042, respectively.

11. United States Code Title 15 Section 1070 provides that "An appeal may be taken to the Trademark Trial and Appeal Board from any final decision of the examiner in charge of the registration of marks upon the {monetary} payment of the prescribed {monetary} fee." of USD$100.00 (monetary fee payment provided regarding SERIAL NO. 78093634 " MISSING A RIB, XY INSTEAD OF XX" during January 2005 timeInterval). Title 37 Code

Federal Regulations Section 2.122(b)(1) considers the "file" of SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" (United States Patent and Trademark Office, Tuesday July 15th 2003, "notice of allowance", United States Code Title 15 Section 1063(b)2) as "part of the record of the proceeding without any action by {viaVirtueOf} the parties and reference may be made to {regarding} the file for {regarding} any relevant and competent purpose." The existing SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" "file" is sufficient regarding applicant's legal appeal brief (applicant's legal brief) requirement of Friday March 17th 2005. With the context of United States Patent and Trademark Office (USPTO) Internet information [EXHIBIT 001] (Friday June 2nd 2006 timeInterval) (enpreent 10 of 11) and United States Patent and Trademark Office (USPTO) Internet information [EXHIBIT 002] (Friday June 2nd 2006 timeInterval) (enpreent 11 of 11), requesting a United States Patent and Trademark Office, Trademark Trial and Appeal Board "appeal" (United States Code Title 15 Section 1070, Title 37 Code Federal Regulations Section 2.122(b)(1)) "certificate of registration" (United States Code Title 15 Section 1051(d)1) regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX".

12. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" "file" (Title 37 Code Federal Regulations Section 2.122(b)(1)) "specimen of record" "statement of use" (United States Code Title 15 Section 1051(d)1 starting Thursday January 15th 2004 with concatenations of Saturday March 27th 2004 / Sunday March 28th 2004, Wednesday April 28th 2004, Friday May 28th 2004 and Monday June 28th 2004 timeInterval) illustrates specific, functioning facsimile "container" 'encapsulization' (Trademark

Manual {Documentation} of Examination Procedures Section 904.04) utilizations "as goods that travel in commerce."

13. United States Patent and Trademark Office, Trademark Trial and Appeal Board decision of Thursday, August 7th 2008 specifies that the United States Patent and Trademark Office has implemented a "tortured prosecution history" and is without regard of the Constitution of the United States Amendment 8 (Eighth Amendment) that precludes "unusual punishments inflicted."

14. United States Patent and Trademark Office Internet electronic trademark filing system electronic application declaration signature was provided as a required, valid "Electronic Signature" during SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX" Internet electronic registration application of Thursday November 15th 2001 timeInterval and has continued, without modification, as the same required, valid "Electronic Signature" regarding SERIAL NO. 78093634 "MISSING A RIB, XY INSTEAD OF XX".

"CERTIFICATE OF REGISTRATION"

15. United States Code Title 15 Section 1051(d)1 describes that with the documented, existing, provided accurate specifics regarding SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" "statement of use" United States Code Title 15 Section 1051(d)1 and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" "statement of use" United States Code Title 15 Section 1051(d)1, both SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" should receive United States Patent and Trademark Office "certificate of registration" United States Code Title 15 Section 1051(d)1.

16. "notice of allowance" of "GOODS/SERVICES BY {ViaVirtueOf} INTERNATIONAL CLASS" isn't International Trademark Protection and is just United States geographic area region Trademark Protection [EXHIBIT 001] (enpreent 10 of 11).

17. SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX" and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" exist as trademark applications regarding "registration" (United States Code Title 15 Section 1063(b)2). "Service Mark" construct interleaving is just that of a United States Patent and Trademark Office "trademark" [EXHIBIT 002] (enpreent 11 of 11).

18. If United States Patent and Trademark Office "certificate of registration" (United States Code Title 15 Section 1051(d)1) isn't implementable, at this timeInterval, am requesting a 100% monetary refund regarding SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"

and SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX" United States Patent and Trademark Office electronic application filings (United States Patent and Trademark Office, Trademark Trial and Appeal Board Manual {Documentation} of Procedure Section 119.02 Papers and Fees---Ex Parte Cases).

I inatwith certify that this correspondence is Internet electronic filing regarding the United States Patent and Trademark Office on the earthCalendarDate Tuesday, October 7th 2008. "The undersigned being warned that willful false statements and the like are punishable by {viaVirtueOf} fine or imprisonment, or both, under 18 United States Code 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be {exist} true." (Title 37 Code Federal Regulations Section 2.20, Title 37 Code Federal Regulations Section 2.59(a), Trademark Manual {Documentation} of Examination Procedures Section 904.09).

wholeheartedly, david gungner (Tuesday, October 7th 2008).

"individual inventor"

SERIAL NO. enumeration 78093634 "MISSING A RIB, XY INSTEAD OF XX"

_____/0a9h5a3wh9topev5i8sw/_____ (Signature)

SERIAL NO. enumeration 78134559 "REMOVE A RIB, XY LESSER THAN XX"

_____/6qrgzfpmn8nsv6l63wi5/_____ (Signature)

___david gungner_,__ h_sapien ___ (Print or Type Name and Position)

_____10/07/2008_____ (earthCalendarDate MM/DD/YYYY)

missing a rib, XY instead of XX ™ GenesIs 2:20-23 (GenesIs 22:10)

remove a rib, XY lesser than XX ™ GenesIs 2:20-23

EXHIBIT 001: USPTO International Trademark Protection.

Trademark Protection

How can I insure that my patent or trademark is protected internationally?

U.S. patents only protect your invention in the United States. To protect your invention internationally you must file applications in each country where you seek protection. The same goes for trademarks. International filings can be quite complicated you may want to consult with a registered patent attorney/agent.

United States Patent and Trademark Office (USPTO) Internet information:
http://www.uspto.gov/web/offices/com/iip/transcriptst z.htm .

Last Modified: 09/23/2008 12:38:53

"USPTO Expert2" eResponse from
actual edited transcript of Tuesday, December 7, 2004
On Line for Independent Inventors (07DEC2004) .

EXHIBIT 002: USPTO "one-size-fits-all" Service Mark / Trademark.

Service Mark

I'm interested in registering a Service Mark but noticed there are two types of applications. What are the differences?

There is only one application for either a service mark or a trademark in the electronic trademark filing system at the USPTO website. You are encouraged to file electronically if possible. If you are looking at paper forms, the information required for a trademark and a service mark is basically the same - only the terminology differs slightly. If you are filing a paper application, you should file the service mark application if you are applying for a service mark just to keep things from getting confusing. But it's best to use the "one-size-fits-all" application for filing either a trademark or service mark that's available on line.

United States Patent and Trademark Office (USPTO) Internet information: http://www.uspto.gov/web/offices/com/iip/transcriptsn s.htm .

Last Modified: 09/23/2008 13:24:24

"USPTO Expert2" eResponse from
actual edited transcript of Thursday, June 10, 2004
On Line for Independent Inventors (10JUN2004) .