

TAB

EXPRESS MAIL LABEL NO.: EU206441783US

L10740 071639.0118

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

Applicant : Fuji Medical Systems U.S.A., Inc.
Serial No. : 76/071,396
Mark : SMARTCR
Filing Date : June 16, 2000
Examining Attorney : David M. Abrahams
Law Office : 113



05-02-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #70

**NOTICE OF APPEAL AND
REQUEST FOR SUSPENSION OF APPEAL**

Applicant, pursuant to Trademark Rule 2.141, hereby appeals to the Trademark Trial and Appeal Board from the final decision of the Examining Attorney, dated November 2, 2002, refusing registration of the above identified trademark on the grounds of descriptiveness. The required fee of \$100 for the appeal is submitted herewith. If the fee is found inadequate, please charge our Deposit Account No. 02-4377.

Applicant, pursuant to TBMP § 1213 requests suspension of the appeal for good cause. On April 23, 2002, Applicant filed a Request for Reconsideration and Response After Final Refusal To Register. A copy of the Request to Reconsider is attached hereto as Exhibit A. If the Examining Attorney reconsiders and withdraws the final refusal based on the new evidence and arguments set out in Applicant's May 2, 2002 request, then there will be no need to proceed with the appeal. In view of the foregoing, Applicant respectfully requests that good

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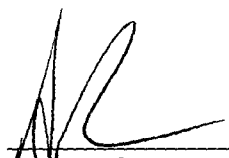
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cause exists to suspend the appeal so that the resources of the Trademark Trial and Appeal Board may be saved pending the Examining Attorney's review of Applicant's Request for Reconsideration and Response After Final Refusal to Register.

Respectfully submitted,
BAKER BOTTS L.L.P.

Dated: May 2, 2002

By:



Doreen Costa
Abigail Rubinstein
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2500
fax (212) 765-2519
Attorneys for Petitioners

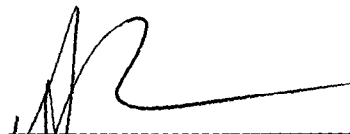
CERTIFICATE OF MAILING

I hereby certify that the foregoing, NOTICE OF APPEAL AND REQUEST FOR SUSPENSION OF APPEAL, was deposited with the United States Postal Service "Express Mail Post Office to Addressee Service" in an envelope with sufficient postage addressed to:

BOX TTAB - FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Dated: May 2, 2002

By:



Abigail Rubinstein

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Fuji Medical Systems U.S.A., Inc.
Serial No. : 76/071,396
Mark : SMARTCR
Filing Date : June 16, 2000
Examining Attorney : David M. Abrahams
Law Office : 113



05-02-2002
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #70

REQUEST FOR RECONSIDERATION

Attn: BOX RESPONSE - NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

To The Assistant Commissioner For Trademarks:

Applicant respectfully requests that the Examining Attorney reconsider the final refusal issued in the Office Action dated November 2, 2001 for the following reasons:

I. AMENDMENT TO SUPPLEMENTAL REGISTER

Applicant has filed and amendment to allege use with the Intent to Use division of the Patent and Trademark Office, a true and correct copy of the Amendment to Allege Use is attached hereto as Exhibit 1. In light of the fact that the mark is now in use, Applicant respectfully requests that this application be amended to seek registration on the Supplemental Register. In the event the Examining Attorney approves the application for registration on the Supplemental Register the Appeal would be moot.

Applicant submits that the combination of SMART and CR into a unitary whole creates an incongruous term such that one would pause in order to form an image of Applicant's


services. As such, Applicant submits that SMARTCR is at least entitled to registration on the Supplemental Register and asks that the application be amended to delete the term "Principal" and insert in place thereof "Supplemental".

Applicant has simultaneously filed a Notice of Appeal and requested that the appeal be suspended and the file be forwarded to the Examining Attorney along with Applicant's request that the subject application be amended to the Supplemental Register. A copy of the Notice of Appeal is attached hereto as Exhibit 2.

Respectfully submitted,

BAKER BOTTS L.L.P.

Dated: May 2, 2002

By: 
Doreen Costa
Abigail Rubinstein
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2500
fax (212) 705-5020
Attorneys for Applicant

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office To Addressee Service" in an envelope addressed to: Assistant Commissioner for Trademarks, Box RESPONSE NO FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

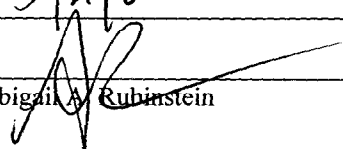
Date of Deposit : 5/2/02
Signature : 
Name : Abigail A. Rubinstein

Exhibit 1

BAKER BOTTS LLP

30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NEW YORK
10112-0228
212.705.5000
FAX 212.705.5020

AUSTIN
BAKU
DALLAS
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LONDON
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NEW YORK
WASHINGTON

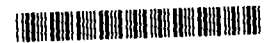
May 2, 2002

EXPRESS MAIL LABEL NO.: EU206441770US

Abigail A. Rubinstein
212.408.2666
FAX 212.705.5020
abigail.rubinstein@bakerbotts.com

BOX ITU FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513



05-02-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #70

Re: Applicant : Fuji Medical Systems U.S.A., Inc.
Trademark : **SMARTCR**
Serial No. : 76/071,396
Our File No. : L10740 071639.0118

Dear Sir/Madam:

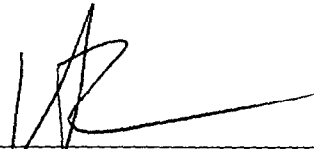
Enclosed please find a Statement of Use, along with a check in the amount of \$100.00 to cover the fee for the above captioned mark.

Please withdraw any additional fees from our deposit account number 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

By: _____


Abigail A. Rubinstein
30 Rockefeller Plaza
New York, New York 10112

Enclosures

**TRADEMARK/SERVICE MARK ALLEGATION OF USE
(Amendment to Allege Use - 15 U.S.C. § 1051(c))**

BOX ITU FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513



05-02-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #70

To The Assistant Commissioner For Trademarks:

TRADEMARK/SERVICE MARK INFORMATION

Mark : SMARTCR

Serial No. : 76/071,396

APPLICANT INFORMATION

FUJI MEDICAL SYSTEMS U.S.A., INC.
419 West Avenue
Stamford, CT 06902

NOTICE OF ALLOWANCE INFORMATION

Notice of Allowance Mailing Date : No

GOODS AND/OR SERVICES INFORMATION

The owner is using the mark in commerce on or in connection with all goods
and/or services listed in the application.

USE INFORMATION

Date of First Use Anywhere : August 31, 2000

Date of First Use in Commerce : October 3, 2000

FEE INFORMATION

\$100.00 x 1 class = \$100.00

SPECIMEN AND SIGNATURE INFORMATION

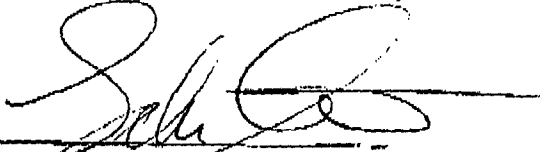
Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. § 1051 et seq, as amended). Applicant is the owner of the mark sought to be registered and is using the mark in commerce, through a related company, on or in connection with the goods/services identified above, as evidenced by the attached specimen showing the mark as currently used in commerce.

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. 1001, and that such willful false statements may jeopardize the validity of this document, declares that he is properly

authorized to execute this document on behalf of the Owner; and all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

FUJI MEDICAL SYSTEMS U.S.A., INC.


Dated: May 1, 2002

By: 
Name: John Strauss
Title: Director of Marketing, Imaging Systems

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office To Addressee Service" in an envelope addressed to: Assistant Commissioner for Trademarks, Box 1TU FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Date of Deposit : 5/2/02

Signature : 
Name :

Contact Information

Doreen L. Costa, Esq.
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112
Tel. (212) 408-2576
Fax (212) 705-5020
e-mail: doreen.costa@bakerbotts.com



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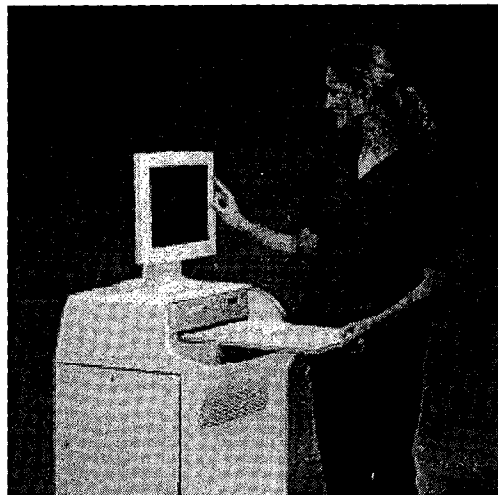
SmartCR, the newest member of the FCR family, is an ideal x-ray solution for distributed imaging. This surprisingly small unit integrates identification, quick image review and automatic Fuji image processing into a simple, compact CR system. It delivers over 60 IPs per hour and is DICOM compatible--a great way to prepare your facility for a PACS system.

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EXPRESS MAIL LABEL NO.: EU206441770US

L10740 071639.0118

SPECIMEN

Applicant : FUJI MEDICAL SYSTEMS U.S.A., INC.

Serial No. : 76/071,396

Class : 9

Mark : SMARTCR

BAKER BOTTS L.L.P.

ATTORNEYS AT LAW

30 Rockefeller Plaza
44th and 45th floors
New York, New York 10112-0228

INQUIRIES: (212) 705-5000
TAXPAYER I.D. #74-1195457

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BAKER BOTTS L.L.P.

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FROM THE DATE OF ISSUE

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TO THE ORDER OF
COMMISSIONER OF PATENTS AND
TRADEMARKS

