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

Proceeding	92047002
Party	Plaintiff Autodesk, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AUTODESK, INC.,

Petitioner,

v.

OPEN DESIGN ALLIANCE,

Respondent.

**MOTION FOR LEAVE TO AMEND  
PETITION FOR CANCELLATION**

Cancellation No. 92047002

Mark: OPENDWG

Registration Nos. 2,517,750, 2,563,976,  
2,656,757, 2,672,409, 2,719,529 and 2,920,269

**REDACTED VERSION OF MOTION AND SUPPORTING MATERIALS**

Pursuant to TBMP § 412.04, Petitioner Autodesk, Inc. (“Autodesk”) files this redacted version of its June 27, 2008 Motion. Please note that this copy is redacted to avoid revelation of information that is currently designated confidential and/or trade secret, even though some (or all) of these designations are disputed.

Redactions in this document are by no means an indication or admission on the part of Autodesk that the redacted information is in fact confidential or trade secret information.

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

AUTODESK, INC.,	)	
	)	
Petitioner,	)	<b>MOTION FOR LEAVE TO AMEND</b>
	)	<b>PETITION FOR CANCELLATION</b>
v.	)	
	)	Cancellation No. 92047002
OPEN DESIGN ALLIANCE,	)	
	)	Mark: OPENDWG
Respondent.	)	Registration Nos. 2,517,750, 2,563,976,
	)	2,656,757, 2,672,409, 2,719,529 and 2,920,269
	)	

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**I. Introduction**

Petitioner Autodesk, Inc. (“Autodesk”) moves pursuant to TBMP § 507 for leave to amend the Consolidated Petition for Cancellation against Respondent Open Design Alliance (“ODA”). Autodesk requests leave to add to its pleading: (1) a newly-acquired registration for the mark RASTERDWG, and (2) newly-discovered claims that the registrations at issue in the Petition were, on information and belief, fraudulently and/or improperly obtained.

**I. Background**

**A. The Parties**

Autodesk is the world’s leading computer-aided design (“CAD”) software and services provider for the building, manufacturing, infrastructure, and media and entertainment industries. Since the 1980’s, Autodesk has distributed its software products and services in connection with a proprietary file format called DWG. Through decades of continuous use, DWG has become distinctive of Autodesk’s products.

According to its website at [www.opendesign.com](http://www.opendesign.com), ODA is “an association of software developers and users committed to promoting open, industry-standard formats for the exchange of

CAD data.” See Declaration of John L. Slafsky (“Slafsky Decl.”), ¶ 2, Exhibit (“Exh.”) 1. ODA offers its members access to various component software libraries, which provide downloadable software products including products “based on the DWG format used in AutoCAD, as developed and sold by Autodesk.” See *id.*

## **B. The OPENDWG Registrations**

In 1998, the OpenDWG Alliance filed six applications on an intent to use basis for various marks incorporating OPENDWG. From 2000 to 2002, the OpenDWG Alliance filed statements of use for all six applications, claiming use of the marks dating back to February 1998. These applications eventually matured to registration (the “OPENDWG Registrations”). The details of the OPENDWG Registrations are as follows:

### Registration No. 1:

Registration No. 2517750

Mark: OPENDWG

Registration date: December 11, 2001

Section 8 Renewal: June 11, 2008

International Class: 042

Services when registered: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

Current Services:<sup>1</sup> consulting services in the field of computer software and computer software tools and standards.

### Registration No. 2:

Registration No.: 2563976

Collective Mark: OPENDWG and Design

Registration date: April 23, 2002

International Class: 042

Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global

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<sup>1</sup> On June 11, 2008, ODA filed a Section 8 renewal of one of the Class 42 registrations, and in this filing deleted the listing for “providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.” This language remains in three other OPENDWG registrations, however.

computer information network for the transfer and dissemination of a wide range of information.

Registration No. 3:

Registration No.: 2656757  
Collective Mark: OPENDWG  
Registration date: December 03, 2002  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

Registration No. 4:

Registration No. 2672409  
Mark: OPENDWG and Design  
Registration date: January 7, 2003  
International Class: 009  
Goods: computer software for the exchange of information regarding computer aided design and computer software containing standards for the application of computer aided design.

Registration No. 5:

Registration No.: 2719529  
Mark: OPENDWG  
Registration date: May 27, 2003  
International Class: 009  
Goods: computer software for the exchange of information regarding computer aided design and computer software containing standards for the application of computer aided design.

Registration No. 6:

Registration No.: 2920269  
Mark: OPENDWG and Design  
Registration date: January 25, 2005  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

On or about October 29, 2003, the OpenDWG Alliance released a press release announcing its name change to Open Design Alliance. *See* Petition for Cancellation, ¶ 12, Exh. A.

**C. This Action**

On January 18, 2007, Autodesk petitioned to cancel the ODA registrations for OPENDWG, on the grounds of abandonment and of likelihood of confusion with Autodesk's prior use of DWG in connection with highly similar goods and services. ODA answered the petition on June 11, 2007. The parties exchanged written discovery requests and on December 11, 2007 Autodesk took the deposition of Arnold Van Der Weide, ODA's witness designated under Fed. R. Civ. P. 30(b)(6). On December 17, 2007, Autodesk filed a motion regarding various discovery issues. On January 9, 2008, the Board suspended proceedings in this matter pending the resolution of Autodesk's motion. On June 10, 2008, the TTAB issued an order granting, in part, this motion, and taking the matter off suspension.

**D. Autodesk's Acquisition of RASTERDWG**

On January 30, 2008, while the present case was suspended pursuant to the Board's January 9, 2008 Order, Autodesk acquired all right, title, and interest to the mark RASTERDWG, including Registration No. 2,110,140 for RASTERDWG in Class 9 for computer software. *See Slafsky Decl.* ¶ 3, Exh. 2. The RASTERDWG mark has been used in commerce since at least as early as 1997. Autodesk recorded the assignment with the Patent and Trademark Office on January 31, 2008. *See id.*, ¶ 4, Exh. 3.

**E. Initial Discovery Concerning ODA's Trademark Submissions**

The December 11, 2007 deposition of Arnold Van Der Weide pursuant to Fed. R. Civ. P. 30(b)(6) addressed [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Slafsky Decl. ¶ 5, Exh. 4 (Deposition transcript of Arnold Van Der Weide (“Van Der Weide Depo.”) at 57:2-58:12; 65:7-66:9; 94:3-96:23).<sup>2</sup>

## **II. Leave to Amend Should Be Granted**

### **A. Legal Standard**

Both the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure favor liberal amendments to pleadings. See TBMP § 507.02 (“the Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties”); Federal Rule of Civil Procedure 15(a) (“a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”).

### **B. Argument**

#### **1. The TBMP Specifically Contemplates Amendment on These Grounds (Pleading of New Claims)**

Autodesk acquired the RASTERDWG registration on January 30, 2008, while this case was suspended. Autodesk is now seeking leave to amend to add the newly-acquired registration and to plead a claim other than those in the original complaint. These conditions are specifically mentioned in the TTAB Manual of Procedure as sufficient grounds for granting leave to amend a pleading. See TBMP § 507.02 (stating that the Board liberally grants leave to amend “when a plaintiff seeks to amend its complaint to plead a claim other than those stated in the original complaint, including a

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<sup>2</sup> ODA has provided a January 13, 2008 errata sheet, significantly amending the deposition transcript of Arnold Van Der Weide. The errata sheet is attached as Exhibit 5 to the Slafsky Decl.

claim based on a registration issued to or acquired by plaintiff after the filing date of the original complaint”). For this reason, Autodesk’s motion should be granted.

**2. Justice Requires Amendment of the Pleadings**

**a. Justice Requires Amendment to Add the Newly-Acquired RASTERDWG Registration**

The present proceeding involves claims of likelihood of confusion based on Autodesk’s right to the name DWG. Based on extensive common law use since the 1980’s, Autodesk’s rights to the “DWG” name are prior to ODA’s rights in the OPENDWG mark. The newly-acquired RASTERDWG registration further solidifies Autodesk’s priority with respect to DWG. Confirmation of Autodesk’s priority is material to this proceeding, as ODA also appears to claim priority; in its Opposition to Autodesk’s December 17, 2007 Motion regarding discovery issues, ODA repeatedly attacks Autodesk’s claim for likelihood of confusion on the ground that the application date of Autodesk’s DWG applications is “eight years after the ODA filed applications to register OpenDWG marks.” *See, e.g.*, Opposition to Motion at 8 & 14.

Moreover, the RASTERDWG registration supports Autodesk’s rights to a family of DWG marks. Autodesk has already filed applications to register DWG, DWG AND DESIGN, REALDWG, DWG TRUEVIEW, DWG TRUECONVERT, DWGX and DWG EXTREME. *See* Slafsky Decl. ¶ 11, Exh. 10 (Autodesk’s First Amended Petition for Cancellation). Accordingly, the Board should consider the newly-acquired RASTERDWG registration in the context of the current proceedings.

If the present pleading is not amended, Autodesk will be forced to bring a separate action based on its rights in RASTERDWG, which will inconvenience the parties and the Board. The present amendment will obviate the need for successive proceedings based on a similar issue. For



the purposes of judicial economy, Autodesk should be granted leave to amend the Petition for Cancellation to include the newly-acquired registration. *See Huffly Corp. v. Geoffrey Inc.*, 18 USPQ2d 1240, 1242 (Commissioner of Trademarks 1990) (“The Board also granted opposer’s motion to amend because the proposed amendment would eliminate the need for an additional proceeding and thereby effect judicial economy.”).

**b. Justice Requires Amendment to Add Claims that the OPENDWG Registrations Were Fraudulently or Improperly Obtained**

In furtherance of a strong public policy to encourage trademark applicants to make only truthful submissions to the Patent and Trademark Office, the TTAB has, in a series of decisions, established a strict anti-“fraud” doctrine with severe consequences for those who mis-state material facts in their sworn trademark submissions. *See Hachette Filipacchi Presse v. Elle Belle, Inc.*, 2007 WL 1144946, \*6 (TTAB Apr. 9, 2007) (“The obligation which the Lanham Act imposes on an applicant is that he will not make knowingly inaccurate or knowingly misleading statements in the verified declaration forming a part of the application for registration.”); *Hurley Int’l LLC v. Paul and Joanne Volta*, 2007 WL 196407, \*7 (TTAB Jan. 23, 2007) (cancelling registration where “a material [and false] representation of fact with regard to use of the mark on particular services was made by the mark’s owner(s) and that statement was relied upon by the USPTO in determining applicants’ rights to the registration”). “If fraud can be shown in the procurement of a registration, the entire resulting registration is void.” *Medinol Ltd. v. Nero Vasx Inc.*, 67 USPQ2d 1205, 1208 (TTAB 2003).

“A trademark applicant commits fraud in procuring a registration when it makes material representations of fact in its declaration which it knows or should know to be false or misleading.” *Id.* at 1209. In *Medinol*, the TTAB found fraud when the applicant submitted a statement of use

claiming use for two categories of goods listed in the application (stents and catheters), when in fact the applicant had only used the mark in connection with one of the categories (catheters) at the time of the filing. *See id.* The TTAB then cancelled the registration in its entirety, because “deletion of the goods upon which the mark has not yet been used does not remedy an alleged fraud upon the Office.” *Id.* at 1208.

Discovery in this action revealed that multiple statements ODA made to the Patent and Trademark Office in the course of obtaining the OPENDWG Registrations appear to have been materially false and misleading. For this reason, the Board should allow amendment of the Petition for Cancellation to include claims that the OPENDWG Registrations were obtained fraudulently, and that the registrations should therefore be cancelled in their entireties. Autodesk should be entitled to take further discovery on these issues and to make its arguments to the Board.

In addition to obtaining the registrations fraudulently, ODA appears to have obtained registrations for collective trademarks improperly, without showing use of the marks as collective marks (for both collective marks – Registration Nos. 2 & 3) and without making the necessary declarations of use of the marks as collective marks (for one collective mark – Registration No. 2). For this additional reason, Autodesk should be permitted to amend the Petition for Cancellation to include claims that the collective OPENDWG registrations should be cancelled.

The following sections further explain the bases for the claims of fraud and improper registration.

**i. On Information and Belief, ODA Fraudulently Obtained All Six OPENDWG Registrations**

Information Autodesk learned in discovery – in particular the Van Der Weide deposition – has given rise to claims that ODA fraudulently obtained its OPENDWG registrations. The OPENDWG Registrations, as shown in the public record and as stated in detail above, are, in brief:

- Registration No. 1: A service mark for OPENDWG in Class 42.
- Registration No. 2: A collective service mark for OPENDWG and Design in Class 42.
- Registration No. 3: A collective service mark for OPENDWG in Class 42.
- Registration No. 4: A trademark for OPENDWG and Design in Class 9.
- Registration No. 5: A trademark for OPENDWG in Class 9.
- Registration No. 6: A service mark for OPENDWG and Design in Class 42.

The bases for the new allegations that these registrations were fraudulently obtained are stated below, all on information and belief.

**--ODA Did Not Offer Services as of the Claimed First Use Date (All OPENDWG Registrations)**

In all statements of use for the OPENDWG Registrations, ODA claimed a date of first use of February 1998. *See* Slafsky Decl. ¶ 7, Exh. 6. However, Mr. Van Der Weide testified that [REDACTED]

[REDACTED] *See* Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 57:17-58:9). [REDACTED]

[REDACTED] For these

reasons, Mr. Van Der Weide’s testimony gives rise to a good faith basis to allege that – contrary to the declarations in all OPENDWG statements of use – ODA had not been using the OPENDWG mark since February 1998.

**--ODA Never Distributed CDs**  
**(All Class 9 Registrations, namely, Registration Nos. 4 & 5)**

In connection with its statements of use concerning the Class 9 applications for OPENDWG, ODA submitted declarations alleging that the attached specimen showed use of the mark “as used in commerce.” See Slafsky Decl. ¶ 7, Exh. 6. The specimens, as described in the statements of use, were photocopies of a CD bearing the mark. See *id.* However, Mr. Van Der Weide testified that

[REDACTED]

[REDACTED] See Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 53:5-15; 65:13-66:9).<sup>3</sup>

**--ODA Never Engaged in the Service of “Providing Multiple User Access . . .”**  
**(All Class 42 Registrations, namely, Registration Nos. 1, 2, 3 & 6)**

ODA obtained registration for OPENDWG for services in Class 42, namely, “consulting services in the field of computer software and computer software tools and standards; *providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information*” (emphasis added).

The September 17, 1998 notes to the Trademark Acceptable Identification of Goods and Services Manual make clear that the phrase “providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information” refers to the

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<sup>3</sup> [REDACTED]

service of Internet service providers, such as AmericaOnline, Prodigy, and CompuServe, and *does not* refer to the services of Internet content providers.

It is clear from a quick review of ODA's website, as well as the specimens ODA submitted showing its website over time, that ODA is a content provider, not an Internet service provider. *See* Slafsky Decl. ¶ 7, Exh. 6. During his deposition, Mr. Van Der Weide [REDACTED]

[REDACTED] *See* Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 33:7-14). [REDACTED]

[REDACTED] *See* Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 35:15-36:20). Regardless, between June 6, 2000, and August 28, 2001, ODA submitted statements of use for Registration Nos. 1, 2, 3 and 6 with declarations that alleged use of the mark in connection with all services listed in the respective applications. ODA knew or should have known that its service was as a content provider, and not as an Internet service provider. Swearing that it was engaged in the service of "providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information," then, was a material representations of fact which it knew or should have known to be false or misleading.<sup>4</sup>

**ii. On Information and Belief, ODA Fraudulently and Improperly Obtained Registration for the Collective Marks**

As stated in detail above, ODA obtained six registrations for OPENDWG, all in Classes 9 and 42. Four of the applications were in Class 42, with identical descriptions of services. The only differences in the applications (which allowed their simultaneous registration) were that two of the four featured a design element (Registration Nos. 2 & 6), and two were registered as "collective marks" (Registration Nos. 2 & 3).

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<sup>4</sup> As further indication that the phrase in the identification was a material misrepresentation of

According to the Trademark Manual of Examining Procedure, a collective mark is “a trademark or service mark . . . used by the members of a cooperative, an association, or other collective group or organization.” TMEP § 1302. The specimens of use for such a registration must show “use of the mark by a member on the member’s goods or in the sale or advertising of the member’s services.” TMEP § 1303.02(b). In addition, the declaration accompanying a statement of use for a collective mark application “must state that the mark was first used by members (or a member) of the applicant,” and must “alleg[e] that the applicant is exercising legitimate control over the use of the mark in commerce by its members.” TMEP §§ 1303.01 & 1303.02(c)(ii).

**--ODA Never Intended for Use of the OPENDWG Mark as a Collective Mark  
(All Collective Mark Registrations, namely, Registration Nos. 2 & 3)**

In its intent-to-use applications, ODA stated that it had “a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members in connection with the above-identified services [consulting services and providing multiple-user access services in Class 42].” *See* Slafsky Decl. ¶ 8, Exh. 7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Van Der Weide Depo at 92:4-10; *see also, e.g.*, Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 55:7-19, 92:10-17, 161:1-8).

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ODA’s services, ODA deleted the phrase when it submitted its recent renewal under Section 8.

In addition, Mr. Van Der Weide also made clear in his deposition that [REDACTED]

[REDACTED] *See, e.g.,*

Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 94:5-22; 95:1-7; 96:11-17). Moreover, as an organization interested in software development, it is highly unlikely that ODA had a bona fide intent to control its members' use of the OPENDWG mark in connection with "providing multiple-user access" services (*i.e.*, Internet service provider services). For these reasons, the evidence disclosed thus far in this action has presented a good faith basis to allege that ODA fraudulently obtained the collective mark registrations.

**--ODA Improperly Obtained the Collective Mark Registrations**  
**(All Collective Mark Registrations, namely, Registration Nos. 2 & 3)**

On information and belief, ODA's statements of use submitted with its collective mark applications fall short of the requirements for registration of collective marks. The examination record of the applications for Registration Nos. 2 & 3 show that ODA submitted statements of use in connection with both applications on July 25, 2001. *See* Slafsky Decl. ¶ 7, Exh. 6. On information and belief, instead of incorporating the necessary statements for a collective mark into the declaration, ODA's statements of use merely declared that the Applicant (ODA) was using the mark in commerce in connection with the services at least as early as February 1998. *See id.* There appear to be no statements in these declarations (1) that the mark was in use by a member of ODA in connection with the specified services, (2) that the date of first use reflected the first use by a member, or (3) that ODA was exercising legitimate control over the use of the mark in commerce by its members.

One of these statements of use (for Registration No. 3) was refused, on the basis that it did not comply with the requirements for registration of a collective mark. *See* Slafsky Decl. ¶ 9, Exh. 8.

ODA submitted a second declaration in connection with this application, incorporating the necessary statements. *See id.* (For reasons discussed in the next section, these statements were, on information and belief, false.) However, the specimen submitted with the statement of use did not change, and did not show use of the mark by a member of the collective. *See id.* For this reason, there is a good faith basis to allege that Registration No. 3 was improperly obtained, and should be cancelled.

The other statement of use (for Registration No. 2) was accepted by the PTO despite the fact that it lacked all necessary statements concerning use of the mark as a collective mark, and the application was approved for registration. *See Slafsky Decl.* ¶ 10, Exh. 9. The specimen submitted with the statement of use also showed use by ODA, not by a member of a collective. *See Slafsky Decl.* ¶ 7, Exh. 6. For these reasons, there is a good faith basis to allege that Registration No. 2 was improperly obtained, and should be cancelled.

**--ODA Made False Statements in the Statement of Use for the Collective OPENDWG  
Registration  
(One Collective Mark Registration, namely, Registration No. 3)**

As stated above, for one of the collective mark applications (the application that eventually matured to Registration No. 3), the Patent and Trademark Office issued an office action, refusing the statement of use because neither the declaration nor the specimen complied with the requirements for registration of a collective mark. In response, ODA submitted an additional declaration, signed by ODA's counsel on December 18, 2001, incorporating the required statements: (1) that "Applicant's members are using the mark in commerce in connection with all of the services in the Notice of Allowance," (2) that "[t]he mark was first used by Applicant's members in connection with the services in commerce at least as early as February 1998, and is now in use by its members in such



commerce,” (3) that “Applicant has adopted and is exercising legitimate control over the use of the mark in commerce by its members.”

As stated above, [REDACTED]

[REDACTED] See Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 55:7-19, 92:4-17, 161:1-8). [REDACTED]

[REDACTED] See Slafsky Decl. ¶ 5, Exh. 4 (Van Der Weide Depo. at 33:7-14, 35:15-36:20, 94:5-22; 95:1-7; 96:11-17). There is, therefore, an additional good faith basis to allege that ODA fraudulently obtained Registration No. 3 and that the registration should be cancelled.

### **3. Amendment Does Not Violate Settled Law or Prejudice ODA**

As this proceeding is still in the pre-trial stage, the amendments to the Petition for Cancellation will not prejudice any party. Relevant case law confirms that as long as the amendment is proposed before the start of the trial, there is no undue prejudice to the nonmoving party. *See, e.g., Huffly Corp.*, 18 USPQ2d at 1242 (“[W]e do not believe that [Applicant] will be unduly prejudiced by the proposed amendment since the opposition is in the pre-trial stage.”). Indeed, in some instances the Board has allowed amendments even after the start of the testimony periods. *See Space Base, Inc. v. Stadis Corp.*, 17 USPQ2d 1216, 1217 n.1 (TTAB 1990) (noting that the Board allowed amendment of the opposition during the testimony period to serve “the interests of justice and judicial economy”).

Not only is this action still in the pre-trial stage, it is still in the discovery phase. Pursuant to the Board's recent Order, the discovery period has been extended to August 22, 2008. In addition, Autodesk has made every effort to expedite this amendment to minimize any adverse effect on the parties. Autodesk acquired the RASTERDWG registration while the present case was suspended. Autodesk's counsel likewise determined during the suspension period – when there was adequate time carefully to review and analyze to the approximately 47,000 pages of documents and the completed deposition transcript – that there is a factual basis to allege that the OPENDWG Registrations were obtained fraudulently and/or improperly. Autodesk filed the present motion within 17 days after the Board lifted the suspension.

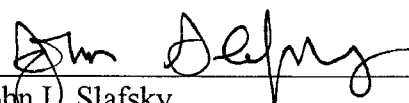
Given Autodesk's timely efforts to amend and the current stage of the proceedings, amending the pleadings to add Autodesk's newly-acquired registration and additional claims will not prejudice ODA. Further, any inconvenience to ODA is outweighed by the benefits of a complete examination of relevant issues in the present proceeding and the avoidance of successive proceedings.

### **III. Conclusion**

For the reasons stated above, Autodesk respectfully requests that it be granted leave to amend the Petition for Cancellation against ODA, and that the First Amended Petition for Cancellation attached as Exhibit 10 to the Slafsky Declaration be entered.

Dated: June 27, 2008

WILSON SONSINI GOODRICH & ROSATI

By:   
John I. Slafsky  
Hollis Beth Hire  
Matthew J. Kuykendall

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CERTIFICATE OF SERVICE

I, Launa Hovland, declare:

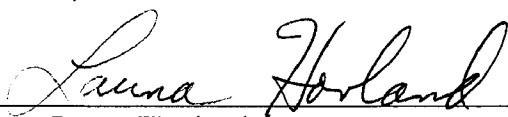
I am over the age of 18 years and not a party to the within entitled cause. I am a citizen of the United States and a resident of the State of California. I am employed in the City of Palo Alto, County of Santa Clara. My business address is 650 Page Mill Road, Palo Alto, California, 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited, postage fully prepaid, with the United States Postal Service on this day.

On \_\_\_\_\_, 2008, I served the attached **AUTODESK'S MOTION FOR LEAVE TO AMEND PETITION FOR CANCELLATION; DECLARATION OF JOHN L. SLAFSKY** on the party in said cause by placing a true copy of the document described above in an envelope addressed as indicated below, which I sealed. I placed the envelope containing the document named above for deposit in the United States Postal Service by placing it for collection and mailing this day, following the ordinary business practices at Wilson Sonsini Goodrich & Rosati.

R.J. Heher  
Ilana Rubel  
Fenwick & West LLP  
Silicon Valley Center, 801 California Street  
Mountain View, CA 94041

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed in Palo Alto, California on June 27, 2008.

  
\_\_\_\_\_  
Launa Hovland

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

AUTODESK, INC.,

Petitioner,

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OPEN DESIGN ALLIANCE,

Respondent.

**DECLARATION OF JOHN L. SLAFSKY**

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Mark: OPENDWG

Registration Nos. 2,517,750, 2,563,976,  
2,656,757, 2,672,409, 2,719,529 and 2,920,269

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I, John L. Slafsky, declare as follows:

1. I am a member of the law firm of Wilson Sonsini Goodrich & Rosati, counsel for Petitioner Autodesk, Inc. (“Autodesk”). I have personal knowledge of the facts set forth in this declaration.
2. Attached hereto as Exhibit 1 is a true and correct copy of a printed page from the Open Design Alliance (“ODA”) website at [www.opendesign.com](http://www.opendesign.com).
3. On January 30, 2008, Autodesk acquired all right, title, and interest to the mark RASTERDWG, including Registration No. 2,110,140 for RASTERDWG in Class 9 for computer software. Attached hereto as Exhibit 2 is a true and correct copy of the signed assignment of the registration from the prior owner of the registration to Autodesk.
4. Autodesk recorded the assignment with the Patent and Trademark Office on January 31, 2008. Attached hereto as Exhibit 3 is a true and correct copy of Autodesk’s recordal of the assignment with the PTO’s Assignment Division.

5. Attached hereto as Exhibit 4 are true and correct copies of relevant pages from the transcript of the December 11, 2007 deposition of Arnold Van Der Weide in this action.

6. Attached hereto as Exhibit 5 is a true and correct copy of ODA's January 13, 2008 errata to the deposition transcript of Arnold Van Der Weide.

7. Attached hereto as Exhibit 6 are, according to records publicly available from the Patent and Trademark Office, true and correct copies of all statements of use submitted for the OPENDWG Registrations (as defined in the Motion for Leave to Amend ("Motion") filed concurrently with this Declaration).

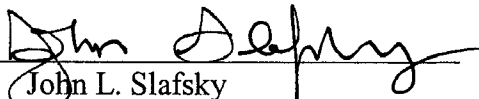
8. Attached hereto as Exhibit 7 are, according to records publicly available from the Patent and Trademark Office, true and correct copies of intent-to-use applications submitted for marks that would mature to become the collective OPENDWG Registrations (Registration Nos. 2563976 and 2656757 (Registration Nos. 2 and 3 as defined in the Motion)).

9. Attached hereto as Exhibit 8 are, according to records publicly available from the Patent and Trademark Office, true and correct copies of an office action sent to ODA concerning its statement of use submitted in support of one of the collective OPENDWG Registrations – Registration No. 2656757 (Registration No. 3 as defined in the Motion) – as well as ODA's response to the office action, which included an additional declaration signed by counsel for ODA.

10. Attached hereto as Exhibit 9 is, according to records publicly available from the Patent and Trademark Office, a true and correct copy of the TARR record for one of the collective OPENDWG Registrations: Registration No. 2563976 (Registration No. 2 as defined in the Motion).

11. Attached hereto as Exhibit 10 is a true and correct copy of Autodesk's proposed First Amended Petition for Cancellation against ODA's registrations for OPENDWG.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Palo Alto, California, on June 27, 2008.

  
\_\_\_\_\_  
John L. Slafsky

Redacted

**EXHIBIT 1**





OPEN DESIGN  
ALLIANCE™

#### About the Alliance

[Philosophy](#)

[History](#)

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[Alliance Members](#)

#### Communication

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Information](#)

## About the Open Design Alliance

The Open Design Alliance is an association of software developers and users committed to promoting open, industry-standard formats for the exchange of CAD data.

Unlike typical standards-setting bodies, we focus on the practical matter of developing high-quality component software libraries which enable our members to develop applications capable of reading and writing popular CAD file formats, including:

DWGdirect, based on OpenDWG, the industry standard format supported by hundreds of commercial software vendors, and used by millions of engineers, designers and architects. OpenDWG is based on the DWG format used in AutoCAD, as developed and sold by Autodesk. While OpenDWG is designed to provide as near to perfect compatibility with DWG as is possible, it has several advantages that have made it a safe choice for even mission-critical applications. First and foremost, it is *documented*, with no hidden encryption, and no obfuscation. Second, it is *supported*, with a dedicated team of technical professionals focused on fixing any problems that may crop up from time to time. Third, our OpenDWG software libraries are *clean*, written in object-oriented C++, and designed to impress even the most fastidious commercial software developers. And fourth, our OpenDWG software libraries are *updated*, providing compatibility with all versions of DWG from 2.5 to 2008. (Our OpenDWG libraries also support DXF and DWF, using the same API, and with the same high-quality and attention to detail.)

DGNdirect, based on the OpenDGN specification published by Bentley Systems, and compatible with MicroStation. Bentley Systems, a leading supplier of CAD software for architecture, plant & process, and highway design (among other applications,) has partnered with the Open Design Alliance to provide users and software developers with high-performance libraries supporting read/write access to their native MicroStation data file format. There are no catches and no games being played here - Bentley's support for open design data formats is in the open, and is real. Users who create designs with MicroStation can be assured that *they* will control their design data.

Formerly known as the OpenDWG Alliance, the Open Design Alliance is a non-profit membership-based consortium. Commercial software developers pay an annual membership fee to belong to the Alliance. End-users (both individuals and companies) pay no membership fees at all. Membership in the Alliance is available on a level playing field basis, with all members at the same level agreeing to the same membership terms.

The Alliance utilizes the revenue from membership dues to fund the development of software libraries, which are made available to all of our members. Thus, they can focus on developing solutions, rather than on the difficulties of reading and writing complex CAD files.

For more information about joining the Alliance, click on the *join* link at the left.

**Use of all Open Design Alliance software is subject to the terms of the relevant membership agreement documents.**

1998 - 2006 Open Design Alliance. All rights reserved. OpenDWG, the OpenDWG logo, OpenDGN, the OpenDGN logo, DWGdirect, DWGdirectX, ADTdirect, DGNdirect and Open Design Alliance are trademarks of the Open Design Alliance in the United States and/or other countries. All other trademarks, trade names or company names referenced herein are used for identification only and are the property of their respective owners.

[Privacy Policy Statement](#)

#### NEWS

**December 11 ,  
2007:  
DGNdirect 0.9976  
update available**

**September 27,  
2007: DWGdirect  
2.04.02 Now  
Available**

**May 12, 2006:  
Update on DWG  
2007**

**May 9, 2006: Open  
Design Alliance  
statement on the  
use of its  
technology by  
Autodesk**

**OpenDWG Alliance  
Announces Name  
Change to Open  
Design Alliance**

**ODA & Bentley  
Partner on  
OpenDGN**

**EXHIBIT 2**

EXHIBIT A

TRADEMARK ASSIGNMENT

WHEREAS, softelec GmbH, a corporation of the Federal Republic of Germany, located at Joseph Seifried-Strasse 8, 80995 Munich, Germany ("Assignor"), has adopted and is using the following trademark, and is the owner of the following United States trademark registration in the United States Patent and Trademark Office:

<u>Trademark</u>	<u>Registration</u>	<u>Date of Registration</u>
RASTERDWG	2,110,140	October 28, 1997

WHEREAS, Autodesk, Inc., a Delaware corporation, located at 111 McInnis Parkway, San Rafael, CA 94903 ("Assignee"), desires to acquire the trademark and its registration together with the accompanying goodwill;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Assignor hereby assigns to Assignee all right, title and interest in and to the trademark and its registration together with the goodwill of the business symbolized by the trademark and registration thereof.

Executed on Jan. 30, 2008.

softelec GmbH



Name: HORVATIN STEFAN  
Title: PRESIDENT

Deleted: Autodesk-softelec agreeme  
clean1-29-  
08\_(PALIB)\_3281531\_2).DOC

Deleted: #1022374-v2-LIT-softelec\_  
\_proposed\_changes\_from\_autodesk.D

**EXHIBIT 3**

<b>TRADEMARK ASSIGNMENT</b>
-----------------------------

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
softelec GmbH		01/30/2008	CORPORATION: FEDERAL REPUBLIC GERMANY
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Autodesk, Inc.		
<b>Street Address:</b>	111 McInnis Parkway		
<b>City:</b>	San Rafael		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94903		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2110140	RASTERDWG	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(650)493-6811		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	(650) 493-9300		
<b>Email:</b>	trademarks@wsgr.com		
<b>Correspondent Name:</b>	Wilson Sonsini Goodrich & Rosati		
<b>Address Line 1:</b>	650 Page Mill Road		
<b>Address Line 4:</b>	Palo Alto, CALIFORNIA 94304		
<b>ATTORNEY DOCKET NUMBER:</b>	5477-552		

NAME OF SUBMITTER:	Hollis Beth Hire
Signature:	/Hollis Beth Hire/
Date:	01/31/2008
Total Attachments: 1 source=Autodesk softelec Agreement 080130 10#page1.tif	
<b>RECEIPT INFORMATION</b>	
ETAS ID:	TM106110
Receipt Date:	01/31/2008
Fee Amount:	\$40

**EXHIBIT 4**

**REDACTED**



**EXHIBIT 5**

**REDACTED**

**EXHIBIT 6**

174



06-09-2000

U.S. Patent & TMOfc/TM Mail Rcpt Dt #01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
STATEMENT OF USE UNDER 15 U.S.C. § 1051(d)(1)

Mark: OPENDWG

International  
Class No.: 42

Serial No.: 75/429,692

Mailing Date of  
Notice of Allowance: December 7, 1999

2000 JUN 16 10 16:01  
MAIL ROOM

Assistant Commissioner for Trademarks  
Arlington, Virginia 22202-3513

OpenDWG Alliance, a Washington corporation  
1845 East Whitton Avenue  
Phoenix, AZ 85016

The above-identified applicant seeks registration of the above-identified 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).

DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that:

1. I am properly authorized to execute this document on behalf of applicant.

06/16/2000 HWILSON 00000112 75429692

01 FC:363

100.00 DP

2. I believe applicant is the owner of the mark sought to be registered.
3. Applicant is using the mark in commerce in connection with the following services:

Consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information

4. The mark was first used in connection with the services at least as early as February 1998, was first used in connection with the services in commerce at least as early as February 1998, and is now in use in such commerce. One specimen showing the mark as actually used in commerce is submitted herewith.

5. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

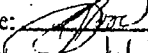
EXECUTED at Phoenix, Arizona, on JUNE 2, 2000.



Evan Yares  
President

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on June 6, 2000, in an envelope addressed to the Assistant Commissioner for Trademarks, U.S. Patent & Trademark Office, 2900 Crystal Drive, Arlington, VA 22202-3513.

Signature:   
Printed Name: Julie Wood

**Applicant:**  
**Serial No.:**  
**Mark:**  
**Class:**

**OpenDWG Alliance**  
**75/429,692**  
**OPENDWG**  
**42**

**SPECIMEN PAGE**



**What are we?**

The OpenDWG Alliance™ is a non-profit association of CAD customers and vendors committed to promoting Autodesk AutoCAD's DWG drawing file format as an open, industry standard format for the exchange of CAD drawings. The Alliance provides its members with C programming toolkits that let them read, write and display the DWG and DXF files.

**Why are we?**

The DWG format is the de facto standard for creation and storage of CAD data. Autodesk claims there are more than 2 billion drawings in this format. But DWG is a closed, proprietary file format, and the closed nature of DWG has unreasonably limited the interoperability and access between different CAD programs. To a large degree, the Alliance is all about making sure that CAD users can access their legacy of DWG file, both now and in the future, no matter which vendor they choose to buy their CAD software from. An open DWG standard would put control over valuable DWG data back where it belongs - in the hands of the users who created it.

**Who are we?**

The Alliance now has over 4,000 CAD vendor and customer members, and is led by 21 Founding member companies that make up the organization's board of directors which oversees the Alliance's activities. The Founding members are:

- Andor • Baystate Technologies Inc. • DATACAD LLC
- Diehl Graphisoft Inc. • Eagle Point Software Inc.
- Engineering Automation • Farnotik • I-deas • IMSI
- Informative Graphics Corp. • Inso Corp. • Interglyph • Ketiv
- Microcadam Inc. • Pangea CAD Solutions
- Parametric Technology Corp. • Rasterex a.s.
- Robert McNeel & Associates • SDRC • SolidWorks Corp.
- Viacraftix • Visio

**What can you do for me?**

The Alliance is here to serve its members. Our goal is to propagate DWG technology and enhance everyone's understanding of the DWG file format. To that end, we have created a general repository of DWG knowledge on our Web site. This includes: C programming libraries for reading, writing, and displaying, full documentation of the toolkit, the R13/14 DWG specification, free tools and utilities, and a help forum. We constantly update and enhance the quality of the services we provide to our members.

**How much is this going to cost me?**

That depends on what you need the libraries for and what level of participation you want. We currently have three membership levels:

**Founding Membership**

Cost: \$25,000 initiation fee, \$10,000 annual dues. You get the source code to the OpenDWG Toolkit and Viewkit, the right to commercially redistribute any product containing OpenDWG code, a link on the Alliance Web site, and the opportunity to participate in a "technical roundtable" and in the steering and strategy of the OpenDWG Alliance.

**Sustaining Membership**

Cost: \$5,000 initiation fee, \$2,500 annual dues. You get the right to redistribute unlimited copies of the OpenDWG Toolkit and Viewkit in any commercial product. Your company name gets listed on the Alliance Web site.

**Commercial Associate Membership**

Cost: \$1,000 initiation fee, \$1,000 annual dues. You get the right to incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside of your organization. You also have the opportunity to participate in Alliance working committees that are formed to address specific technical issues.

**Associate Membership**

Cost: Free registration, no annual dues. You receive the right to use the OpenDWG Toolkit and Viewkit for noncommercial, internal use only. You also can use this membership level to evaluate the OpenDWG Toolkit and Viewkit. If you like what you see and want to include it in a commercial product, simply upgrade your membership.

**How do I join?**

Simply go to our Web site: [www.opendwg.org](http://www.opendwg.org). Commercial membership requests will be answered by e-mail with the contract and payment details.

**What if I don't want to join but want to see the DWG specification?**

No problem! The DWG specification is available openly, and a membership is NOT required to view it.

**Are there royalties? How many copies can I ship before I have to pay again?**

No royalties. Unlimited distribution per year for Founders and Sustaining Members. Ship as many as you can, in any method you wish.

**What if I just want to create a "freeware" product?**

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Our Members, whether Founding, Sustaining, or Associate, donate back to the Alliance any knowledge, enhancements, or further understanding of the DWG file format. We're all in this together, and together we will provide the best DWG support available.

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Questions regarding the Alliance are handled most promptly through e-mail. Just write [feedback@opendwg.org](mailto:feedback@opendwg.org) with questions or comments. You also can leave a message at 206.224.5655 or fax questions to 206.224.2880. Or, you can snail-mail us at 1420 Fifth Avenue, 22<sup>nd</sup> Floor, Seattle, WA 98101.

tw



07-25-2001

U.S. Patent & TMO/TM Mail Rpt Dt #67

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
STATEMENT OF USE UNDER 15 U.S.C. § 1051(d)(1)

Mark: OPENDWG and Design

International Class No.: 42

Serial No.: 75/429,693 ✓

Mailing Date of Notice of Allowance: July 25, 2000

Commissioner for Trademarks  
Arlington, Virginia 22202-3513

TRADEMARK FEE RECEIVED  
RECEIVED  
2001 JUL 25 P 2 34  
US PATENT & TRADEMARK OFFICE

Applicant, OpenDWG Alliance, ("Applicant") whose address is:

1420 Fifth Avenue, 22<sup>nd</sup> Floor, Seattle, Washington 98101

The above-identified Applicant seeks registration of the above-identified 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).

DECLARATION

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1. I am properly authorized to execute this document on behalf of

applicant.

07/31/2001 MWILSON 00000010 75429693

02 FC:363

100.00 0P



2. I believe applicant is the owner of the mark sought to be registered.


3. Applicant is using the mark in commerce in connection with all of the services in the Notice of Allowance.

4. The mark was first used in connection with the services in commerce at least as early as February 1998, and is now in use in such commerce. One specimen showing the mark as actually used in commerce is submitted herewith.

5. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.


EXECUTED at Phoenix, Arizona, on July 20, 2001.

OPENDWG ALLIANCE

By   
Name: Evan Yares  
Title: President

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on July 25, 2001 in an envelope addressed to the Commissioner for Trademarks, BOX 1111 - F111, 2900 Crystal Drive, Arlington, VA 22202-3513.

Signature:   
Printed Name: Katharine Warren



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- Informative Graphics Corp. • Invo Corp. • Intograph • Keti
- Microcadam Inc. • Pangea CAD Solutions
- Parametric Technology Corp. • Rasterex u.s.
- Robert McNoel & Associates • SIDRC • SolidWorks Corp.
- Viacimatix • Visio

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# OpenDWG Forum

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[Membership](#)

[Maintenance](#)

The OpenDWG™ Forum provides an environment for Alliance memt to communicate freely with each other on a variety of topics. It is a pl to exchange tips on using the libraries and find answers to support questions.

Members of the OpenDWG Alliance host, monitor and participate in t forum. These folks are industry experts and longtime users of DWG software.

[Enter the forum](#) and join the discussion!

## FORUM GUIDELINES

To foster an open discussion, the Alliance does not enforce excessiv restrictions on forum interaction. To make the experience beneficial f everyone, please adhere to the following guidelines:

- Improper language and topics can detract from the information exchange. If you use excessive profanity, the forum host may remove your messages from the discussion.
- The forums are divided into logical discussion sections. To help Alliance members easily locate all the information on a particul topic of interest, please post your message in the most appropri section.

© 1998 - 2001 OpenDWG™ Alliance. All rights reserved.

OpenDWG and the OpenDWG logo are trademarks of the OpenDWG Alliance in the United States and/or other countries. All other trademarks, trade names or company names refer herein are used for identification only and are the property of their respective owners.

[Privacy Policy Statement](#)

Technical difficulties? Email the [Webmaster](#).



## Join the Alliance!

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### Membership

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- [Sustaining Members](#)
- [Membership](#)
- [Maintenance](#)

Every alliance grows stronger with each new member. This one is no exception. Please join! There are several types of membership, each designed to accommodate a different level of participation. Every level, however, entitles you to two valuable resources: Use of the OpenDWG™ toolkit distributed on this site, and the collective knowledge of the group as a whole.

See who has already joined the Alliance. Here is a list of Founding, Sustaining, and Commercial Associate members.

### ASSOCIATE MEMBERSHIP

#### Benefits

- You may incorporate the OpenDWG libraries into programs that are used within your organization, or are distributed for free to the general public (noncommercial use only).
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of, and invitation to, Alliance-sponsored events and meetings.

#### Requirements

- You agree to the terms of the Associate Membership agreement.
- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.
- You agree with the principles of the OpenDWG Alliance.
- You agree to share with the Alliance members all modifications you make to the DWG Specification, all fixes and enhancements to the OpenDWG Toolkit, and any other information regarding the format of DWG files.

### Application

- Fill out the online registration form. (Membership at this level is free.)

### COMMERCIAL ASSOCIATE MEMBERSHIP

#### Benefits

- You may incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside your organization (commercial use).
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of and invitation to Alliance-sponsored events and meetings.
- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

#### Requirements

- You agree with the principles of the OpenDWG Alliance.
- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.
- You execute and return to the alliance a signed Commercial Associate membership agreement.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$1,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object code license to use the currently available version of the OpenDWG libraries in a commercial product.
- You make timely payment of your annual \$1,000 membership dues, with the 1st payment due on the year anniversary of your membership.

#### Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for the Commercial Associate Membership.

## **SUSTAINING MEMBERSHIP**

---

### **Benefits**

- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
- Your company's name will be listed on the OpenDWG Alliance Web site and in any other promotional materials the Alliance develops.
- Descriptions of your company's product(s) will be listed in the products showcase section of the OpenDWG Alliance Web site.
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of and invitation to Alliance-sponsored events and meetings.
- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

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- You execute and return to the alliance a signed Sustaining Membership agreement.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$5,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object code license to use the currently available version of the OpenDWG

libraries in a commercial product.

- You make timely payment of your annual membership dues. (Amount to be determined by the OpenDWG Alliance Board of Directors, and currently set at \$2,500 per year for a sustaining membership.)

### Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for Sustaining Membership.

## FOUNDING MEMBERSHIP

---

### Benefits

- You receive a source code license to the OpenDWG libraries – all versions, all platforms.
- You are granted a seat on the OpenDWG Alliance Board of Directors.
- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
- Your company's name and logo will be listed on the OpenDWG Alliance Web site and in any other promotional materials the Alliance develops.
- Descriptions of your company's product(s) will be listed in the products showcase section of the OpenDWG Alliance Web site.
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of and invitation to Alliance-sponsored events and meetings.
- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

### Requirements

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- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and

written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.

- You execute and return to the alliance a signed Founding Membership agreement.
- Your application is accepted by the Board of Directors.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$25,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object and source code license to use the currently available version of the OpenDWG libraries in a commercial product.
- You make timely payment of your annual membership dues. (Amount currently set at \$10,000 per year, and determined by the OpenDWG Alliance Board of Directors.)

### Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for Founding Membership.

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Technical difficulties? Email the [Webmaster](#).





07-25-2001

U.S. Patent & TMO/TM Mail Rpt Dt #57

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
STATEMENT OF USE UNDER 15 U.S.C. § 1051(d)(1)

Mark: OPENDWG ✓

International  
Class No.: 42

Serial No.: 75/429,665 ✓

Mailing Date of  
Notice of Allowance: July 25, 2000

Commissioner for Trademarks  
Arlington, Virginia 22202-3513

TRADEMARK FEE PROCESS  
RECEIVED  
2001 JUL 25 P 2:33  
US PATENT &  
TRADEMARK OFFICE

Applicant, OpenDWG Alliance, ("Applicant") whose address is:

1420 Fifth Avenue, 22<sup>nd</sup> Floor, Seattle, Washington 98101

The above-identified Applicant seeks registration of the above-identified 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).

DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that:

1. I am properly authorized to execute this document on behalf of applicant.

07/31/2001 HWILSON 00000011 75429665

02 FC:363

100.00 DP

2. I believe applicant is the owner of the mark sought to be registered.

3. Applicant is using the mark in commerce in connection with all of the services in the Notice of Allowance.

4. The mark was first used in connection with the services in commerce at least as early as February 1998, and is now in use in such commerce. One specimen showing the mark as actually used in commerce is submitted herewith.

5. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

EXECUTED at Phoenix, Arizona, on July 20, 2001.

OPENDWG ALLIANCE

By



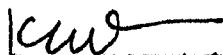
Name: Evan Yares

Title: President

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on July 25, 2001, in an envelope addressed to the Commissioner for Trademarks, BOX ITU - FBI, 2900 Crystal Drive, Arlington, VA 22202-3513.

Signature:



Printed Name:

Katharine Warren



### What are we?

The OpenDWG Alliance™ is a non-profit association of CAD vendors and users committed to promoting Autodesk AutoCAD's DWG drawing file format as an open, industry standard format for the exchange of CAD drawings. The Alliance provides its members with C programming toolkits that let them read, write and display the DWG and DXF files.

### Why are we?

The DWG format is the de facto standard for creation and storage of CAD data. Autodesk claims there are more than 2 billion drawings in this format. But DWG is a closed, proprietary file format, and the closed nature of DWG has unreasonably limited the interoperability and access between different CAD programs. To a large degree, the Alliance is all about making sure that CAD users can access their legacy of DWG files, both now and in the future, no matter which vendor they choose to buy their CAD software from. An open DWG standard would put control over valuable DWG data back where it belongs - in the hands of the users who created it.

### Who are we?

The Alliance now has over 4,000 CAD vendor and customer members, and is led by 21 Founding member companies that make up the organization's board of directors which oversees the Alliance's activities. The Founding members are:

- Andor • Baynote Technologies Inc. • DATA CAD LLC
- Diehl Graphics Inc. • Eagle Point Software Inc.
- Engineering Automation • Farnotik • I-draw • IMSI
- Informative Graphics Corp. • Inno Corp. • Intergraph • Kotic
- Microcadam Inc. • Pango CAD Solutions
- Parametric Technology Corp. • Rasterex s.r.l.
- Robert McNeil & Associates • SDRS • SolidWorks Corp.
- Vialtrafix • Vialis

### What can you do for me?

The Alliance is here to serve its members. Our goal is to propagate DWG technology and enhance everyone's understanding of the DWG file format. To that end, we have created a general repository of DWG knowledge on our Web site. This includes C programming libraries for reading, writing, and displaying, full documentation of the toolkit, the R13/14 DWG specification, free tools and utilities, and a help forum. We constantly update and enhance the quality of the services we provide to our members.

### How much is this going to cost me?

That depends on what you need the libraries for and what level of participation you want. We currently have three membership levels:

#### Founding Membership

Cost: \$25,000 initiation fee, \$10,000 annual dues. You get the source code to the OpenDWG Toolkit and Viewkit, the right to commercially redistribute any product containing OpenDWG code, a link on the Alliance Web site, and the opportunity to participate in a "Technical Roundtable" and in the steering and strategy of the OpenDWG Alliance.

#### Sustaining Membership

Cost: \$5,000 initiation fee, \$2,500 annual dues. You get the right to redistribute unlimited copies of the OpenDWG Toolkit and Viewkit in any commercial product. Your company name gets listed on the Alliance Web site.

#### Commercial Associate Membership

Cost: \$1,000 initiation fee, \$1,000 annual dues. You get the right to incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside of your organization. You also have the opportunity to participate in Alliance working committees that are formed to address specific technical issues.

#### Associate Membership

Cost: Free registration, no annual dues. You receive the right to use the OpenDWG Toolkit and Viewkit for non-commercial, internal use only. You also can use this membership level to evaluate the OpenDWG Toolkit and Viewkit. If you like what you see and want to include it in a commercial product, simply upgrade your membership.

### How do I join?

Simply go to our Web site: [www.opendwg.org](http://www.opendwg.org). Commercial membership requests will be answered by e-mail with the contract and payment details.

### What if I don't want to join but want to see the DWG specification?

No problem! The DWG specification is available openly, and a membership is NOT required to view it.

### Are there royalties? How many copies can I ship before I have to pay again?

No royalties. Unlimited distribution per year for Founders and Sustaining Members. Ship as many as you can, in any method you wish.

### What if I just want to create a "freeware" product?

Go ahead. No commercial membership is required. The only stipulation we have is that the freeware product be donated to the OpenDWG Alliance for distribution on our Web site. (Of course, you would be credited on our site in case anyone wants to know who created that cool utility.)

### I help implementing DWG in my product. What do I do?

We are happy to provide support and consulting to help you get running. Just post a question in our forums on the website, and we'll help. Plus, there is already a comprehensive list of commonly asked questions for quick reference.

### Will the Alliance keep its DWG support current?

Our Members, whether Founding, Sustaining, or Associate, donate back to the Alliance any knowledge, comments, or further understanding of the DWG file format. We're all in this together, and together we will provide the best DWG support available.

### Sounds interesting, but I've got other questions. Who can I contact?

Questions regarding the Alliance are handled most promptly through e-mail. Just write [feedback@opendwg.org](mailto:feedback@opendwg.org) with questions or comments. You also can leave a message at 206 224 5655 or fax questions to 206 224 2880. Or you can e-mail us at 1420 Fifth Avenue, 2nd Floor, Seattle, WA 98101.



About the Alliance

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[History](#)

[FAQ](#)

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[Communication](#)

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[Join the Alliance](#)

[Founding Members](#)

[Sustaining Members](#)

[Membership](#)

[Maintenance](#)

The OpenDWG™ Forum provides an environment for Alliance memt to communicate freely with each other on a variety of topics. It is a pl. to exchange tips on using the libraries and find answers to support questions.

Members of the OpenDWG Alliance host, monitor and participate in t forum. These folks are industry experts and longtime users of DWG software.

[Enter the forum](#) and join the discussion!

**FORUM GUIDELINES**

To foster an open discussion, the Alliance does not enforce excessiv restrictions on forum interaction. To maké the experience beneficial f everyone, please adhere to the following guidelines:

- Improper language and topics can detract from the information exchange. If you use excessive profanity, the forum host may remove your messages from the discussion.
- The forums are divided into logical discussion sections. To help Alliance members easily locate all the information on a particulz topic of interest, please post your message in the most appropr section.

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Technical difficulties? Email the [Webmaster](#).



## Join the Alliance!

### About the Alliance

[Philosophy](#)  
[History](#)  
[FAQ](#)  
[White Papers](#)

Every alliance grows stronger with each new member. This one is no exception. Please join! There are several types of membership, each designed to accommodate a different level of participation. Every level, however, entitles you to two valuable resources: Use of the OpenDWG™ toolkit distributed on this site, and the collective knowledge of the group as a whole.

### Communication

[OpenDWG Forum](#)  
[Feedback](#)

See who has already joined the Alliance. Here is a list of [Founding](#), [Sustaining](#), and [Commercial Associate](#) members.

### News

[Current News](#)  
[Press Releases](#)  
[What Others Are Saying](#)  
[Events](#)

### ASSOCIATE MEMBERSHIP

#### Benefits

- You may incorporate the OpenDWG libraries into programs that are used within your organization, or are distributed for free to the general public (noncommercial use only).
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of, and invitation to, Alliance-sponsored events and meetings.

### Downloads

[Guest Files](#)  
[Member Files](#)  
[DWG Spec](#)

### Membership

[Join the Alliance](#)  
[Founding Members](#)  
[Sustaining Members](#)  
[Membership](#)  
[Maintenance](#)

#### Requirements

- You agree to the terms of the Associate Membership agreement.
- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.
- You agree with the principles of the OpenDWG Alliance.
- You agree to share with the Alliance members all modifications you make to the DWG Specification, all fixes and enhancements to the OpenDWG Toolkit, and any other information regarding the format of DWG files.

## Application

- Fill out the online registration form. (Membership at this level is free.)

## COMMERCIAL ASSOCIATE MEMBERSHIP

### Benefits

- You may incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside your organization (commercial use).
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## Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for the Commercial Associate Membership.

## **SUSTAINING MEMBERSHIP**

### **Benefits**

- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
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## **FOUNDING MEMBERSHIP**

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- You are granted a seat on the OpenDWG Alliance Board of Directors.
- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
- Your company's name and logo will be listed on the OpenDWG Alliance Web site and in any other promotional materials the Alliance develops.
- Descriptions of your company's product(s) will be listed in the products showcase section of the OpenDWG Alliance Web site.
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- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

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- You execute and return to the alliance a signed Founding Membership agreement.
- Your application is accepted by the Board of Directors.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$25,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object and source code license to use the currently available version of the OpenDWG libraries in a commercial product.
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PTO/TM/1553 (Rev 4/2000)

OMB Control #0651-0009 (Exp. 08/31/2004)

**~TRADEMARK/SERVICE MARK ALLEGATION OF USE~  
(Statement of Use/Amendment to Allege Use)**

**\* To the Commissioner for Trademarks \***

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<VERSION 1.24>

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<SERIAL NUMBER> 75429644  
<LAW OFFICE ASSIGNED> TMO Law Office 111

<APPLICANT INFORMATION>  
<NAME> OpenDWG Alliance  
<STREET> 1420 Fifth Avenue, 22nd Floor  
<CITY> Seattle  
<STATE> WA  
<COUNTRY> USA  
<ZIP/POSTAL CODE> 98101

<NOTICE OF ALLOWANCE INFORMATION>  
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<GOODS AND SERVICES INFORMATION>  
<ALL GOODS AND/OR SERVICES IN APPLICATION/NOTICE OF ALLOWANCE> Yes  
~ The applicant is using or is using through a related company the mark in commerce on or in connection with all the goods/services listed in the Application/Notice of Allowance. ~

<FEE INFORMATION>  
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<NUMBER OF CLASSES> 1

<USE INFORMATION>  
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<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> The specimen is a photocopy of a CD bearing the mark.  
<FIRST USE ANYWHERE DATE> 02/00/1998  
<FIRST USE IN COMMERCE DATE> 02/00/1998

<SIGNATURE AND OTHER INFORMATION>  
~ Declaration: 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 or is using through a related company the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. ~

9/30/02

~ The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and 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> /Heidi L. Sachs/

<DATE> 09/27/2002

<NAME> Heidi L. Sachs

<TITLE> Applicant's Counsel

<TELEPHONE NUMBER> (206) 583-8506

<E-MAIL ADDRESS> pctrademarks@perkinscoie.com

<RAM INFORMATION>

<RAM SALE NUMBER> 319

<RAM ACCOUNTING DATE> 20020930

<INTERNET TRANSMISSION DATE> Friday, 09-27-2002 19:41:03 EDT

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The information collected on this form allows the USPTO to determine whether a mark may be registered on the Principal or Supplemental register, and provides notice of an applicant's claim of ownership of the mark. Responses to the request for information are required to obtain the benefit of a registration on the Principal or Supplemental register. 15 U.S.C. §§1051 et seq. and 37 C.F.R. Part 2. All information collected will be made public. Gathering and providing the information will require an estimated 13 minutes (depending if the application is based on an intent to use the mark in commerce, use of the mark in commerce, or a foreign application or registration). Please direct comments on the time needed to complete this form, and/or suggestions for reducing this burden to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington D.C. 20231. Please note that the PTO may not conduct or sponsor a collection of information using a form that does not display a valid OMB control number.

**~TRADEMARK/SERVICE MARK ALLEGATION OF USE~  
(Statement of Use/Amendment to Allege Use)**

**The table below presents the data as entered.**

Input Field	Entered
MARK	OPENDWG & Design
SERIAL NUMBER	75429644
LAW OFFICE ASSIGNED	TMO Law Office 111
NAME	OpenDWG Alliance
STREET	1420 Fifth Avenue, 22nd Floor
CITY	Seattle
STATE	WA
COUNTRY	USA
ZIP/POSTAL CODE	98101
NOTICE OF ALLOWANCE	Yes
ALL GOODS AND/OR SERVICES IN APPLICATION/NOTICE OF ALLOWANCE	Yes
TOTAL FEES PAID	100
NUMBER OF CLASSES	1
INTERNATIONAL CLASS NUMBER	009
SPECIMEN	Yes
SPECIMEN DESCRIPTION	The specimen is a photocopy of a CD bearing the mark.
FIRST USE ANYWHERE DATE	02/00/1998
FIRST USE IN COMMERCE DATE	02/00/1998
SIGNATURE	/Heidi L. Sachs/
DATE	09/27/2002
NAME	Heidi L. Sachs
TITLE	Applicant's Counsel
TELEPHONE NUMBER	(206) 583-8506

E-MAIL ADDRESS                   pctrademarks@perkinscoie.com  
RAM SALE NUMBER                 319  
RAM ACCOUNTING DATE            20020930  
INTERNET TRANSMISSION  
DATE                             Friday, 09-27-2002 19:41:03 EDT  
  
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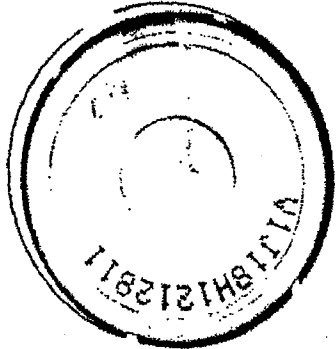
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**Internet Transmission Date:**  
09272002

**Serial Number:**  
75429644

**Class Number:**  
009





**OpenDWG Alliance™  
Toolkit Software**

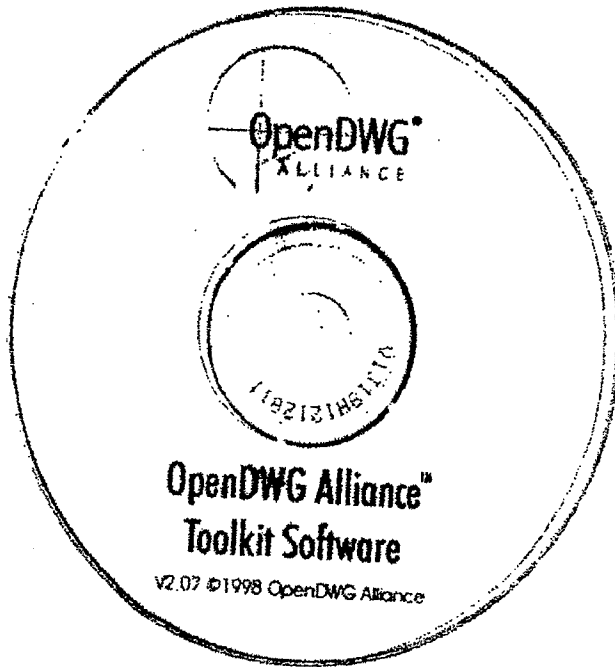
V2.07 ©1998 OpenDWG Alliance

**SPECIMEN**

**Internet Transmission Date:**  
09272002

**Serial Number:**  
75429644

**Class Number:**  
009





PTO/TM/1553 (Rev 4/2000)

OMB Control #0651-0009 (Exp. 08/31/2004)

**~TRADEMARK/SERVICE MARK ALLEGATION OF USE~  
(Statement of Use/Amendment to Allege Use)**

**\* To the Commissioner for Trademarks \***

<DOCUMENT INFORMATION>  
<TRADEMARK/SERVICEMARK ALLEGATION OF USE>  
<VERSION 1.24>

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<MARK> OPENDWG  
<SERIAL NUMBER> 75429699  
<LAW OFFICE ASSIGNED> TMO Law Office 111

<APPLICANT INFORMATION>  
<NAME> OpenDWG Alliance  
<STREET> 1420 Fifth Avenue, 22nd Floor  
<CITY> Seattle  
<STATE> WA  
<COUNTRY> USA  
<ZIP/POSTAL CODE> 98101

<NOTICE OF ALLOWANCE INFORMATION>  
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<GOODS AND SERVICES INFORMATION>  
<ALL GOODS AND/OR SERVICES IN APPLICATION/NOTICE OF ALLOWANCE> Yes  
~ The applicant is using or is using through a related company the mark in commerce on or in connection with all the goods/services listed in the Application/Notice of Allowance. ~

<FEE INFORMATION>  
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<NUMBER OF CLASSES> 1

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<FIRST USE ANYWHERE DATE> 02/00/1998  
<FIRST USE IN COMMERCE DATE> 02/00/1998

<SIGNATURE AND OTHER INFORMATION>  
~ Declaration: 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 or is using through a related company the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. ~

9/30/02

~ The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner, and 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> /Heidi L. Sachs/

<DATE> 09/27/2002

<NAME> Heidi L. Sachs

<TITLE> Applicant's Counsel

<TELEPHONE NUMBER> (206) 583-8506

<E-MAIL ADDRESS> pctrademarks@perkinscoie.com

<RAM INFORMATION>

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<RAM ACCOUNTING DATE> 20020930

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The information collected on this form allows the USPTO to determine whether a mark may be registered on the Principal or Supplemental register, and provides notice of an applicant's claim of ownership of the mark. Responses to the request for information are required to obtain the benefit of a registration on the Principal or Supplemental register. 15 U.S.C. §§1051 et seq. and 37 C.F.R. Part 2. All information collected will be made public. Gathering and providing the information will require an estimated 13 minutes (depending if the application is based on an intent to use the mark in commerce, use of the mark in commerce, or a foreign application or registration). Please direct comments on the time needed to complete this form, and/or suggestions for reducing this burden to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington D.C. 20231. Please note that the PTO may not conduct or sponsor a collection of information using a form that does not display a valid OMB control number.

**~TRADEMARK/SERVICE MARK ALLEGATION OF USE~  
(Statement of Use/Amendment to Allege Use)**

**The table below presents the data as entered.**

Input Field	Entered
MARK	OPENDWG
SERIAL NUMBER	75429699
LAW OFFICE ASSIGNED NAME	TMO Law Office 111 OpenDWG Alliance
STREET	1420 Fifth Avenue, 22nd Floor
CITY	Seattle
STATE	WA
COUNTRY	USA
ZIP/POSTAL CODE	98101
NOTICE OF ALLOWANCE	Yes
ALL GOODS AND/OR SERVICES IN APPLICATION/NOTICE OF ALLOWANCE	Yes
TOTAL FEES PAID	100
NUMBER OF CLASSES	1
INTERNATIONAL CLASS NUMBER	009
SPECIMEN	Yes
SPECIMEN DESCRIPTION	The specimen is a photocopy of a CD bearing the mark.
FIRST USE ANYWHERE DATE	02/00/1998
FIRST USE IN COMMERCE DATE	02/00/1998
SIGNATURE	/Heidi L. Sachs/
DATE	09/27/2002
NAME	Heidi L. Sachs
TITLE	Applicant's Counsel
TELEPHONE NUMBER	(206) 583-8506

9/30/02

E-MAIL ADDRESS	pctrademarks@perkinscoie.com
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RAM ACCOUNTING DATE	20020930
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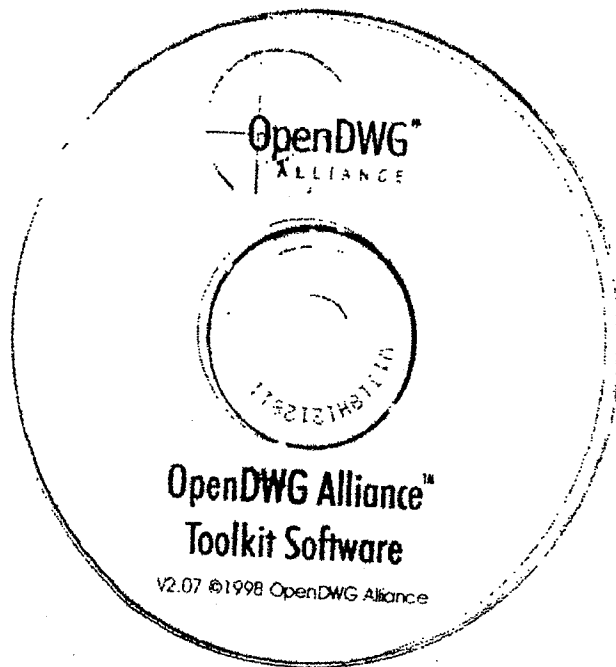
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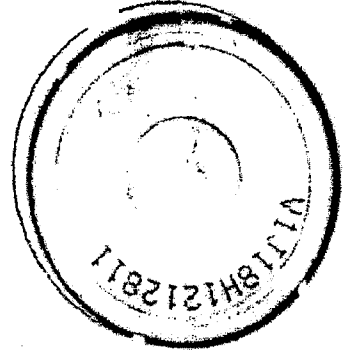
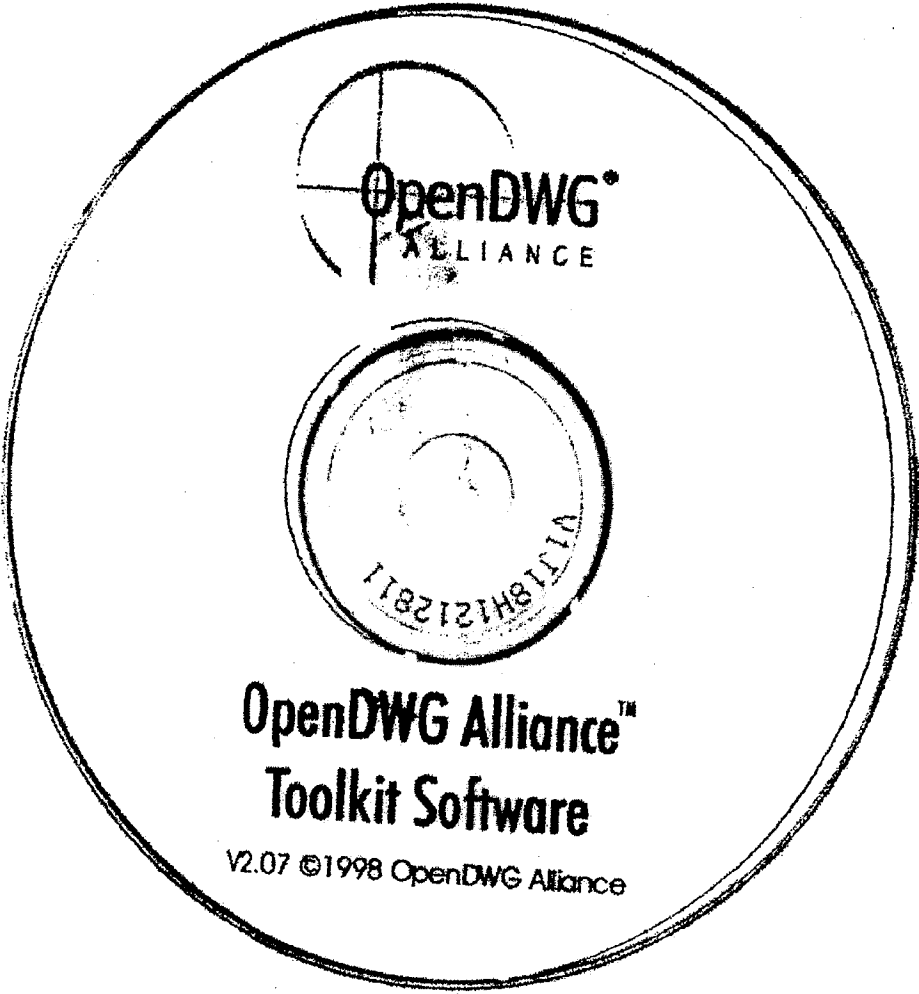
**Internet Transmission Date:**  
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**Serial Number:**  
75429699

**Class Number:**  
009

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**OpenDWG Alliance™  
Toolkit Software**

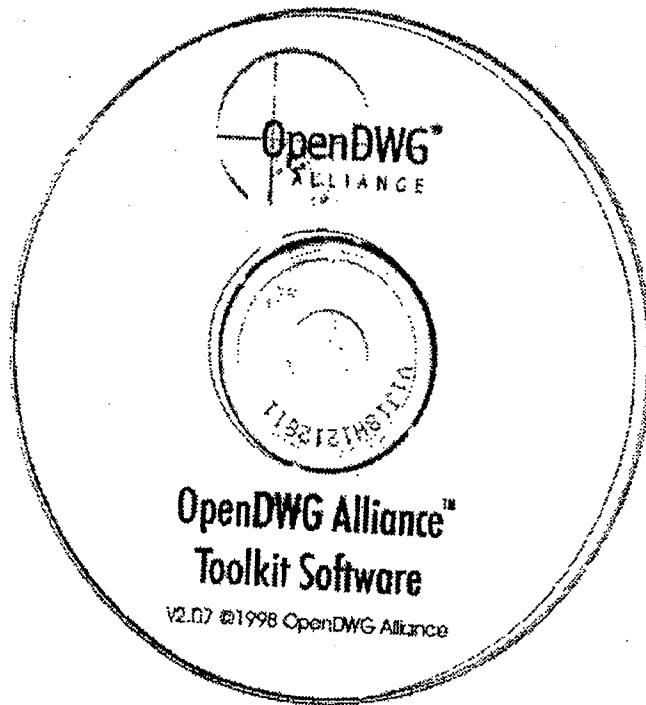
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**Internet Transmission Date:**  
09272002

**Serial Number:**  
75429699

**Class Number:**  
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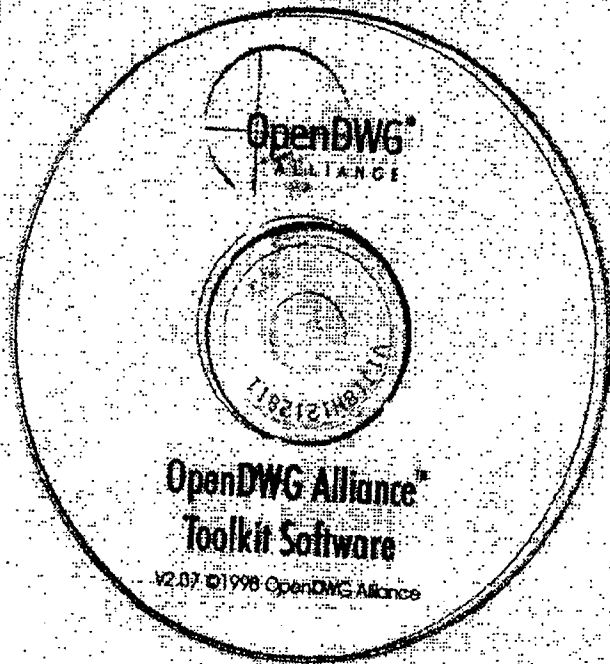


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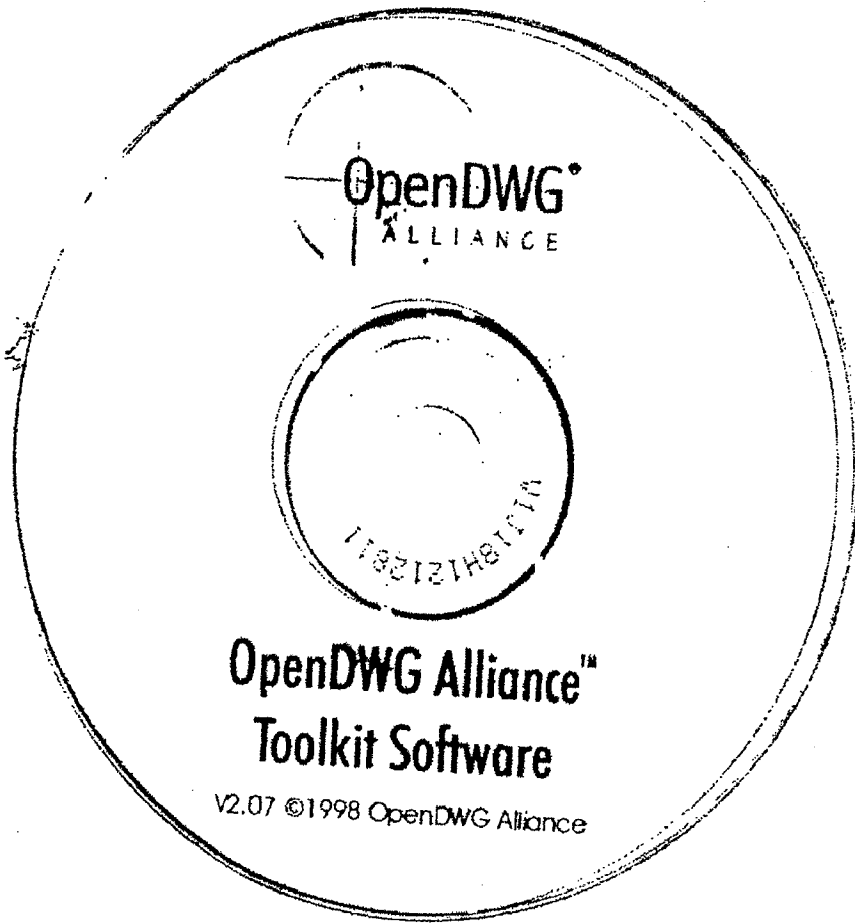
**Internet Transmission Date:**  
09272002

**Serial Number:**  
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OpenDWG<sup>®</sup>  
ALLIANCE

178212148111

OpenDWG Alliance™  
Toolkit Software

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
STATEMENT OF USE UNDER 15 U.S.C. § 1051(d)(1)

Mark: OPENDWG and Design

International  
Class No.: 42

Serial No.: 75/429,662

Mailing Date of  
Notice of Allowance: December 7, 1999

08-30-2001  
U.S. Patent & TMO/TM Mail Plot Dt. #72

Commissioner for Trademarks  
Arlington, Virginia 22202-3513

Applicant, OpenDWG Alliance, ("Applicant") whose address is:  
1420 Fifth Avenue, 22<sup>nd</sup> Floor, Seattle, Washington 98101

The above-identified Applicant seeks registration of the above-identified 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).

DECLARATION

The undersigned, being hereby warned that willful false statements and the like  
so made are punishable by fine or imprisonment, or both, under Section 1001 of Title  
18 of the United States Code and that such willful false statements may jeopardize the  
validity of the application or any registration resulting therefrom, declares that:

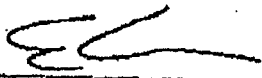
09/05/2001 MPETTY 00000030 75429662  
01 FC:363

I, 100.00-3, am properly authorized to execute this document on behalf of  
applicant.

- 2. I believe applicant is the owner of the mark sought to be registered.
- 3. Applicant is using the mark in commerce in connection with all of the services in the Notice of Allowance.
- 4. The mark was first used in connection with the services at least as early as February 1998, was first used in connection with the services in commerce at least as early as February 1998, and is now in use in such commerce. One specimen showing the mark as actually used in commerce is submitted herewith.
- 5. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

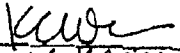
EXECUTED at PHOENIX, ARIZONA, on AUGUST 27, 2001.

OPENDWG ALLIANCE

By   
Name: Evan Yares  
Title: President

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail on August 29, 2001, in an envelope addressed to the Commissioner for Trademarks, BOX ITU - FIVE, 2900 Crystal Drive, Arlington, VA 22202-3513.

Signature:   
Printed Name: Katherine Warren



### What are we?

The OpenDWG Alliance™ is a non-profit association of CAD customers and vendors committed to promoting Autodesk AutoCAD's DWG drawing file format as an open, industry standard format for the exchange of CAD drawings. The Alliance provides its members with C programming toolkits that let them read, write and display the DWG and DXF files.

### Why are we?

The DWG format is the de facto standard for creation and storage of CAD data. Autodesk claims there are more than 2 billion drawings in this format. But DWG is a closed, proprietary file format, and the closed nature of DWG has irreparably limited the interoperability and access between different CAD programs. To a large degree, the Alliance is all about making sure that CAD users can access their legacy of DWG file, both now and in the future, no matter which vendor they choose to buy their CAD software from. An open DWG standard would put control over valuable DWG data back where it belongs - in the hands of the users who created it.

### Who are we?

The Alliance now has over 4,000 CAD vendor and customer members, and is led by 21 Founding member companies that make up the organization's board of directors which oversees the Alliance's activities. The Founding members are:

- Ardur • Day-staw Technologies Inc. • DATA CAD LLC
- Diehl Graphics Inc. • Eagle Print Software Inc.
- Engineering Automation • Hamolik • I-dices • IMSI
- Informative Graphics Corp. • Invo Corp. • Intergraph • Kati
- Microcadam Inc. • Pangea CAD Solutions
- Parametric Technology Corp. • Rasterex u.s.
- Robert McNeil & Associates • SDRC • SolidWorks Corp.
- Via Matrix • Vista

### What can you do for me?

The Alliance is here to serve its members. Our goal is to propagate DWG technology and enhance everyone's understanding of the DWG file format. To that end, we have created a general repository of DWG knowledge on our Web site. This includes C programming libraries for reading, writing, and displaying, full documentation of the toolkit, the R13/14 DWG specification, free tools and utilities, and a help forum. We constantly update and enhance the quality of the services we provide to our members.

### How much is this going to cost me?

That depends on what you need the libraries for and what level of participation you want. We currently have three membership levels:

#### Founding Membership

Cost: \$25,000 initiation fee, \$10,000 annual dues. You get the source code to the OpenDWG Toolkit and ViewKit, the right to commercially redistribute any product containing OpenDWG code, a link on the Alliance Web site, and the opportunity to participate in a "Technical roundtable" and in the steering and strategy of the OpenDWG Alliance.

#### Sustaining Membership

Cost: \$5,000 initiation fee, \$2,500 annual dues. You get the right to redistribute unlimited copies of the OpenDWG Toolkit and ViewKit in any commercial product. Your company name gets listed on the Alliance Web site.

#### Commercial Associate Membership

Cost: \$1,000 initiation fee, \$1,000 annual dues. You get the right to incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside of your organization. You also have the opportunity to participate in Alliance working committees that are formed to address specific technical issues.

#### Associate Membership

Cost: Free registration, no annual dues. You receive the right to use the OpenDWG Toolkit and ViewKit for non-commercial, internal use only. You also can use this membership level to evaluate the OpenDWG Toolkit and ViewKit. If you like what you see and want to include it in a commercial product, simply upgrade your membership.

### How do I join?

Simply go to our Web site: [www.opendwg.org](http://www.opendwg.org). Commercial membership requests will be answered by e-mail with the contract and payment details.

### What if I don't want to join but want to see the DWG specification?

No problem! The DWG specification is available openly, and a membership is NOT required to view it.

### Are there royalties? How many copies can I ship before I have to pay again?

No royalties. Unlimited distribution per year for Founders and Sustaining Members. Ship as many as you can, in any method you wish.

### What if I just want to create a "freeware" product?

Go ahead. No commercial membership is required. The only stipulation we have is that the freeware product be donated to the OpenDWG Alliance for distribution on our Web site. (Of course, you would be credited on our site in case anyone wants to know who created that cool utility.)

### I help implementing DWG in my product. What do I do?

We are happy to provide support and consulting to help you get running. Just post a question in our forum on the website, and we'll help. Plus, there is already a comprehensive list of commonly asked questions for quick reference.

### Will the Alliance keep its DWG support current?

Our Members, whether Founding, Sustaining, or Associate, donate back to the Alliance any knowledge, enhancements, or further understanding of the DWG file format. We're all in this together, and together we will provide the best DWG support available.

### Sounds interesting, but I've got other questions. Who can I contact?

Questions regarding the Alliance are handled most promptly through e-mail. Just write [feedback@opendwg.org](mailto:feedback@opendwg.org) with questions or comments. You also can leave a message at 206.224.5655 or fax questions to 206.224.2880. Or, you can mail-mail us at 1420 11th Avenue, 22nd Floor, Seattle, WA 98101.



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Members of the OpenDWG Alliance host, monitor and participate in the forum. These folks are industry experts and longtime users of DWG software.

[Enter the forum](#) and join the discussion!

#### FORUM GUIDELINES

To foster an open discussion, the Alliance does not enforce excessive restrictions on forum interaction. To make the experience beneficial for everyone, please adhere to the following guidelines:

- Improper language and topics can detract from the information exchange. If you use excessive profanity, the forum host may remove your messages from the discussion.
- The forums are divided into logical discussion sections. To help Alliance members easily locate all the information on a particular topic of interest, please post your message in the most appropriate section.

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Technical difficulties? Email the [Webmaster](#).



## Join the Alliance!

Every alliance grows stronger with each new member. This one is no exception. Please join! There are several types of membership, each designed to accommodate a different level of participation. Every level, however, entitles you to two valuable resources: Use of the OpenDWG™ toolkit distributed on this site, and the collective knowledge of the group as a whole.

### About the Alliance

- [Philosophy](#)
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- [FAQ](#)
- [White Papers](#)

### Communication

- [OpenDWG Forum](#)
- [Feedback](#)

See who has already joined the Alliance. Here is a list of [Founding](#), [Sustaining](#), and [Commercial Associate](#) members.

### ASSOCIATE MEMBERSHIP

### News

- [Current News](#)
- [Press Releases](#)
- [What Others Are Saying](#)
- [Events](#)

### Benefits

- You may incorporate the OpenDWG libraries into programs that are used within your organization, or are distributed for free to the general public (noncommercial use only).
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of, and invitation to, Alliance-sponsored events and meetings.

### Downloads

- [Guest Files](#)
- [Member Files](#)
- [DWG Spec](#)

### Membership

- [Join the Alliance](#)
- [Founding Members](#)
- [Sustaining Members](#)
- [Membership](#)
- [Maintenance](#)

### Requirements

- You agree to the terms of the Associate Membership agreement.
- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.
- You agree with the principles of the OpenDWG Alliance.
- You agree to share with the Alliance members all modifications you make to the DWG Specification, all fixes and enhancements to the OpenDWG Toolkit, and any other information regarding the format of DWG files.

### Application

- Fill out the online registration form. (Membership at this level is free.)

### COMMERCIAL ASSOCIATE MEMBERSHIP

#### Benefits

- You may incorporate the OpenDWG libraries in any number of products, and each product is permitted up to 100 individual copies to be sold or distributed outside your organization (commercial use).
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of and invitation to Alliance-sponsored events and meetings.
- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

#### Requirements

- You agree with the principles of the OpenDWG Alliance.
- You acknowledge that the intent of the Alliance is to promote the DWG drawing file format as an open, industry-standard format, and that the Alliance does so by obtaining and sharing information about the DWG format. You also agree to disclose all knowledge you have about changes, corrections, or clarifications to the DWG Specification and to the OpenDWG Toolkit, plus all other knowledge you have regarding the format of DWG files read and written by Autodesk AutoCAD products. (You are exempt from disclosure if doing so would violate a statute or contractual requirement entered in good faith.) Finally, you grant the Alliance a nonexclusive, fully-paid, irrevocable, royalty-free license to publish and use all information and materials you disclose.
- You execute and return to the alliance a signed Commercial Associate membership agreement.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$1,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object code license to use the currently available version of the OpenDWG libraries in a commercial product.
- You make timely payment of your annual \$1,000 membership dues, with the 1st payment due on the year anniversary of your membership.

#### Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for the Commercial Associate Membership.

## **SUSTAINING MEMBERSHIP**

### **Benefits**

- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
- Your company's name will be listed on the OpenDWG Alliance Web site and in any other promotional materials the Alliance develops.
- Descriptions of your company's product(s) will be listed in the products showcase section of the OpenDWG Alliance Web site.
- Access to official Alliance communications including Newsflash alerts over email and the monthly Newsletter.
- Notification of and invitation to Alliance-sponsored events and meetings.
- Opportunity to participate in Alliance working committees that are formed to address specific technical issues.

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- You execute and return to the alliance a signed Sustaining Membership agreement.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$5,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object code license to use the currently available version of the OpenDWG



- libraries in a commercial product.
- You make timely payment of your annual membership dues. (Amount to be determined by the OpenDWG Alliance Board of Directors, and currently set at \$2,500 per year for a sustaining membership.)

### **Application**

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for Sustaining Membership.

## **FOUNDING MEMBERSHIP**

### **Benefits**

- You receive a source code license to the OpenDWG libraries – all versions, all platforms.
- You are granted a seat on the OpenDWG Alliance Board of Directors.
- You may incorporate the OpenDWG libraries in products which are sold or distributed outside your organization (commercial use).
- You may use the "Includes OpenDWG Technology" logo on your product packaging and marketing materials.
- Your company's name and logo will be listed on the OpenDWG Alliance Web site and in any other promotional materials the Alliance develops.
- Descriptions of your company's product(s) will be listed in the products showcase section of the OpenDWG Alliance Web site.
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- You execute and return to the alliance a signed Founding Membership agreement.
- Your application is accepted by the Board of Directors.
- You make a timely payment of a one-time enrollment fee and first-year membership dues totaling \$25,000. This fee entitles your organization to a perpetual, nonexclusive, royalty-free object and source code license to use the currently available version of the OpenDWG libraries in a commercial product.
- You make timely payment of your annual membership dues. (Amount currently set at \$10,000 per year, and determined by the OpenDWG Alliance Board of Directors.)

### Application

- Fill out the online registration form. This will allow you to immediately download the OpenDWG libraries available to all members. An Alliance representative will contact you regarding payment of dues for Founding Membership.

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## Philosophy

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[Membership](#)

[Maintenance](#)

Historically, computer users have always benefited from open standards. The IBM PC standard caused the rise of a huge industry for the creation of productivity-enhancing tools. The Ethernet standard led the way to networked, interoperating computers and client-server computing on a large scale. Most recently, Internet standards for mail, file transfer, and document display have caused the greatest explosion in computer interoperability the world has ever seen.

The CAD world has its own standards, such as IGES and STEP, for transfer of design file information from one software package to another. Yet the number of files stored using these standards is vastly outnumbered by those stored in what is now the most popular format for storing design data — the DWG file format used by Autodesk's AutoCAD.

The DWG format is the de facto standard for storage of CAD data. Autodesk claims that there are more than two billion drawings in this format. But DWG is a closed, proprietary format. This data format offers nothing of value to its users, other than its compatibility with AutoCAD. There is no method provided by Autodesk that allows users a free, easy way to write programs to access this data. The closed nature of this format has unreasonably limited interoperability with other CAD programs. And every user who stores his or her valuable data in this format is beholden to Autodesk for the software that allows them to retrieve it. An open DWG standard will allow all CAD users access to their own data. It will also allow the creation of programs that retrieve this data for a myriad of uses: Bills of materials creation, parts lists, quick viewing capability, translation to other CAD systems — the list goes on and on.

An open DWG standard will put control over this valuable DWG data back where it belongs — in the hands of the users who created it.

© 1998 - 2001 OpenDWG™ Alliance. All rights reserved.  
OpenDWG and the OpenDWG logo are trademarks of the OpenDWG Alliance in the United States and/or other countries. All other trademarks, trade names or company names referenced herein are used for identification only and are the property of their respective owners.

[Privacy Policy Statement](#)

Technical difficulties? Email the [Webmaster](#).

**EXHIBIT 7**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
INTENT TO USE APPLICATION FOR COLLECTIVE MARK REGISTRATION  
ON THE PRINCIPAL REGISTER

Mark: OPENDWG AND DESIGN

International  
Class No.: ~~42~~ 200

Assistant Commissioner of Trademarks  
Arlington, Virginia 22202-3513

OpenDWG Alliance, a Washington corporation  
1420 Fifth Avenue, 22nd Floor  
Seattle, Washington 98101

The above-identified applicant has a bona fide intention to exercise legitimate control over the use of the mark shown in the accompanying drawing in connection with the following services:

Sub A1

~~Consulting services in the field of computer software and  
computer software tools and standards; internet services~~

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946, as amended.

The applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members in connection with the above identified services (15 U.S.C. §§ 1051(b), as amended). The mark is intended to be used in connection with web sites, brochures, advertising, letterhead, business cards and in

other ways customary in the trade. Applicant intends to control the use of the mark by the members in the following manner: The mark is intended to be used by software companies that are members of Applicant organization. Members will be required to meet certain criteria in order to use the mark.

The undersigned hereby appoints the law firm of Perkins Coie through Heidi L. Sachs, Robert C. Cumbow, Tara L. Benson and Brent D. Sanders, 1201 Third Avenue, 40th Floor, Seattle, Washington 98101-3099, (206) 583-8888, to prosecute this registration application with full power of substitution and revocation, to make alterations and amendments, to transact all business in the United States Patent and Trademark Office and to receive the notice of allowance and the certificate of registration.

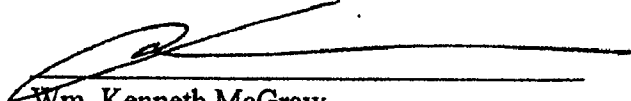
\* \* \*

#### DECLARATION

Wm. Kenneth McGraw, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that: he is the Secretary of the applicant corporation and authorized to execute this instrument; he believes applicant is entitled to use in commerce the mark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce in connection with the same or similar services, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive; the facts set forth in this

application are true; and all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

EXECUTED at Seattle, Washington, this 5<sup>th</sup> day of February, 1998.



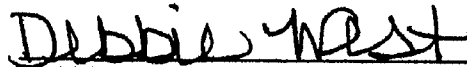
Wm. Kenneth McGraw  
Secretary  
OpenDWG Alliance



**CERTIFICATE OF MAILING**

I CERTIFY that on February 5, 1998, I mailed (via U.S. Express Mail #EM414652572US) the attached APPLICATION FOR COLLECTIVE MARK REGISTRATION regarding the mark "OPENDWG AND DESIGN" in International Class 42 to:

Assistant Commissioner of Trademarks  
U. S. Patent & Trademark Office  
BOX NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

  
\_\_\_\_\_  
Debbie West



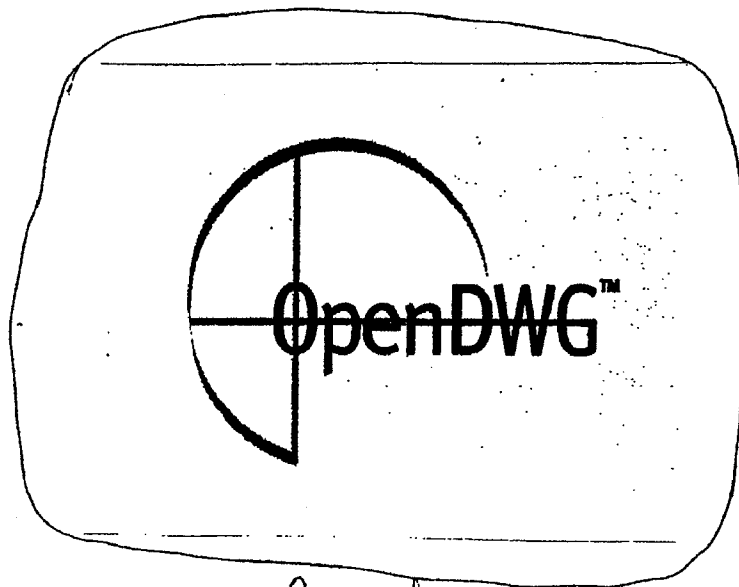
75429693

**Applicant:** OpenDWG Alliance

**Address:** 1420 Fifth Avenue, 22nd Floor  
Seattle, Washington 98101

**Goods or Services:** Consulting services in the field of computer software and computer software tools and standards; internet services

IN: *ck*  
ISCL  
*100,101*



*Cancel*

**PUBLISHED**  
05/02/00 02

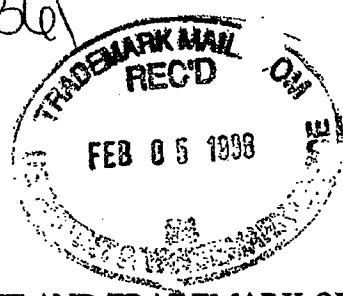
**TRADEMARK**



75429693

1-2 JWS:361

75429665



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
INTENT TO USE APPLICATION FOR COLLECTIVE MARK REGISTRATION  
ON THE PRINCIPAL REGISTER

Mark: OPENDWG  
International  
Class No.: 42

Assistant Commissioner of Trademarks  
Arlington, Virginia 22202-3513

OpenDWG Alliance, a Washington corporation  
1420 Fifth Avenue, 22nd Floor  
Seattle, Washington 98101

The above-identified applicant has a bona fide intention to exercise legitimate control over the use of the mark shown in the accompanying drawing in connection with the following services:

Sub A'

~~Consulting services in the field of computer software and computer software tools and standards; internet services~~

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946, as amended.

The applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members in connection with the above identified services (15 U.S.C. §§ 1051(b), as amended). The mark is intended to be used in connection with web sites, brochures, advertising, letterhead, business cards and in

other ways customary in the trade. Applicant intends to control the use of the mark by the members in the following manner: The mark is intended to be used by software companies that are members of Applicant organization. Members will be required to meet certain criteria in order to use the mark.

The undersigned hereby appoints the law firm of Perkins Coie through Heidi L. Sachs, Robert C. Cumbow, Tara L. Benson and Brent D. Sanders, 1201 Third Avenue, 40th Floor, Seattle, Washington 98101-3099, (206) 583-8888, to prosecute this registration application with full power of substitution and revocation, to make alterations and amendments, to transact all business in the United States Patent and Trademark Office and to receive the notice of allowance and the certificate of registration.

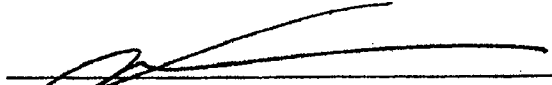
\* \* \*

#### DECLARATION

Wm. Kenneth McGraw, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that: he is the Secretary of the applicant corporation and authorized to execute this instrument; he believes applicant is entitled to use in commerce the mark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce in connection with the same or similar services, either in the identical form or in such near resemblance thereto as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive; the facts set forth in this

application are true; and all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

EXECUTED at Seattle, Washington, this 5<sup>th</sup> day of February, 1998.



---

Wm. Kenneth McGraw  
Secretary  
OpenDWG Alliance

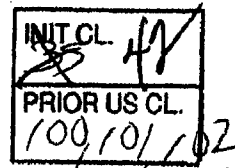


Applicant: OpenDWG Alliance

Address: 1420 Fifth Avenue, 22nd Floor  
Seattle, Washington 98101

Goods or Services: Consulting services in the field of computer software and computer software tools and standards; internet services

OPENDWG



REGISTER  
12/03/02




PUBLISHED  
05/02/00 02



**CERTIFICATE OF MAILING**

I CERTIFY that on February 5, 1998, I mailed (via U.S. Express Mail #EM414652572US) the attached APPLICATION FOR COLLECTIVE MARK REGISTRATION regarding the mark "OPENDWG" in International Class 42 to:

Assistant Commissioner of Trademarks  
U. S. Patent & Trademark Office  
BOX NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

  
Debbie West

**EXHIBIT 8**



**UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>SERIAL NO.</b> 75/429665 <b>APPLICANT</b> OpenDWG Alliance		<b>PAPER NO.</b>
<b>MARK</b> OPENDWG		<b>ADDRESS:</b> Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov
<b>ADDRESS</b> HEIDI L SACHS PERKINS COIE LLP 1201 THIRD AVE 40TH FL SEATTLE WA 98101	<b>ACTION NO.</b> 01	If no fees are enclosed, the address should include the words "Box Responses - No Fee."  Please provide in all correspondence:
<b>MAILING DATE</b> 11/02/01		
<b>REF. NO.</b>		
FORM PTO-1525 (5-90) U.S. DEPT. OF COMM. PAT. & TM OFFICE		<ol style="list-style-type: none"> <li>1. Filing Date, serial number, mark and Applicant's name.</li> <li>2. Mailing date of this Office action.</li> <li>3. Examining Attorney's name and Law Office number.</li> <li>4. Your telephone number and ZIP code.</li> </ol>

**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: 75/429665

The assigned examining attorney has reviewed the statement of use filed on July 25, 2001 and has determined the following.

**USE CLAIMED INSTEAD OF LEGITIMATE CONTROL**

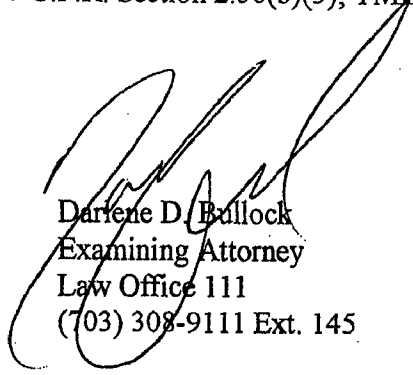
The application states that the applicant "has adopted and is using the mark." An organization owns a collective mark, but its members use the mark. The applicant must amend the application to state, if accurate, that the applicant "has adopted and is exercising legitimate control over the use of the mark in commerce by its members." TMEP sections 1303 and 1303.01.

**DATES OF USE**

The dates-of-use clause refers to use by the applicant rather than use by the members. The members are the users of the mark. The applicant must amend the dates-of-use clause to refer to use by members. TMEP sections 1303.01 and 1303.02(c)(iii). The applicant must verify this amendment with an affidavit or a declaration under 37 C.F.R. Section 2.20. 37 C.F.R. Section 2.71(c).

**SPECIMEN DOES NOT SHOW USE BY MEMBER**

The specimen is unacceptable because it is not an example of use of the mark by members. Instead, it shows use by the applicant itself. The applicant must submit a substitute specimen showing use of the mark by members. 37 C.F.R. Section 2.56(b)(3); TMEP section 1303.02(b).



Darlene D. Bullock  
Examining Attorney  
Law Office 111  
(703) 308-9111 Ext. 145

16

# PERKINS COIE LLP

607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011  
TELEPHONE: 202 628-6600 - FACSIMILE: 202 434-1690

LALITHA MANI  
(202) 434-1614  
mani@perkinscoie.com

December 18, 2001

## VIA FACSIMILE

Darlene Bullock  
RESPONSE/NO FEE  
Examining Attorney, Law Office 111  
Patent and Trademark Office  
2900 Crystal Drive  
Arlington, VA 22202-3513

**Re: Applicant: OpenDWG Alliance**  
**Mark: OPENDWG**  
**Serial No: 75/429,665**  
**Class: 42**  
**Our Ref.: 28226-0500**

Dear Darlene:

Enclosed is Applicant's response to the Office Action issued regarding the Statement of Use filed in the above referenced application.

Very truly yours,



Lalitha Mani

LM:lm  
Enclosure

cc: Evan Yares, OpenDWG Alliance  
Nicholas M. May, Trademark Paralegal

[28226-0500/DA013520.051]

RECEIVED  
2001 DEC 18 P 2:20  
LAW OFFICE 103  
TIME 0

bcc: Trina Alfred, Docketing (SEA)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: OpenDWG Alliance  
Serial No.: 75/429,665  
Mark: OPENDWG  
Class: 42  
Notice of Allowance: March 28, 2000

LAW OFFICE 111

Examining Attorney:  
Darlene Bullock

RECEIVED  
2001 DEC 18 P 12:21  
LAW OFFICE 111  
TME-D  
LAW OFFICE 111  
RESPONSE TO OFFICE ACTION

Applicant has received and reviewed Office Action No. 1 issued in response to the Statement of Use filed July 25, 2001, and responds as follows.

**I. SPECIMENS**

The Examining Attorney has requested substitute specimens showing use of the mark by Applicant's members. Applicant respectfully disagrees and asserts that the specimens submitted along with the Statement of Use are indeed acceptable. The information page that appears in a question/answer format clearly indicates that the members use the mark. Specifically, the various membership categories identify the ways in which the members can use the OPENDWG toolkit and libraries. Similarly, under the paragraph, "What Can you do for me?" the first line reads, "The Alliance is here to serve its members." Finally, the additional pages submitted along with the information page identify the various benefits of membership, one of them being the right to use the mark. Accordingly, Applicant believes that the specimens submitted show use of the mark by its members. Therefore, Applicant respectfully requests that the requirement for substitute specimens be withdrawn and that the earlier specimens submitted be accepted by the Examining Attorney.

## II. AMENDED DECLARATION

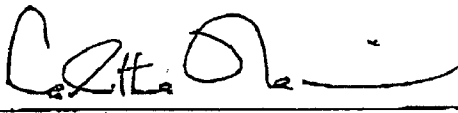
The Examining Attorney has required that Applicant amend the application to indicate us of the mark by its members, and state that Applicant "has adopted and is exercising legitimate control over the use of the mark in commerce by its members." Applicant submits the following amended Declaration with the required modifications

The undersigned, being hereby warned that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares as follows:

1. I am properly authorized to execute this document on behalf of Applicant.
2. I believe Applicant is the owner of the mark sought to be registered.
3. Applicant has adopted and is exercising legitimate control over the use of the mark in commerce by its members.
4. Applicant's members are using the mark in commerce in connection with all of the services in the Notice of Allowance.
5. The mark was first used by Applicant's members in connection with the services in commerce at least as early as February 1998, and is now in use by its members in such commerce.
6. All statements made of my own knowledge are true and statements made on information and belief are believed to be true.

EXECUTED at Washington, D.C., on December 18, 2001.

OPENDWG ALLIANCE

By 

Name: Lalitha Mani  
Attorneys for Applicant

## **EXHIBIT 9**



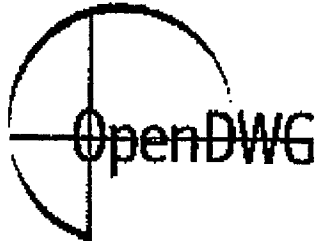
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-06-18 20:32:22 ET

Serial Number: 75429693 Assignment Information      Trademark Document Retrieval

Registration Number: 2563976

Mark



(words only): OPENDWG

Standard Character claim: No

Current Status: A cancellation proceeding has been filed at the Trademark Trial and Appeal Board and is now pending.

Date of Status: 2007-01-30

Filing Date: 1998-02-05

Transformed into a National Application: No

Registration Date: 2002-04-23

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: 40S -Scanning On Demand

Date In Location: 2007-05-14

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LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. OPEN DESIGN ALLIANCE

Address:

OPEN DESIGN ALLIANCE

5025 N CENTRAL AVENUE #602  
PHOENIX, AZ 85012  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Washington

---

### GOODS AND/OR SERVICES

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**International Class:** 042

**Class Status:** Active

Consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information

**Basis:** 1(a)

**First Use Date:** 1998-02-00

**First Use in Commerce Date:** 1998-02-00

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### ADDITIONAL INFORMATION

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**Design Search Code(s):**

**26.01.03** - Circles, incomplete (more than semi-circles); Incomplete circles (more than semi-circles)

**26.17.04** - Bands, vertical; Bars, vertical; Lines, vertical; Vertical line(s), band(s) or bar(s)

**26.17.05** - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2007-05-14 - Case File In TICRS

2007-03-14 - Automatic Update Of Assignment Of Ownership

2007-01-30 - Cancellation Instituted No. 999999

2006-05-09 - TEAS Change Of Correspondence Received

2002-04-23 - Registered - Principal Register

2001-09-25 - Allowed for Registration - Principal Register (SOU accepted)

2001-08-13 - Assigned To Examiner

2001-08-06 - Statement of use processing complete

2001-07-25 - Amendment to Use filed  
2001-08-06 - Extension 2 granted  
2001-07-25 - Extension 2 filed  
2001-02-12 - Extension 1 granted  
2000-12-20 - Extension 1 filed  
2000-07-25 - Notice of allowance - mailed  
2000-05-02 - Published for opposition  
2000-03-31 - Notice of publication  
1999-08-13 - Notice of publication  
1999-06-10 - Approved for Pub - Principal Register (Initial exam)  
1999-06-10 - Previous allowance count withdrawn  
1999-04-09 - Notice of publication  
1999-02-16 - Approved for Pub - Principal Register (Initial exam)  
1998-12-22 - Communication received from applicant  
1998-06-30 - Non-final action mailed  
1998-06-21 - Assigned To Examiner

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

HEIDI L SACHS

**Correspondent**

R.J. Heher

Fenwick & West LLP

Silicon Valley Center 801 California Street

Mountain View, CA 94041

Phone Number: 602-263-7666

Fax Number: 602-262-5578

---

**EXHIBIT 10**

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

In the Matter of Certain Trademark Registrations  
For the Mark OPENDWG

AUTODESK, INC.,	)	
	)	Cancellation No.: 92047002
Petitioner,	)	
	)	
v.	)	<b><u>FIRST AMENDED</u></b>
	)	<b><u>CONSOLIDATED PETITION</u></b>
OPENDWG ALLIANCE,	)	<b><u>FOR CANCELLATION</u></b>
	)	
Respondent.	)	
_____	)	

Re: Mark: OPENDWG  
Registration Nos.: 2,517,750, 2,563,976, 2,656,757, 2,672,409, 2,719,529 and 2,920,269

Petitioner Autodesk, Inc. ("Petitioner") believes that it has been and will be damaged by Registration Nos. 2517750, 2563976, 2656757, 2672409, 2719529, and 2920269 and hereby petitions, pursuant to TBMP §306, to cancel the registrations.

As grounds for this Petition, Petitioner alleges that:

1. Petitioner is a Delaware corporation with its principal place of business in San Rafael, California. Petitioner is the world's leading design software and services provider for the building, manufacturing, infrastructure, and media and entertainment industries.
2. Petitioner is informed and believes, and therefore alleges, that Respondent is a Washington nonprofit corporation. Petitioner also is informed and believes, and therefore alleges, that Respondent is

registered with the Washington Secretary of State as Open Design Alliance and now does business under that name.

3. DWG is Petitioner's name for the proprietary file format and technology underlying many of its key computer-assisted design (CAD) software products.

4. Petitioner has been using the DWG name with its CAD software products since at least as early as 1983.

5. Petitioner owns the following federal trademark applications: DWG (Serial No. 78/852,798); DWG AND DESIGN (Serial No. 78/852,808); REALDWG (Serial No. 78/852,836); DWG TRUEVIEW (Serial No. 78/852,813); DWG TRUECONVERT (Serial No. 78/852,822); DWGX (Serial No. 78/852,849); and DWG EXTREME (Serial No. 78/852,843).

6. Petitioner's federal trademark applications for DWG-related marks include the following identification of goods: "computer software for data management and creation and manipulation of engineering and design data, particularly adapted for engineering, architecture, manufacturing, building, and construction applications, together with instruction manuals sold as a unit; computer-aided design software; computer software for animation, graphics and design modeling applications."

7. Petitioner owns a federal trademark registration (Registration No. 2,110,140) for RASTERDWG for the following goods: "computer software for saving raster data within the DWG format."

8. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2517750 is as follows:

Registrant:	Open Design Alliance
Mark:	OPENDWG
Last listed address:	5025 N. Central Avenue #602

Phoenix, AZ 85012  
United States  
Registration date: December 11, 2001  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards.

This Registration is referred to hereinafter as "Registration No. 1."

9. According to public records of the United States Patent and Trademark Office, the identification of services in Registration No. 1 as registered was: "consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information."

10. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2563976 is as follows:

Registrant: Open Design Alliance  
Collective Mark: OPENDWG and Design  
Last listed address: 5025 N. Central Avenue #602  
Phoenix, AZ 85012  
United States  
Registration date: April 23, 2002  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

This Registration is referred to hereinafter as "Registration No. 2."

11. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2656757 is as follows:

Registrant: Open Design Alliance  
Collective Mark: OPENDWG  
Last listed address: 5025 N. Central Avenue #602  
Phoenix, AZ 85012  
United States

Registration date: December 03, 2002  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

This Registration is referred to hereinafter as "Registration No. 3."

12. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2672409 is as follows:

Registrant: Open Design Alliance  
Mark: OPENDWG and Design  
Last listed address: 5025 N. Central Avenue #602  
Phoenix, AZ 85012  
United States  
Registration date: January 7, 2003  
International Class: 009  
Goods: computer software for the exchange of information regarding computer aided design and computer software containing standards for the application of computer aided design.

This Registration is referred to hereinafter as "Registration No. 4."

13. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2719529 is as follows:

Registrant: Open Design Alliance  
Mark: OPENDWG  
Last listed address: 5025 N. Central Avenue #602  
Phoenix, AZ 85012  
United States  
Registration date: May 27, 2003  
International Class: 009  
Goods: computer software for the exchange of information regarding computer aided design and computer software containing standards for the application of computer aided design.

This Registration is referred to hereinafter as "Registration No. 5."



14. According to public records of the United States Patent and Trademark Office, the current information regarding Registration No. 2920269 is as follows:

Registrant: Open Design Alliance  
Mark: OPENDWG and Design  
Last listed address: 5025 N. Central Avenue #602  
Phoenix, AZ 85012  
United States  
Registration date: January 25, 2005  
International Class: 042  
Services: consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.

This Registration is referred to hereinafter as “Registration No. 6.” All of the above-cited registrations are hereinafter referred to collectively as the “Registrations.”

15. Petitioner is informed and believes, and therefore alleges, that Respondent owns the Registrations.

16. On or about October 29, 2003, Respondent distributed the press release attached hereto as Exhibit A, announcing Respondent’s name change from OpenDWG Alliance to Open Design Alliance.

17. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 1 has been abandoned.

18. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 1 fraudulently, in part, because in declarations submitted to the U.S. Patent and Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent and Trademark Office, Respondent had not used the mark in commerce as of the claimed date of first use,

and Respondent never used the mark for the claimed services: “providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.”

19. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 2 has been abandoned.

20. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 2 fraudulently, in part, because in declarations submitted to the U.S. Patent and Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent and Trademark Office, Respondent had not used the mark in commerce as of the claimed date of first use, Respondent never had a bona fide intent to use the mark as a collective mark, Respondent never used the mark for the claimed services: “providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.”

21. Petitioner is informed and believes, and therefore alleges, that Respondent improperly obtained Registration No. 2, in part, because Respondent never showed use of the mark as a collective mark, and never submitted a statement of use with the necessary declaration to support registration of the mark as a collective mark.

22. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 3 has been abandoned.

23. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 3 fraudulently, in part, because in declarations submitted to the U.S. Patent and Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent

and Trademark Office, Respondent never had a bona fide intent to use the mark as a collective mark, Respondent never exercised control over use of the mark, no member of Respondent's organization used the mark in commerce to indicate membership in an organization or collective as of the claimed date of first use, and no member of Respondent's organization ever used the mark for the claimed services: "consulting services in the field of computer software and computer software tools and standards; providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information."

24. Petitioner is informed and believes, and therefore alleges, that Respondent improperly obtained Registration No. 3, in part, because Respondent never showed use of the mark as a collective mark.

25. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 4 has been abandoned.

26. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 4 fraudulently, in part, because in declarations submitted to the U.S. Patent and Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent and Trademark Office, Respondent had not used the mark in commerce as of the claimed date of first use, and Respondent never used in commerce the specimen submitted with the statement of use.

27. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 5 has been abandoned.

28. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 5 fraudulently, in part, because in declarations submitted to the U.S. Patent and

Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent and Trademark Office, Respondent had not used the mark in commerce as of the claimed date of first use, and Respondent never used in commerce the specimen submitted with the statement of use.

29. Petitioner is informed and believes, and therefore alleges, that the mark OPENDWG in Registration No. 6 has been abandoned.

30. Petitioner is informed and believes, and therefore alleges, that Respondent obtained Registration No. 6 fraudulently, in part, because in declarations submitted to the U.S. Patent and Trademark Office Respondent made material statements that it knew or should have known were false or misleading. In particular, despite statements to the contrary in declarations submitted to the U.S. Patent and Trademark Office, Respondent had not used the mark in commerce as of the claimed date of first use, and Respondent never used the mark for the claimed services: “providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information.”

31. The Registrations have resulted in and will continue to result in confusion in the trade and in the public.

32. Petitioner has been and will be damaged by the Registrations because, among other reasons, Petitioner uses a variety of DWG-related names and trademarks with similar goods and services and continued registration of OPENDWG by Respondent may adversely affect Petitioner’s rights.

WHEREFORE, Petitioner prays that the Registrations be cancelled in their entirety and that this First Amended Consolidated Petition for Cancellation be sustained in favor of the Petitioner.

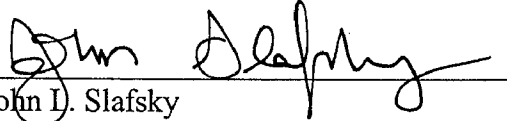
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Dated: June 27, 2008

Respectfully submitted,

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