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## NOTICE OF ALLOWANCE AND FEE(S) DUE

24113 7590 09/11/2015  
PATTERSON THUENTE PEDERSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3684

DATE MAILED: 09/11/2015

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/230,938	03/31/2014	John Mikkelsen	4624.01US12	1253

TITLE OF INVENTION: MEDIA DELIVERY PLATFORM

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$480	\$0	\$0	\$480	12/11/2015

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax** (571)-273-2885

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24113 7590 09/11/2015  
**PATTERSON THUENTE PEDERSEN, P.A.**  
**4800 IDS CENTER**  
**80 SOUTH 8TH STREET**  
**MINNEAPOLIS, MN 55402-2100**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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EXAMINER	ART UNIT	CLASS-SUBCLASS
POND, ROBERT M	3684	705-039000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number** is required.

2. For printing on the patent front page, list

- (1) The names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
- ☐ Applicant asserting small entity status. See 37 CFR 1.27
- ☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_





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EXAMINER
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POND, ROBERT M

ART UNIT	PAPER NUMBER
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3684

DATE MAILED: 09/11/2015

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

## OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### Privacy Act Statement

**The Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



<b>Notice of Allowability</b>	<b>Application No.</b> 14/230,938	<b>Applicant(s)</b> MIKKELSEN ET AL.	
	<b>Examiner</b> ROBERT POND	<b>Art Unit</b> 3684	<b>AIA (First Inventor to File) Status</b> No

  

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to See Continuation Sheet.  
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.

3. ☒ The allowed claim(s) is/are 1-5, 7, 8 and 10-16. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/oph/index.jsp](http://www.uspto.gov/patents/init_events/oph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

**Certified copies:**  
a) ☐ All    b) ☐ Some    \*c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.  
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**  
1. ☐ Notice of References Cited (PTO-892)  
2. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date  
1/29/15; 3/26/15; 5/04/15; 5/27/15; 6/12/15; 8/14/15  
3. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material  
4. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20150901 .  
5. ☒ Examiner's Amendment/Comment  
6. ☐ Examiner's Statement of Reasons for Allowance  
7. ☐ Other \_\_\_\_\_.

/ROBERT POND/ Primary Examiner, Art Unit 3684	
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Continuation of Item 1. This communication is responsive to : Amendment 5/28/15; eTD Approval 9/01/15; Examiner's Amendment #20150901 .

### **EXAMINER'S AMENDMENT**

The present application is being examined under the pre-AIA first to invent provisions.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

### ***Terminal Disclaimer***

The terminal disclaimer filed on September 1, 2015 in response to agreement reached during an examiner-initiated disclaiming the terminal portion of any patent granted on this application has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Declaration under Rule 131***

The declaration filed on September 1, 2015 under 37 CFR 1.131(a) is sufficient to overcome the Kontio reference previously applied.

### ***Authorization***

Authorization for this examiner's amendment was given in a telephone interview with Mr. Thomas G. Dickson #51,616 on August 1, 2015.

***Claims Allowed***

All pending claims 1-5, 7, 8 and 10-16 filed May 28, 2015 are allowed. Claims 18-20 were canceled as authorized by Mr. Dickson. Claims 6, 9 and 17-20 are canceled.

***In the Claims***

Delete all pending claims in their entirety and insert therefore:

- 1. A system for providing digital media files over a cellular network to a user operating a cellular phone, the system comprising:

a content server operably coupled to the cellular network and configured to store a plurality of digital media files and provide for the transmission of the digital media files over the cellular network by orthogonal frequency-division multiplex modulation to the cellular phone;

said cellular phone including a digital signal processor and a receiver configured to request the digital media file from the content server and receive the transmission of the digital media files by orthogonal frequency-division multiplex modulation; and

a monitoring server operably coupled to the content server and configured to record data about every digital media file downloaded from the content server to the cellular phone, wherein the monitoring server provides rights management data for determination of royalty payments based on the requested digital media file.



2. The system of claim 1, wherein each of the plurality of digital media files comprises at least one of a full, partial, or segment of: a song, a musical score, musical composition, other audio recording, a ringtone, a video, other visual recording, a movie, a film, an image clip, a picture, a clip, an image, a photograph, a television show, a human voice recording, a personal recording, a cartoon, an animation, an audio advertisement, a visual advertisement, or combinations thereof.
3. The system of claim 1, wherein the monitoring server is further configured to count every digital media file downloaded from the content server to the cellular phone.
4. The system of claim 1, wherein the data recorded by the monitoring server is at least one of a song title, an artist name, a purchase price, a user name, or a time of delivery.
5. The system of claim 1, wherein the monitoring server is further configured to aggregate the recorded data and transmit the aggregated data to a third-party device.
7. The system of claim 1, wherein the content server is further configured to provide an interface for the selection of one of the plurality of digital media files to be downloaded to the cellular phone.
8. The system of claim 7, wherein the digital media files are organized on the interface by at least one of: a type of media file, a title, a subject, an actor, an artist, a description of the media file, an alphabetical ordering, or a chronological ordering.

10. (Currently Amended) A method for distributing electronic content over a cellular network to a user operating a cellular phone, the method being executable by a computer system that includes server hardware and a database, the method comprising:

providing for the transmission to the cellular phone by orthogonal frequency-division multiplex (OFDM) modulation of a database of electronically accessible data files, each data file being subject to a copyright owner;

receiving, by the computer system, a selection from the cellular phone corresponding to at least one of the data files;

providing for the transmission of, by the computer system and in response to the received selection, a portion of the selected data file to the cellular phone electronic device;

receiving, by the computer system, a request for the data file for which the portion was provided to the cellular phone electronic device; and

providing for the transmitting, by the computer system, of the requested data file to the cellular phone, said cellular phone including a digital signal processor configured to receive the data file over a cellular network by orthogonal frequency-division multiplex (OFDM) modulation.

11. The method of claim 10, further comprising:

debiting, by the computer system, an account of the user corresponding to a price of the transmitted data file; and



crediting, by the computer system, an account of the copyright owner an amount associated with the price of the transmitted data file.

12. The method of claim 10, further comprising:

tracking, by the computer system, the user of the cellular phone receiving the data file to determine data about the user; and

reporting, by the computer system and to the copyright owner, the data about the user.

13. The method of claim 10, further comprising tracking, by the computer system, the user of the cellular phone receiving the data file to determine data about the user.

14. The method of claim 10, further comprising providing an interface, by the computer system, for the selection of one of the electronically-accessible data files.

15. The method of claim 14, wherein the electronically-accessible data files are organized on the interface by at least one of: a type of media file, a title, a subject, an actor, an artist, a description of the media file, an alphabetical ordering, or a chronological ordering.

16. The method of claim 14, wherein each of the electronically-accessible data files comprises an identifier associated with the copyright owner.- -

Closest US Patent/US Patent Publication Prior Art

Fritsch, US 6,247,130 previously applied. Fritsch is withdrawn for reasons stated in Applicants' arguments filed May 28, 2015. Malkamaki, US 6,385,190 IDS filed

August 28, 2014 September 2014 and considered November 28, 2014, discloses a mobile communications system which uses TDMA for speech data and OFDM for control/extended data. Malkamaki's cellular telephone is receiving OFDM transmissions from the cellular base station/ office computer using a DSP.

Malkamaki, however, fails to disclose: a) the nature of the extended data, b) receiving a request from the cellular telephone, the request identifying at least one of the plurality of digital media files stored in the office computer.

Closest Non-Patent Literature Prior Art

Vivendi, IDS filed October 31, 2014 and considered November 28, 2014.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT POND whose telephone number is (571)272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jason Dunham can be reached on 571-272-8109. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.



Art Unit: 3684

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROBERT POND/  
Primary Examiner, Art Unit 3684  
September 2, 2015