UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JED MARGOLIN,

Plaintiff

v.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Defendant.

Case No. 3:09-cv-00421-LRH-(VPC)

Appendix Volume 3

For Motion For Summary Judgment

Jed Margolin
1981 Empire Rd.
VC Highlands, NV 89521-7430
Phone: 775-847-7845
Email: jm@jmargolin.com

Dated: June 9, 2010

Appendix Volume 3 - Index

Dr. Adams,

[redacted]

(b)(5)

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
[redacted]

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Saturday, December 27, 2008 7:27 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

Please advise us as to our progress of settlement on this matter and NASA taking a license of our patented technology.

I will advise you that a lack of response or no response could be a violation of Rule 11, thus your continued delay tactics could allow us to move forward and ask the court to impose an appropriate sanction.

Dr. Adams

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Friday, October 03, 2008 5:18 AM
To: 'McNutt, Jan (HQ-MC000)'
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

Our company provided you're everything that had been requested by your counsel as all of that is legal and current, for you to say otherwise is nothing more than an attempt to delay the process and shall be brought up latter to the judge should this matter go to court.

Dr. Adams

From: McNutt, Jan (HQ-MC000) [redacted] (b)(6)
Sent: Wednesday, October 01, 2008 7:58 AM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dear Mr. Adams,

[redacted]

(b)(4) + (b)(5)

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] (b)(6)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Tuesday, September 30, 2008 1:04 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

[redacted] (b)(4)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Monday, August 25, 2008 3:48 PM
To: 'McNutt, Jan (HQ-MC000)'; '[redacted]
Subject: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Sent via U.S. Mail with tracking number

Jan S. McNutt,

Please see the attached letter; it is your response to your most recent letter.

Thank you,

Dr. Robert Adams – CEO
Optima Technology Group
[redacted] (b)(6)

[redacted]

From: Mcnutt, Jan (HQ-MC000)
Sent: Thursday, April 16, 2009 12:36 PM
To: Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MC000); Rotella, Robert F. (HQ-MC000)
Cc: Bayer, Kathy (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

[redacted] (b)(5)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Thursday, April 16, 2009 12:05 PM
To: Mcnutt, Jan (HQ-MC000)
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Jan,

As of today we are in receipt of said documents you just sent us and have never received them nor viewed them till today.

Dr. Adams

From: Mcnutt, Jan (HQ-MC000) [redacted] (b)(6)
Sent: Thursday, April 16, 2009 11:48 AM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dr. Adams,

Please refer to the attached document.

Please respond to this email that you have received the attached document.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters

[redacted] (b)(6)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Thursday, April 16, 2009 11:05 AM
To: Mcnutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

16APR09

Jan,

Can you please provide me an update as to this matter?

Dr. Adams

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Tuesday, March 10, 2009 8:11 AM
To: 'McNutt, Jan (HQ-MC000)'
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

10MAR09

Jan,

Can you please provide me an update as to this matter?

Dr. Adams

From: McNutt, Jan (HQ-MC000) [redacted] (b)(6)
Sent: Friday, February 20, 2009 2:07 PM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dr. Adams,

Thank you for your email concerning the new licensees and thank you for your patience. We are awaiting for one final communication from one of our sources that will allow us to come to a final decision and that source has indicated they are working to get us an answer by next week.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
[redacted] (b)(6)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Thursday, February 12, 2009 5:35 PM
To: McNutt, Jan (HQ-MC000)
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Jan,

We have now licensed Cobham the parent company of Chelton Flight System and expect to wrap up a license for Rockwell in the coming weeks.

Attached you will find the voicemail from Cobham's attorney that concluded a yearlong drawn out process; as I write this letter we await the signed hard copies in the mail.

We shall be filing in Federal Court against Garmin in the coming months as they are the last one who is being definite due to their bad advice from a money hungry attorney.

Can you please provide me a status as to the resolve regarding the issues between our two companies'?

With the recent new licensee's I remain optimistic that this business matter can be resolved peacefully between our two companies.

Thank you,

Robert

From: McNutt, Jan (HQ-MC000) [redacted] (b)(6)
Sent: Thursday, January 22, 2009 1:16 PM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dr. Adams,

[redacted] (b)(5)

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
[redacted] (b)(6)

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Saturday, December 27, 2008 7:27 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

Please advise us as to our progress of settlement on this matter and NASA taking a license of our patented technology.

I will advise you that a lack of response or no response could be a violation of Rule 11, thus your continued delay tactics could allow us to move forward and ask the court to impose an appropriate sanction.

Dr. Adams

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Friday, October 03, 2008 5:18 AM
To: 'McNutt, Jan (HQ-MC000)'
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

01151

Our company provided you're everything that had been requested by your counsel as all of that is legal and current, for you to say otherwise is nothing more than an attempt to delay the process and shall be brought up latter to the judge should this matter go to court.

Dr. Adams

From: McNutt, Jan (HQ-MC000) [mailto[redacted]] (b)(6)
Sent: Wednesday, October 01, 2008 7:58 AM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

[redacted] (b)(5)

[redacted]

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] (b)(6)

From: Robert Adams-OTG [mailto[redacted]] (b)(6)
Sent: Tuesday, September 30, 2008 1:04 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

[redacted] (b)(5)

[redacted]

From: Robert Adams-OTG [redacted] (b)(6)
Sent: Monday, August 25, 2008 3:48 PM
To: 'McNutt, Jan (HQ-MC000)'; [redacted]
Subject: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Sent via U.S. Mail with tracking number

Jan S. McNutt,

Please see the attached letter; it is your response to your most recent letter.

Thank you,

Dr. Robert Adams – CEO
Optima Technology Group
[redacted] (b)(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, July 31, 2008 10:56 AM
To: Borda, Gary G. (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000)
Subject: Margolin Letter

Gary,

Here is the letter to Mr. Margolin.

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted]

b (6)

01633

[redacted]

From: Borda, Gary G. (HQ-MC000)
Sent: Thursday, July 31, 2008 12:52 PM
To: McNutt, Jan (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000)
Subject: RE: Margolin Letter

Jan,
Letter was not attached.
Gary

Gary G. Borda
Agency Counsel for Intellectual Property
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, July 31, 2008 10:56 AM
To: Borda, Gary G. (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000)
Subject: Margolin Letter

Gary,

Here is the letter to Mr. Margolin.

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

01684

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, July 31, 2008 2:14 PM
To: Rotella, Robert F. (HQ-MA000)
Subject: FW: Margolin Letter

FYI

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, July 31, 2008 2:13 PM
To: Borda, Gary G. (HQ-MC000)
Subject: RE: Margolin Letter

Margolin Letter.doc

Sorry

From: Borda, Gary G. (HQ-MC000)
Sent: Thursday, July 31, 2008 12:52 PM
To: McNutt, Jan (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000)
Subject: RE: Margolin Letter

Jan,
Letter was not attached.
Gary

Gary G. Borda
Agency Counsel for Intellectual Property
Office of the General Counsel
NASA Headquarters
[redacted]

b(6)

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, July 31, 2008 10:56 AM
To: Borda, Gary G. (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000)
Subject: Margolin Letter

Gary,

Here is the letter to Mr. Margolin.

Jan S. McNutt
Attorney-Advisor (Commercial)

01685

Office of the General Counsel
NASA Headquarters

[redacted]

b(6)

01636

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Tuesday, August 05, 2008 10:33 AM
To: Bayer, Kathy (HQ-MC000)
Cc: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Subject: Margolin Patent Infringement Claim NASA Case No. I-222

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Kathy,

Please prepare the attached letter for my signature.

Margolin Letter_version2.doc

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted]

b(6)

01639

Mr. Jed Margolin
[redacted] b(6)

RE: Administrative Claim of Jed Margolin for Infringement of U.S. Patent Nos. 5,566,073 and 5,904,724; NASA Case No. I-222.

Dear Mr. Margolin,

We are in receipt of the Freedom of Information Act Request (FOIA) conveyed to us by email dated June 30, 2008 in which you request copies of all documentation relating to your administrative claim of infringement of U.S. Patent Nos. 5,566,073 and 5,904,724.

We regret the delay in processing your claim and assure you that we are now undertaking measures to provide a resolution of your claim as soon as possible. Unfortunately Mr. Alan Kennedy retired from NASA earlier this year and the action on your claim was not conveyed to management in a timely manner. In addition the local attorney responsible for review of your claim also departed from NASA. We are now cognizant of the importance of proceeding with a review of the claim and will contact you when we have reached a decision.

As to your FOIA request, as the investigation of your claim is ongoing, we kindly request that you allow us a 90 day extension to answer this request. Within that time period we should be able to obtain a better picture of our position vis-à-vis your claim and the request for documents may no longer be required.

We should inform you that we have received a separate communication from a company Optima Technology Group, claiming to have been assigned both of the patents in question. You informed me telephonically that this is the case; however, we have no record of any assignment of your patents to this firm and will need confirmation through appropriate attested documents delivered to the agency in order to recognize any claim of ownership by a party other than the inventor.

Thank you for your patience in this matter. Please contact the undersigned at [redacted] if you any additional questions or comments. b(6)

Sincerely,

Jan S. McNutt
Attorney-Advisor

01689 3
Attachment to
01689

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, August 06, 2008 9:44 AM
To: Jed Margolin
Subject: RE: NASA Case I-222
Attachments: Margolin Letter 20080805.pdf

Dear Mr. Margolin,

Please see the attached. Hard copy to follow.

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

-----Original Message-----
From: Jed Margolin [mailto:jm@jmargolin.com]
Sent: Tuesday, August 05, 2008 1:56 PM
To: McNutt, Jan (HQ-MC000)
Subject: NASA Case I-222

Dear Mr. McNutt.

I have attached the documents we discussed.

Regards,

Jed Margolin

01694

National Aeronautics and Space Administration
Headquarters
Washington, DC 20546-0001

August 5, 2008

Reply to Attn of: Office of the General Counsel

Mr. Jed Margolin
[redacted] b(6)

Re: Administrative Claim of Jed Margolin for Infringement of U.S. Patent Nos. 5,566,073 and 5,904,724; NASA Case No. I-222.

Dear Mr. Margolin,

We are in receipt of the Freedom of Information Act Request (FOIA) conveyed to us by email dated June 30, 2008 in which you request copies of all documentation relating to your administrative claim of infringement of U.S. Patent Nos. 5,566,073 and 5,904,724.

We regret the delay in processing your claim and assure you that we are now undertaking measures to provide a resolution of your claim as soon as possible. Unfortunately. Mr. Alan Kennedy retired from NASA earlier this year and the action on your claim was not conveyed to management in a timely manner. In addition the local attorney responsible for review of your claim also departed from NASA. We are now cognizant of the importance of proceeding with a review of the claim and will contact you when we have reached a decision.

As to your FOIA request, as the investigation of your claim is ongoing, we kindly request that you allow us a 90 day extension to answer this request. Within that time period we should be able to obtain a better picture of our position vis-à-vis your claim and the request for documents may no longer be required.

We should inform you that we have received a separate communication from a company Optima Technology Group, claiming to have been assigned both of the patents in question. You informed me telephonically that this is the case; however, we have no record of any assignment of your patents to this firm and will need confirmation through appropriate attested documents delivered to the agency in order to recognize any claim of ownership by a party other than the inventor.

Thank you for your patience in this matter. Please contact the undersigned at [redacted] b(6) if you have any additional questions or comments.

Sincerely,

Jan S. McNutt
Attorney-Advisor

01695

[redacted]

From: Fein, Edward K. (JSC-AL)
Sent: Wednesday, August 06, 2008 3:29 PM
To: McNutt, Jan (HQ-MC000)
Cc: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Subject: RE: Patent Infringement claim from Jed Margolin; NASA Case No. I-222

Jan ... I do vaguely recall this matter, but don't recall the outcome. I'm copying below tons of stuff I found on my computer using Google Desktop. I have not reviewed what I'm sending. There no doubt a good deal of redundancy, for which I apologize.

It looks like Langley may have taken the lead on this. Barry Gibbens at Langley appears to have worked it. Regrettably, Barry is deceased -- a very sad story for another time. But Linda Blackburn may be of some assistance.

Let me take this opportunity to welcome you to the NASA team. I look forward to meeting you in the not too distant future.

-Ed

RE: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

From: Mike Abernathy [redacted]
To: 'Delgado, Francisco J. (JSC-ER2)' [redacted], 'Fein, Edward K. (JSC-AL)' [redacted], 'Kennedy, Alan J. (HQ-MC000)' [redacted] b(6)
CC: 'Fredrickson, Steven E. (JSC-ER)' [redacted]
Date: Sep 26 2006 - 12:13pm

Thank you very much. It means very much to Carolyn and I right now.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Delgado, Francisco J. (JSC-ER2) [redacted]
Sent: Monday, September 25, 2006 9:42 PM
To: Mike Abernathy; Fein, Edward K. (JSC-AL); Kennedy, Alan J. (HQ-MC000); [redacted] b(6)
Cc: Delgado, Francisco J. (JSC-ER2); Fredrickson, Steven E. (JSC-ER)
Subject: FW: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

See email from "Mr. Adams" below.

This is getting more ridiculous by the minute. I have resisted replying in any form as suggested by JSC council. However, this matter has been left open for quite some time and something needs to be done NOW. It has come to my attention that Mr. Adams and company have issued a letter that prohibits RIS from selling any of their software until this issue is resolved. We have had a very "intellectually" fruitful relationship with RIS for almost a decade and would like to

continue this relationship for many years to come. Some of the technology concepts in question were co-developed by RIS and I during many "brainstorming sessions" on how to provide optimal situation awareness to various users.

The folks pressing forward with this claim do not have solid ground to stand on (IMHO). Based on the previous research performed, I do not see how their patent claims are valid and I would like to request that NASA's council take this matter seriously and get the patents invalidated (as it should have been done when this first showed up a couple of years ago). This is not only the right legal thing to do, but also the right moral thing to do. If we allow an individual to continue to harass small companies and stand-by with little/no action, then we are no better than the company doing the harassing. As a government organization, we need to keep the public faith and trust and again, "do the right thing." I realize that patience is important in legal matter, but believe that the time for sitting idle and hoping that this matter goes away is way past due and that something needs to be done ASAP. Putting companies that NASA relies on to help move technology forward out of business with a barrage of unwarranted litigation does not seem like it is in NASA's (or our taxpayers) best interest.

Please let me know what I need to do on my end to help move this along.

BTW: If we do not deal with issue immediately it will only get worse for NASA. I know of several Projects within JSC, JPL, and Langley that use independently developed technology (i.e. technology that does not use what RIS and I came up with) that I am sure Mr. Adams and company would claim infringes on their "Patents." We seem to be on his radar at the moment because we do what government organizations are encouraged to do ("Publish their work").

Thank You,

Frank Delgado

From: Robert Adams [redacted] b(6)
Sent: Mon 9/25/2006 5:58 PM
To: Delgado, Francisco J. (JSC-ER2)
Subject: RE: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

Sir,

Since you have clearly refused to cooperate, please provide us your department's heads information and said contact information including a contact in your IP litigation department. We are aware that you received your read receipt of our email sent to you regarding:

Let us chat on about SCOUT, SC3D, the X-38 program, and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We simple have one goal in mind and that is have a chat regarding the technology and that RIS and NASA take a license of said IP technology.

Thank you

From: Delgado, Francisco J. (JSC-ER2) [redacted] b(6)

Sent: Tuesday, September 19, 2006 7:30 AM
Subject: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

Your message

To: Delgado, Francisco J. (JSC-ER2)

Cc:

Subject: Let us chat on about SCOUT, SC3D, the X-38 program and RIS;

noted below are our patents that cover said technology that RIS and your

groups are using.

Sent: Tue, 19 Sep 2006 08:52:25 -0500

was read on Tue, 19 Sep 2006 09:30:05 -0500

~~~

RE: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

From: Fein, Edward K. (JSC-AL) [redacted]
To: Delgado, Francisco J. (JSC-ER2) [redacted], Kennedy, Alan J. (HQ-MC000) [redacted] b(6)
Date: Sep 26 2006 - 10:58am

Frank ... I've talked with Alan, and he said he'd respond, and give you a call.

-Ed

~~~

RE: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

From: Mike Abernathy [redacted]
To: 'Delgado, Francisco J. (JSC-ER2)' [redacted], 'Fein, Edward K. (JSC-AL)' [redacted] 'Kennedy, Alan J. (HQ-MC000)' [redacted] b(6)
CC: 'Fredrickson, Steven E. (JSC-ER)' [redacted]
Date: Sep 26 2006 - 12:13pm

Thank you very much. It means very much to Carolyn and I right now.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Delgado, Francisco J. (JSC-ER2) [redacted]
Sent: Monday, September 25, 2006 9:42 PM
To: Mike Abernathy; Fein, Edward K. (JSC-AL); Kennedy, Alan J. (HQ-MC000) [redacted]
Cc: Delgado, Francisco J. (JSC-ER2); Fredrickson, Steven E. (JSC-ER)
Subject: FW: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

b(6)

See email from "Mr. Adams" below.

This is getting more ridiculous by the minute. I have resisted replying in any form as suggested by JSC council. However, this matter has been left open for quite some time and something needs to be done NOW. It has come to my attention that Mr. Adams and company have issued a letter that prohibits RIS from selling any of their software until this issue is resolved. We have had a very "intellectually" fruitful relationship with RIS for almost a decade and would like to continue this relationship for many years to come. Some of the technology concepts in question were co-developed by RIS and I during many "brainstorming sessions" on how to provide optimal situation awareness to various users.

The folks pressing forward with this claim do not have solid ground to stand on (IMHO). Based on the previous research performed, I do not see how their patent claims are valid and I would like to request that NASA's council take this matter seriously and get the patents invalidated (as it should have been done when this first showed up a couple of years ago). This is not only the right legal thing to do, but also the right moral thing to do. If we allow an individual to continue to harass small companies and stand-by with little/no action, then we are no better than the company doing the harassing. As a government organization, we need to keep the public faith and trust and again, "do the right thing." I realize that patience is important in legal matter, but believe that the time for sitting idle and hoping that this matter goes away is way past due and that something needs to be done ASAP. Putting companies that NASA relies on to help move technology forward out of business with a barrage of unwarranted litigation does not seem like it is in NASA's (or our taxpayers) best interest.

Please let me know what I need to do on my end to help move this along.

BTW: If we do not deal with issue immediately it will only get worse for NASA. I know of several Projects within JSC, JPL, and Langley that use independently developed technology (i.e. technology that does not use what RIS and I came up with) that I am sure Mr. Adams and company would claim infringes on their "Patents." We seem to be on his radar at the moment because we do what government organizations are encouraged to do ("Publish their work").

Thank You,

Frank Delgado

From: Robert Adams [redacted]
Sent: Mon 9/25/2006 5:58 PM
To: Delgado, Francisco J. (JSC-ER2)
Subject: RE: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

b(6)

Sir,

Since you have clearly refused to cooperate, please provide us your department's heads information and said contact information including a contact in your IP litigation department. We are aware that you received your read receipt of our email sent to you regarding:

Let us chat on about SCOUT, SC3D, the X-38 program, and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We simple have one goal in mind and that is have a chat regarding the technology and that RIS and NASA take a license of said IP technology.

Thank you

From: Delgado, Francisco J. (JSC-ER2) [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:30 AM
Subject: Read: Let us chat on about SCOUT, SC3D, the X-38 program and RIS; noted below are our patents that cover said technology that RIS and your groups are using.

Your message

To: Delgado, Francisco J. (JSC-ER2)

Cc:

Subject: Let us chat on about SCOUT, SC3D, the X-38 program and RIS;

noted below are our patents that cover said technology that RIS and your

groups are using.

Sent: Tue, 19 Sep 2006 08:52:25 -0500

was read on Tue, 19 Sep 2006 09:30:05 -0500

~~~

FW: and the very last communication of the day

From: Fein, Edward K. (JSC-AL) [redacted]
To: Kennedy, Alan J. (HQ-MC000)
CC: Borda, Gary G. (HQ-MC000)
Date: Sep 26 2006 - 8:11am b(6)

PSISDG_3691_1_149_1.pdf - 4.7MB - View in Outlook

fyi ...

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 8:18 PM
To: Delgado, Francisco J. (JSC-ER2); Fein, Edward K. (JSC-AL)
Subject: FW: and the very last communication of the day
~~~

Mike Abernathy

Rapid Imaging Software, Inc.

From: Mike Abernathy [redacted]
Sent: Monday, September 25, 2006 6:25 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA); DELGADO FRANCISCO J. (FRANK) [redacted]
Kennedy, Alan J. (HQ-MC000); [redacted] 'Moore, Thomas, Mr, OSD-ATL';
'Davey, Jon (Bingaman)'
Subject: and the very last communication of the day

b(6)

Hi All,

Let me summarize what I think has just happened to our company.

In late 1995 we introduce our LandForm synthetic vision system to the market as COTS software product.

In 1997/8 we sell this to NASA and together we are the first people on earth to create a synthetic vision flight guidance system for a remotely piloted vehicle. Starting in 1998 the X38 is captive carried and test flown using this system. We documented our success in the attached document written in 1998 and published in early 1999. It was my privilege to be at Edwards when it happened, and is the highlight of my career until the program is cancelled in 2002.

We go on and demonstrate that our software can be used as pilot aid to other UAVs including Predator, Shadow, Tern, and many more. We receive no interest in this application, but instead they use it for sensor operator stations. It is a commercial success and people say good things about it. It is sold to mostly to a commercial UAV manufacturer named AAI Corporation. Many tests are done and the military guys all like it.

In 1999 the patent office issues a patent to a former Atari employee named Margolin for a Synthetic Environment for Remotely Piloted Vehicle. He had evidently applied for it in 1996. Shortly thereafter he begins to complain to NASA that they and RIS infringed upon his patent presumably by flying a system 2 years before he received his patent. Is this a joke?

In 7 years he never so much as asked RIS about using his technology. Margolin as best I can tell never built this system and never test flew it. Can't say as I blame him because his system looks to me like a crater looking for an address. It cannot be safely operated in the form patented (no autopilot). No one is even stupid enough to build it this way, not even him.

01701

Sometime after that, I am alerted to the patent. I read it, but since there are major differences in the way X-38 worked with our software, I felt strongly that we had not infringed. I provide this information, plus evidence of prior art to NASA legal counsel. I am troubled because really I can't see how his system could fly because it would fail during link loss. Margolin also had a patent on synthetic vision for manned aircraft (if you can imagine) and we found copious prior art for that. I am also troubled because I never hear that the request for reexamination has been sent in by NASA.

Last week I received an email from Optima technology group threatening (thinly veiled) to destroy our relationships with our customers and sue us if we don't license their technologies. We explain that we do not sell software for use in piloting unmanned aerial vehicles any more owing to insurance which is true. We had demonstrated this in the past, but there really is not much market that we could see. We also explained that we had not infringed and why we thought we had been respectful of their patent, but they just tried to make it look like we infringed. But we did not.

They know we cannot withstand the onslaught of their lawsuits, even though we are clearly and obviously not guilty of infringement. They think that we will have to fold and accept their license, but we cannot do this because they are legal blackmailers, and because they are selling defective technology. If we give in, then they will just destroy some other little companies they way they did ours. And we cannot let anyone pay them off for us, because that just gives them funds to go destroy another company. For many years our company has tried to provide an innovative product with an excellent value and never compromise our integrity. I cannot let this nonsense bring that to an end by pretending that we are licensing technology when what they are selling is a fraud.

When I asked politely if their system has ever been tested Mr. Adams simply tells us to go get a lawyer, he is referring the matter for filing. I felt that it was not unreasonable to ask to know this but it really made him furious. Anyway I told him to tell it to our lawyer Mr. Ben Allison of Sutinfirm with whom I shall meet tomorrow. Tonight they said that they will issue a cease and desist order, which I believe means that we will be unable to sell our software anymore which will destroy our income stream and that will be it. I can't waste anymore time on this now. It is time for me to get back to work on things that matter for our users.

I have a docs appointment tomorrow at 8-10 local time. I had throat surgery recently so I really can't talk and frankly I find I tend to break into tears very frequently when I try to do so. But I want you all to know that I will stand firm until it is over. What would the soldiers who have used our software in combat think of me if I gave ground? Then bring it on.

I know it sounds bad for us right now, but remember that whatever happens to us no one can take away the honor and the privilege of working with NASA, the OSD, and all the other completely excellent people with whom we have worked.

Mike Abernathy

Rapid Imaging Software, Inc.

Attached are the other communications from them.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 3:51 PM
To: 'Mike Abernathy'
Subject: RE: license

Mike,

Let me try and be clear, all such development at OTG on behalf and or/or by our licensee is covered by NDA's and thus our company can be sued should we violate such agreements. As to your company's infringement of our patents, since that was clearly not covered by a NDA with us; please provide said information in detail:

Other then those items listed at your website and NASA's, what other projects did you do that infringed on our invention? If so when, where, and how?
Who at NASA flight-tested your product that used our invention? Please provide us with the name of the Pilot in Command, the responsible Flight Test Engineer, the model and block number of the vehicle and GCS, and the range or location at which such testing might have taken place with NASA and others. Also, indicate the dates of such testing. If flight test reports are available, as well please provide them to us.

Mike, I have no time to play games with someone who clearly infringes and thinks nothing of respecting our IP.

I will forward said matter to our legal department for further research and filing in accordance with the Federal laws. Please have your legal IP counsel contact our attorneys.

Robert Adams

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 2:26 PM
To: 'Robert Adams'
Subject: RE: license

Robert,

You have offered to license your technology to our company. You have stated that this technology is useful for "see and avoid applications" for UAVs which is an interesting market arena. We are making a good faith effort to consider your offer. We must know whether this technology has been brought into existence and whether it was ever test flown as a matter of due diligence.

We are not asking these questions out of idle curiosity and we certainly not trying to be difficult – we need this information in order to know the market value of the technology to our users, and there are certain elements of the method that we have concerns about. A flight test report – even if the system was implemented on a model airplane – will almost certainly allay our concerns and we can get on with this. The fact of whether or not this technology has been tested does not require an NDA.

Robert, throughout our dealings I have been honest and responsive to all of your requests, perhaps at peril to our company. I now ask you to please reciprocate my efforts in a small way and provide the requested information so that we may consider your offer of license.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 2:49 PM
To: 'Mike Abernathy'
Subject: RE: license

Mike,

Neither the company nor I are in any way anxious in signing any more licensees's as we have many already, but as you know we must protect our patents in order to preserve said Intellectual Property.

As to your questions, they do not relate to a license and/or a licensee. Our Intellectual Property has been tested in court and is proven solid by far such standards the Federal Court including the Federal Appeals Court. In addition, as to matters of disclosure, all such development at OTG and by our licensee is covered by NDA's.

Should you wish to challenge such, then I advise you to seek proper legal counseling as we are not an attorney nor will ours advice you on such a matters.

Your company has clearly infringed and OTG must protect itself against such matters just as your company would do if in the same position.

Robert Adams

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 1:29 PM
To: 'Robert Adams'
Subject: license

Dear Robert,

Please tell the legal team thanks for getting back to us right away – we appreciate it.

You have asked us to consider licensing and this we are now doing. In the interest of due diligence as a prospective licensor of your technology, we ask that you provide us with the following information about the subject invention:

Was this invention ever constructed? If so when, where, and how?
Was this invention ever flight tested? Please provide us with the name of the Pilot in Command, the responsible Flight Test Engineer, the model and block number of the vehicle and GCS, and the range or location at which such testing might have taken place. Also, indicate the dates of such testing. If flight test reports are available please provide them to us, as well.

I know that you are anxious for us to consider your license offer, please provide us with this information.

Mike Abernathy

Rapid Imaging Software, Inc.

~~~~

latest from Optima

From: Mike Abernathy [redacted]
To: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted], Kennedy, Alan J. (HQ-MC000) [redacted] b(6)
Date: Sep 25 2006 - 3:08pm

image002.gif - 6.9k - View in Outlook

Ed,

This has not blown over. We would rather lose our company than see NASA hurt by this. Ed, it appears that RIS situation is hopeless. They know that we did not infringe, yet they continue because they know that we lack the funds to fight them. Our situation appears hopeless but we cannot accept a license for technology that we know is dangerous to the public, so I cannot accept this deal that they have offered.

Let us know what you think as soon as possible.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6) 01705
~~~~

Sent: Monday, September 25, 2006 12:26 PM
To: 'Mike Abernathy'
Subject: Privileged and Confidential Settlement Communications Protected Under Rule 408 of the Federal Rules of Evidence

Privileged and Confidential Settlement Communications Protected

Under Rule 408 of the Federal Rules of Evidence

Mike,

My legal team has read your response and it is a personal shame since you would rather cut and run verse facing the facts and take a license for past and future business, as I am sure it would be substantially less then litigation.

As you have been made aware in our prior communications, among other inventions, the Patents protect a number of features that are implemented in products capable of flying any and all UAV's (1.3) remotely and/or using Synthetic Vision and/or using a synthetic environment.

1.1 "Patent Portfolio" shall mean the portfolio consisting of United States Patent Numbers 5,904,724 (Method and Apparatus for Remotely Piloting an Aircraft), 5,566,073 (Pilot Aid Using a Synthetic Environment), and those future United States patents that may be added in accordance with the covenants and warranties.

1.2 "RPV" shall mean "remotely piloted vehicle." A "remotely piloted aircraft" is an RPV. "UAV" shall mean "unmanned aerial vehicle." RPV is an older term for UAV. "UCAV" shall mean "Unmanned Combat Aerial Vehicle." UCAV is also sometimes defined as an "Uninhabited Combat Aerial Vehicle." UCAV is a UAV that is intended for use in combat. UCAS means "Unmanned Combat Air System."

1.3 "Synthetic Vision" is the current term for "Synthetic Environment" and is the three dimensional projected image data presented to the pilot or other observer.

Of the ten companies responsible for the establishment of UAV Specifications or standard, eight of those companies sell UAV-Devices under brands they control, and each of those companies, i.e., Boeing Aerospace; Lockheed; Nakamichi Corporation; General Atomics Corporation; L-3 and Jacor Corporation; Raytheon; and Geneva Aerospace, pay Optima running royalties for the above referenced patents.

The substantial terms and conditions of our licensing Agreement: i) resulted from negotiations with the market leading manufacturers of UAV's; ii) are subject to most favored nation clauses; and iii) are, therefore, not negotiable.

The Agreement i) is exceedingly fair; ii) does not obligate Infringer to anything more than an industry accepted reasonable royalty for the Patents; iii) does not obligate Infringer to anything more than an industry accepted reasonable terms; and iv) may be canceled by Infringer at any time.

Mike, there is no reason to permit Infringer (Your company) to further drag on the execution of said Agreement based on the facts present on the infringement matter.

Infringer must appreciate that the Patents cover a range of different inventions required to implement the UAV using Synthetic Vision Specifications; and there exists pending divisions of the Patents having claims that are read on by implementation of the UAV Specifications. Infringer principal competitors have appreciated the exceptional litigation strength and flexibility of my patent portfolio and have decided to accept a license rather than expose themselves to an injunction.

Infringer must appreciate that if litigation between the parties is initiated: i) the matter will immediately become personal for both parties; ii) I do not have to account to any other person; and iii) no license or settlement of any kind will ever be possible under any of my intellectual properties. Infringer's competitors require that Infringer be either licensed or enjoined.

I have resolved myself to this course of action in the event an agreement reached shortly, I firmly believe that enjoining Infringer from selling UAV-Devices will not result in lost royalties; and it is in Optima's long-term interests to make an example of a company that has refused to take a license.

Anyone who is fully knowledgeable of the strength and scope of my patent portfolio, and who appreciates the risk-taking and tenacity that I have demonstrated, would not, in light of the terms being offered, recommend jeopardizing the UAV business Infringer enjoys in the U.S.

1.

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them, we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

RIS own admission they knew about '724 will go to show that their infringement was willful, which means treble damages Robert. (They probably found out about it when NASA interviewed Jed about their X-38 project.) We will find out at trail and/or during the discover phase.

From their web site: http://www.landform.com/

SmartCam3D provides unparalleled situation awareness for UAS sensor operators. It fuses video with synthetic vision to create the most powerful situation awareness technology currently available. SmartCam3D is an augmented reality system that has been developed, flight tested, and deployed in the most demanding conditions including combat, and as a result it is highly evolved technology which is in use today around the world. The reason that SmartCam3D is so popular is simple: it makes sensor operators more effective, and reduces the target response time. SmartCam3D is deployed with US Army Shadow UAV, and is at present being integrated to the USAF Predator, as well as the Army Warrior UAS. SmartCam3D is the war fighter's choice for sensor operator situational awareness.

Improving a patented invention by adding something to it (in this case fusing video with synthetic vision) is still

infringement. Indeed, you may be able to patent the improvement. However, you may not practice the improved inventior without the permission of the original patent holder. (It also means that the holder of the original patent may not practice your improvement without your permission.)

Since they publicly admit SmartCam3D is being used with US Army Shadow, USAF Predator, and Army Warrior his statement "no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations" i obviously false.

Also from their web site:

Software License Changes

RIS, Inc. changed insurance carriers, and effective September 1st, 2006 we updated our Software User License agreement. It now states that "The user is prohibited from using this software to pilot manned or unmanned aircraft." Our licenses have always prohibited use of our software for piloting manned aircraft. As you know, we had hoped that we would find a market for our UAV Glass Cockpit Product line. However, there is simply not sufficient market interest for us to bring such a product to market at this time, so we have decided not to release it. As a small company, we need to focus on our energy on the Sensor Operator and Intelligence Analyst at this time.

He is saying that his product should not be used for the very purpose it being advertised, sold, and used for. Lame. And it doesn't get him off the hook as he is still legally liable.

Since it did not state this until September 1, 2006, he has started to take this seriously, and he is clearly worried thus, he changed the terms to try to reduce the liability. I will have our team use wayback site and pull up the old Software User License agreement prior to Sept 1, 2006 this is when I bet they made all their sales and that is what OTG would be entitled too as well.

Here is a short lesson on infringement for Mike.

From: : http://inventors.about.com/library/bl/toc/bl_patent-infringement.htm

Text Box: Infringement can be direct, indirect, or contributory. Anyone who makes, uses, or sells the patented invention is a direct infringer. If a person actively encourages another to make, use, or sell the invention, the person so inducing is liable for indirect infringement. Contributory infringement can be committed by knowingly selling or supplying an item for which the only use is in connection with a patented invention. Good faith or ignorance is no defense for direct infringement, but it can be for indirect or contributory infringement. The remedies for infringement consist of: 1. Injunctive relief,
2. damages (including treble damages for willful infringement),
3. attorneys' fees in some cases, and
4. court costs.

2.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

The clause he is referring to is:

a set of one or more remote flight controls coupled to said computer for inputting said flight control information, wherein said computer is also for determining a delay time for communicating said flight data between said computer and said remotely piloted aircraft, and wherein said computer adjusts the sensitivity of said set of one or more remote flight controls based on said delay time.

Time delays in a control system are unavoidable. Normally, a control system has fixed time delays and the system is designed to operate properly with these time delays. Because of the complexity of a UAV system these time delays may

not be known at the time the system (including the control laws) are designed. These time delays may also change during a mission due to the communications path changing. If the system does not properly deal with these changing time delays it will lead to pilot-induced oscillation and there is a good chance the aircraft will crash.

Anyone designing a UAS that does not adjust for changing time delays is an idiot. I don't think the people making UAVs are idiots. That does not relieve him of contributory infringement. It is likely that these time delays are dealt with as part of the control law system which Abernathy might not be privy to and thus a court order will provide us his insider info.

3.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

The fact that '724 does not explicitly teach an autopilot is irrelevant. Adding an autopilot to '724 is still infringement, just as adding a video overlay is infringement.

There is also the matter of the Doctrine of Equivalence. See attached file patents1.pdf

Consider Column 2, lines 12-18:

The computers in the system allow for several modes of operation. For example, the remote aircraft can be instructed to fly to given coordinates without further input from the remote pilot. It also makes it possible to provide computer assistance to the remote pilot. In this mode, the remote flight control controls absolute pitch and roll angles instead pitch and roll rates which is the normal mode for aircraft.

That legal sounds like a defined autopilot to me and that as we need to show infringement at the Markman hearing..

4.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

Again, adding something to '724 is still infringement.

As far as examining the control systems on NASA's X-38 project is concerned, in a telephone conversation with NASA's Alan Kennedy in the Office of the General Counsel on February 9, 2006, he repeated his claim that, "The X-38 does fly." NASA has a video of the X-38 (flying) on its web site. (See http://www.dfrc.nasa.gov/Gallery/Movie/X-38/HTML/EM-0038-

01.html)

5.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

We still have him on infringing on '724.

6.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 9:08 AM
To: 'Robert Adams'
Subject: question

Robert,

Thanks for your offer to call but I am still getting over throat surgery from 2 weeks ago so my phone is forwarded, but I look forward to email from you and/or your attorneys.

In trying to understand the value of your IP I would like to ask 2 questions regarding USP 5,904,724. Was this system ever built? Was it ever flight tested? Of course you need not answer, but it really would be helpful in understanding what is required to get your technology to market.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 8:55 AM
To: 'Mike Abernathy'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Mike,

Thanks for your email, I will forward it today over to my patent and review legal team. Once they complete a review of your comments, I will give you a ring on the phone and a response via the post and/or attorneys.

Respectfully,

Robert Adams

From: Mike Abernathy [redacted] b(6)
Sent: Sunday, September 24, 2006 4:29 PM
To: 'Robert Adams'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Dear Mr. Adams,

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would

be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

Sent via US MAIL, FAX & EMAIL

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-

CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c"[redacted] to arrange a proper license of said intellectual property. You have 15 days to do so.

b(6)

Sincerely,

Robert Adams, CEO

Optima Technology Group

RA/cp

-enclosure links-

~~~

FW: question

From: Mike Abernathy [redacted]
To: DELGADO FRANCISCO J. (FRANK) [redacted], 'Fein, Edward K. (JSC-AL)' [redacted] 'Kennedy, Alan J. (HQ-MC000)' [redacted]
Date: Sep 25 2006 - 11:44am

b(6)

One more FYI.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Mike Abernathy [redacted]
Sent: Monday, September 25, 2006 10:08 AM
To: 'Robert Adams'
Subject: question

b(6)

Robert,

Thanks for your offer to call but I am still getting over throat surgery from 2 weeks ago so my phone is forwarded, but I look forward to email from you and/or your attorneys.

In trying to understand the value of your IP I would like to ask 2 questions regarding USP 5,904,724. Was this system ever built? Was it ever flight tested? Of course you need not answer, but it really would be helpful in understanding what
~~~

is required to get your technology to market.

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 8:55 AM
To: 'Mike Abernathy'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Mike,

Thanks for your email, I will forward it today over to my patent and review legal team. Once they complete a review of your comments, I will give you a ring on the phone and a response via the post and/or attorneys.

Respectfully,

Robert Adams

From: Mike Abernathy [redacted] b(6)
Sent: Sunday, September 24, 2006 4:29 PM
To: 'Robert Adams'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Dear Mr. Adams,

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an

entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc: [redacted]
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

Sent via US MAIL, FAX & EMAIL

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c"[redacted]) to arrange a proper license of said intellectual property. You have 15 days to do so.

b(6)

Sincerely,

Robert Adams, CEO

Optima Technology Group

RA/cp

-enclosure links-

~~~

RE: Rapid Imaging Software, Inc. patent infringement

From: Fein, Edward K. (JSC-AL) [redacted]
To: Mike Abernathy [redacted], DELGADO FRANCISCO J. (FRANK) [redacted]
CC: Kennedy, Alan J. (HQ-MC000) [redacted]
Date: Sep 25 2006 - 10:38am

b(6)

Thanks, Mike.

-Ed

01718
~~~

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 10:32 AM
To: Fein, Edward K. (JSC-AL); DELGADO FRANCISCO J. (FRANK)
Cc: Kennedy, Alan J. (HQ-MC000)
Subject: FW: Rapid Imaging Software, Inc. patent infringement

FYI

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 8:55 AM
To: 'Mike Abernathy'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Mike,

Thanks for your email, I will forward it today over to my patent and review legal team. Once they complete a review of your comments, I will give you a ring on the phone and a response via the post and/or attorneys.

Respectfully,

Robert Adams

From: Mike Abernathy [redacted] b(6)
Sent: Sunday, September 24, 2006 4:29 PM
To: 'Robert Adams'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Dear Mr. Adams,

01719

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

01720

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc:
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

01721

Sent via US MAIL, FAX & EMAIL

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c"[redacted] to arrange a proper license of said intellectual property. You have 15 days to do so.

b(6)

Sincerely,

Robert Adams, CEO

Optima Technology Group

RA/cp

-enclosure links-

~~~

✉ **RE: Rapid Imaging Software, Inc. patent infringement**

01728
~~~

From: Fein, Edward K. (JSC-AL) [redacted]
To: Mike Abernathy [redacted], DELGADO FRANCISCO J. (FRANK) [redacted] b(6)
CC: Kennedy, Alan J. (HQ-MC000) [redacted]
Date: Sep 25 2006 - 10:38am

Thanks, Mike.

-Ed

From: Mike Abernathy [redacted] b(6)
Sent: Monday, September 25, 2006 10:32 AM
To: Fein, Edward K. (JSC-AL); DELGADO FRANCISCO J. (FRANK)
Cc: Kennedy, Alan J. (HQ-MC000)
Subject: FW: Rapid Imaging Software, Inc. patent infringement

FYI

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Monday, September 25, 2006 8:55 AM
To: 'Mike Abernathy'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Mike,

Thanks for your email, I will forward it today over to my patent and review legal team. Once they complete a review of your comments, I will give you a ring on the phone and a response via the post and/or attorneys.

Respectfully,

Robert Adams

01723

From: Mike Abernathy [redacted] b(6)
Sent: Sunday, September 24, 2006 4:29 PM
To: 'Robert Adams'
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Dear Mr. Adams,

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more

differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc:
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

Sent via US MAIL, FAX & EMAIL

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c[redacted] to arrange a proper license of said intellectual property. You have 15 days to do so.

b(6)

Sincerely,

Robert Adams, CEO

Optima Technology Group

01726

RA/cp

-enclosure links-

~~~

RE: Rapid Imaging Software, Inc. patent infringement

From: Fein, Edward K. (JSC-AL) [redacted]
To: Mike Abernathy [redacted], Delgado, Francisco J. (JSC-ER2) [redacted], Kennedy, Alan J. (HQ-MC000) [redacted] b(6)
Date: Sep 25 2006 - 9:59am

Thanks, Mike!

~~~

RE: Rapid Imaging Software, Inc. patent infringement

From: Fein, Edward K. (JSC-AL) [redacted]
To: Delgado, Francisco J. (JSC-ER2) [redacted] Mike Abernathy [redacted] Kennedy, Alan [redacted] b(6)
Date: Sep 25 2006 - 8:55am

I'm including Alan Kennedy, the attorney at NASA Headquarters who handles patent infringement for the agency, on this response. I believe your (Mike's) response to Optima is quite thorough and could very well diffuse this issue. I'm not sure a telecon at this time is warranted. I suggest we wait to see Optima's response.

Alan, do you have any additional thoughts?

-Ed

Edward K. Fein
Deputy Chief Counsel/
Intellectual Property Counsel
NASA Johnson Space Center
[redacted]

b(6)

01727

From: Delgado, Francisco J. (JSC-ER2)
Sent: Monday, September 25, 2006 1:12 AM
To: Mike Abernathy; Fein, Edward K. (JSC-AL)
Subject: RE: Rapid Imaging Software, Inc. patent infringement

Please work with Mr. Fein on a time to call. I can 'sneak' away from any activity tomorrow to join a conference call.

thanks,

Frank

---

b(6)

From: Mike Abernathy [redacted]
Sent: Sun 9/24/2006 6:38 PM
To: Fein, Edward K. (JSC-AL); Delgado, Francisco J. (JSC-ER2)
Subject: Rapid Imaging Software, Inc. patent infringement

Gentlemen,

I strongly believe that these two patents are defective, but more important I feel strongly that NASA and RIS did not infringe either one of them, in spite of these accusations.

I would like to ask for your help urgently since these people are threatening to sue us and since they have falsely accused us of infringement.

I therefore would like to ask both of you to read my letter attached below which has been sent to Mr. Adams, to make sure that I am stating things properly. Would it be possible for me to call you tomorrow on the phone?

Mike Abernathy

Rapid Imaging Software, Inc.

---

b(6)

From: Mike Abernathy [redacted]
Sent: Sunday, September 24, 2006 5:29 PM
To: 'Robert Adams'
Subject: RE: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

01728

Dear Mr. Adams,

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed

5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc: [redacted]
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

01730

[redacted] b(6)

[redacted] b (6)

Sent via US MAIL, FAX & EMAIL

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c"[redacted] arrange a proper license of said intellectual property. You have 15 days to do so.

Sincerely, b(6)

Robert Adams, CEO

Optima Technology Group

RA/cp

-enclosure links-

~~~

01731
~~~

RE: Rapid Imaging Software, Inc. patent infringement

From: Delgado, Francisco J. (JSC-ER2) [redacted] b(6)
To: Mike Abernathy [redacted], Fein, Edward K. (JSC-AL) [redacted]
Date: Sep 25 2006 - 1:13am

Please work with Mr. Fein on a time to call. I can 'sneak' away from any activity tomorrow to join a conference call.

thanks,

Frank

From: Mike Abernathy [redacted] b(6)
Sent: Sun 9/24/2006 6:38 PM
To: Fein, Edward K. (JSC-AL); Delgado, Francisco J. (JSC-ER2)
Subject: Rapid Imaging Software, Inc. patent infringement

Gentlemen,

I strongly believe that these two patents are defective, but more important I feel strongly that NASA and RIS did not infringe either one of them, in spite of these accusations.

I would like to ask for your help urgently since these people are threatening to sue us and since they have falsely accused us of infringement.

I therefore would like to ask both of you to read my letter attached below which has been sent to Mr. Adams, to make sure that I am stating things properly. Would it be possible for me to call you tomorrow on the phone?

Mike Abernathy

Rapid Imaging Software, Inc.

From: Mike Abernathy [redacted] b(6)
Sent: Sunday, September 24, 2006 5:29 PM
To: 'Robert Adams'
Subject: RE: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

Dear Mr. Adams,

I have just returned from business travel, and have not had a chance to look over your communications in detail. Thank you very much for bringing your concerns to our attention. Let me assure you that we will do everything in our power, now

and in the future, to avoid infringement of these or any patents. We have already begun another careful analysis of them and will act swiftly upon what we learn, should any problems be found. We have been aware of these patents for some years and have not ever infringed upon them, and will not do so. When we first learned of them we carefully examined our activities and those of our customers to make sure there was no possible infringement of them. As soon as we learned of it, we also informed the legal departs of our major customers to alert them to the existence of USP 5,904,724, but so far no UAV manufacturers have been seriously interested in offering synthetic vision for their UAV pilot stations.

We discovered that the system described the in patent pertaining to remotely piloted vehicles USP 5,904,724 contains an entire clause in claim 1 that did not exist in the X38 or other UAVs that we have seen – this is the final paragraph of clause 1 regarding the method for handling delay in the control loop by "adjusting control sensitivity". This simply is not present in any form in any vehicles with which we have experience. Since all claims of this patent include this clause by reference, that patent is not relevant to these vehicles because none of them have this feature.

More important however, is that all UAV control systems with which we are familiar require a device called an autopilot which is not contemplated at all in the subject patent. This device is similar to ones in modern manned aircraft, but it is used to control the aircraft flight in the pitch, heading, and roll axes. On UAVs, the communications delay is not handled by determining the delay and adjusting the control sensitivity as Margolin prescribes. Instead, an autopilot is installed onboard the aircraft where it senses changes in pitch, heading, and roll locally on board the aircraft. The pilot still makes control inputs to fly the airplane, but only via the autopilot on board the aircraft. The autopilot corrects attitude drift instantaneously avoiding the problem of substantial communication delays, and allows the pilot to control the vehicle in a more stable manner.

Most important, the autopilot is absolutely required to deal with the frequent communications outages which occur between the UAV and the ground control segment (This can be anywhere from a second to an hour in length, generally). In the system of Margolin, a communications outage would often result in the loss of the aircraft, because the pilot would be unable to correct attitude drift during communication link loss and the air vehicle would go out of control and could crash. In the last decade of working with UAVs never have I witnessed a flight in which the communication link was not lost at least once during the flight. If the control communication link goes down, no control inputs can be made to the aircraft from the pilot on the ground, but the autopilot keeps the airplane from crashing by flying straight and level or gently banking until the link is restored. The system of Margolin does not recognize the problem of link loss, and fails to offer any solution. The autopilot functionality can be located in various components in the X38 it was in the on board GNC (Guidance Navigation and Control) computer, as I recollect.

There is another on-board component called a SAS or Stability Augmentation System found on most large modern UAVs such as Predator, and which performs additional real-time stabilization to that done by the autopilot. Again, the SAS is not contemplated by the Margolin patent, yet is required to dampen control system oscillations in order to safely operate a UAV in systems that may suffer from communications delays to remote user control inputs. There are many more differences that we found when we first examined it, but as you can see we have never worked with a vehicle upon which your system could have been implemented and safely flown, and therefore we realized that it is impossible for us to have infringed this patent 5,904,724. You may easily independently verify the fact of these profound and fundamental differences from your system by examining the printed published materials regarding UAV control system and NASAs many publications on X-38 control systems.

We have never allowed our software to be used as an aid in piloting manned aircraft and thus cannot have infringed 5,566,073. If you aware of anyone doing this with our software, kindly inform us immediately, and we will ask them to desist.

Finally, let me set your mind at ease by informing you that our software product license currently explicitly contains the following clause: "The user is prohibited from using this software to pilot manned or unmanned aircraft." Alas, the

requirements of our current company insurance policy, combined with the profound lack of a market for this possible application of our technology facilitated this business decision. Your letter said we recognize the "value" of this technology, but in view of the current situation "lack of value" is probably more appropriate.

We will get back to you just as soon as we have had a chance to study these patent claims further. For now, is there anything else that our company can reasonably do in regard to the concern that you expressed?

Sincerely,

Mike Abernathy

Rapid Imaging Software, Inc.

From: Robert Adams [redacted] b(6)
Sent: Tuesday, September 19, 2006 7:53 AM
To: [redacted]
Cc: [redacted]
Subject: [Norton AntiSpam] Rapid Imaging Software, Inc. patent infringement

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

September 19, 2006

Michael F. Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

Sent via US MAIL, FAX & EMAIL

01734

Mr. Abernathy,

It has come to our attention that your company provides Synthetic Vision to fly UAV both in real time and in simulation.

I am sure that Mr. Francisco Delgado of NASA and your other clients would agree with your company having a proper license of our intellectual property.

Hence as a legal formality, we are inviting your company to license our technology seeing that your company is already commercially using and selling said technology as covered by our IP listed below:

United States Patent 5,566,073 Margolin October 15, 1996 Pilot aid using a synthetic environment

United States Patent 5,904,724 Margolin May 18, 1999, Method and apparatus for remotely piloting an aircraft

We are pleased that you recognize the value of using Synthetic Vision to allow UAV's to See-and-Avoid other aircraft; this is covered by our patents as noted above.

Please contact us so that we can a proper legal license with our attorneys for your use of our technology and/or you may contact our attorneys (HYPERLINK "http://by106fd.bay106.hotmail.msn.com/cgi-bin/compose?mailto=1&msg=0BE8FF07-CD08-47B5-A58D-A825698FD5EB&start=0&len=6480&src=&type=x&to=[redacted]&cc=&bcc=&subject=&body=&curmbox=00000000-0000-0000-0000-000000000001&a=ad17460c4976d4c8a2dcf004b74ca88163cef3516fe0531abada331a64870d4c"[redacted]o arrange a proper license of said intellectual property. You have 15 days to do so.

b(6)

Sincerely,

Robert Adams, CEO

Optima Technology Group

RA/cp

-enclosure links-
~~~

RE: US Patents 5566073 and 5904724

From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted]>
To: Barry V. Gibbens, LaRC [redacted]
CC: Linda B. Blackburn [redacted]
Date: Sep 01 2004 - 4:33pm

b(6)
~~~

Rats! I guess I'd should research things better before I blindly send them out. Btw, the real Bahamas get hurricanes too.

-----Original Message-----
From: Barry V. Gibbens, LaRC [redacted] b(6)
Sent: Wednesday, September 01, 2004 3:26 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Cc: Linda B. Blackburn
Subject: RE: US Patents 5566073 and 5904724

Very nice! I went to the Nassau Bay website, and looked under "New Things . . . Check It Out." Three of the highlights were "Storm Preparedness Information," "Hurricane Tracking Chart," and "You Can Now Pay Traffic Fines On Line." Sounds like my kind of place!!!

BG

At 02:44 PM 9/1/2004 -0500, you wrote:

No need to telecommute from the Bahamas, Barry. Nassau Bay is right across the street from JSC! Check out http://www.nassaubay.com/. See -- we got it all! And please do pass the word. I'd even risk the wrath of Linda and Kathy to snag one of you guys.

[redacted] b(5)

Take care ...

-Ed

-----Original Message-----
From: Barry V. Gibbens, LaRC [redacted] b(6)
Sent: Wednesday, September 01, 2004 2:21 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Subject: RE: US Patents 5566073 and 5904724

Thanks Ed - I'll pass the word. Just for future reference, if any of us were to apply for the job, how would you feel about tele-commuting from, say, the Bahamas?????

[redacted] b(5)

At 12:30 PM 9/1/2004 -0500, you wrote:

Thanks Barry ...

[redacted] b(5)

Best regards ...

-Ed

Btw, Jim Cate is retiring at the end of the month, and we definitely will be filling the slot. So please spread the word. Good things about JSC is the high locality pay differential in Houston, and the relatively low cost of living here. The downside is that the poor person will have to deal with my bad a** on a daily basis.

Take care ...
-----Original Message-----
From: Barry V. Gibbens, LaRC [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:29 AM
To: Mike Abernathy; 'Kennedy, Alan'
Cc: Linda B. Blackburn; Dan Baize; 'Trey Arthur'; DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA); FEIN, EDWARD K. (JSC-HA) (NASA); BOE, ERIC A., LTCOL. (JSC-CB) (NASA)
Subject: Re: US Patents 5566073 and 5904724

Hi Alan (and others),
Just to clarify the message below, I spoke with Mike Abernathy this morning, and I've spoken with Dan Baize on a number of occasions concerning this topic. I've also spoken with you (Alan) briefly, and with Linda Blackburn, Patent Counsel here at Langley (not Linda "Blackwell" :-). It seems clear that the technical folks have determined that the Margolin patent on Synthetic Vision creates a substantial problem for many of our partners in the aviation safety industry for a variety of reasons. It also seems clear that there is substantial prior art in existence to make an argument for re-examination of the Margolin patent. Linda has stated that we at Langley are willing to support an analysis of this situation at the Center level. She has, however, also told me that we first need to perform a formal infringement analysis to confirm (from a legal perspective) that we are in fact practicing the patent as described by its claims. If that analysis shows probable infringement, then we can proceed with a re-examination request, which Dan Baize has indicated he would be willing to fund. It is my understanding that you (again Alan) gave your blessing this morning for us to proceed at the Center level on these activities. If that is the case, I'll go ahead and begin moving on the formal infringement analysis, keeping you apprised of progress as it develops. Please let me know if you are in agreement with the situation as I have described it. If so, I'll begin work here shortly.
Thanks,
Barry

At 09:33 AM 9/1/2004 -0600, Mike Abernathy wrote:

Good Morning Alan,
Per our discussions this morning I called both Dan Baize and Barry Gibbens at Langley to discuss the resolution of questions surrounding patents 5566073 and 5904724. When we spoke earlier you indicated that based on the evidence of prior art uncovered so far, that NASA might move for an Ex-Parte re-examination of patent 5566073, provided that NASA patent counsel at LARC concurs. Mr. Baize feels that this patent may invalid because of copious prior art, and that it is therefore a significant impediment to the development of life-saving synthetic vision technologies. Mr. Gibbens has indicated that he and Ms. Blackwell feel it is now appropriate to for NASA LARC to proceed to request a re-examination. We will therefore forward them the same information on prior art that I forwarded to HQ. Please let us know how we can continue to be of help.
Best regards,
Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com
HYPERLINK "http://www.visualflight.com/"www.visualflight.com

01737

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel
[redacted]

b(6)

[redacted]
wwwebsite: http://tech-transfer.larc.nasa.gov/

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is now [redacted].
Please update your mail systems accordingly. Thanks.

b(6)

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel
[redacted]

b(6)

[redacted]
wwwebsite: http://tech-transfer.larc.nasa.gov/

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is now [redacted].
Please update your mail systems accordingly. Thanks.

b(6)

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel
[redacted]

b(6)

[redacted]
wwwebsite: http://tech-transfer.larc.nasa.gov/

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is now [redacted]
Please update your mail systems accordingly. Thanks.

b(6)

~~~

RE: US Patents 5566073 and 5904724

From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted]
To: Barry V. Gibbens, LaRC <[redacted]
BCC: ROAN, BERNARD J. (JSC-AL) (NASA) <[redacted]
Date: Sep 01 2004 - 2:44pm

b(6)

01739
~~~

No need to telecommute from the Bahamas, Barry. Nassau Bay is right across the street from JSC! Check out http://www.nassaubay.com/. See -- we got it all! And please do pass the word. I'd even risk the wrath of Linda and Kathy to snag one of you guys.

[redacted] b(5)

Take care ...

-Ed

-----Original Message-----
From: Barry V. Gibbens, LaRC [redacted] b(6)
Sent: Wednesday, September 01, 2004 2:21 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Subject: RE: US Patents 5566073 and 5904724

Thanks Ed - I'll pass the word. Just for future reference, if any of us were to apply for the job, how would you feel about tele-commuting from, say, the Bahamas?????

[redacted] b(5)

At 12:30 PM 9/1/2004 -0500, you wrote:

Thanks Barry ... b(5)

[redacted]

Best regards ...

-Ed

Btw, Jim Cate is retiring at the end of the month, and we definitely will be filling the slot. So please spread the word. Good things about JSC is the high locality pay differential in Houston, and the relatively low cost of living here. The downside is that the poor person will have to deal with my bad a** on a daily basis.

Take care ...

-----Original Message-----
From: Barry V. Gibbens, LaRC [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:29 AM
To: Mike Abernathy; 'Kennedy, Alan'
Cc: Linda B. Blackburn; Dan Baize; 'Trey Arthur'; DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA); FEIN, EDWARD K. (JSC-HA) (NASA); BOE, ERIC A., LTCOL. (JSC-CB) (NASA)
Subject: Re: US Patents 5566073 and 5904724

Hi Alan (and others),
Just to clarify the message below, I spoke with Mike Abernathy this morning, and I've spoken with Dan Baize on a number

of occasions concerning this topic. I've also spoken with you (Alan) briefly, and with Linda Blackburn, Patent Counsel here at Langley (not Linda "Blackwell" :-). It seems clear that the technical folks have determined that the Margolin patent on Synthetic Vision creates a substantial problem for many of our partners in the aviation safety industry for a variety of reasons. It also seems clear that there is substantial prior art in existence to make an argument for re-examination of the Margolin patent. Linda has stated that we at Langley are willing to support an analysis of this situation at the Center level. She has, however, also told me that we first need to perform a formal infringement analysis to confirm (from a legal perspective) that we are in fact practicing the patent as described by its claims. If that analysis shows probable infringement, then we can proceed with a re-examination request, which Dan Baize has indicated he would be willing to fund. It is my understanding that you (again Alan) gave your blessing this morning for us to proceed at the Center level on these activities. If that is the case, I'll go ahead and begin moving on the formal infringement analysis, keeping you apprised of progress as it develops. Please let me know if you are in agreement with the situation as I have described it. If so, I'll begin work here shortly.
Thanks,
Barry

At 09:33 AM 9/1/2004 -0600, Mike Abernathy wrote:

Good Morning Alan,

Per our discussions this morning I called both Dan Baize and Barry Gibbens at Langley to discuss the resolution of questions surrounding patents 5566073 and 5904724. When we spoke earlier you indicated that based on the evidence of prior art uncovered so far, that NASA might move for an Ex-Parte re-examination of patent 5566073, provided that NASA patent counsel at LARC concurs. Mr. Baize feels that this patent may invalid because of copious prior art, and that it is therefore a significant impediment to the development of life-saving synthetic vision technologies. Mr. Gibbens has indicated that he and Ms. Blackwell feel it is now appropriate to for NASA LARC to proceed to request a re-examination. We will therefore forward them the same information on prior art that I forwarded to HQ. Please let us know how we can continue to be of help.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
HYPERLINK "http://www.visualflight.com/"www.visualflight.com

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel
[redacted] b(6)
[redacted]
wwwebsite: http://tech-transfer.larc.nasa.gov/

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is nov [redacted] b(6)

Please update your mail systems accordingly. Thanks.

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel
[redacted]
[redacted]
wwwebsite: http://tech-transfer.larc.nasa.gov/

b(6)

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is now Barry.V.Gibbens@nasa.gov. Please update your mail systems accordingly. Thanks.

~~~

FW: US Patents 5566073 and 5904724

From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted]
To: RO, THEODORE U., JD (JSC-HA) (NASA) [redacted], CATE, JAMES M., JD (JSC-HA) (NASA) [redacted]
CC: KRISHEN, KUMAR (JSC-HA) (NASA) [redacted], WHITTINGTON, JAMES (JSC-HA) (USA) [redacted] HAINES, DAVID D. (JSC-HA) (NASA) [redacted], HIEGER, COLLIN (JSC-HA) (UNK) [redacted], LANE, HELEN W. (JSC-AD) (NASA) [redacted] HAYES, GREG W. (JSC-AD) (NASA) [redacted], ROAN, BERNARD J. (JSC-AL) (NASA) [redacted] REMINGTON, DANIEL R. (DAN) (JSC-AL) (NASA) [redacted]
Date: Sep 01 2004 - 12:51pm

b(6)

Claims Analysis of Patent.doc - 2.1MB - View in Outlook

[redacted]

b(5)

-Ed

-----Original Message-----
From: Mike Abernathy [redacted]
Sent: Wednesday, September 01, 2004 12:25 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Subject: RE: US Patents 5566073 and 5904724

b(6)

Here it is.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
~~~

[redacted] b(6)

www.landform.com
www.visualflight.com

-----Original Message-----
From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:19 AM
To: 'Mike Abernathy'
Subject: RE: US Patents 5566073 and 5904724

Barry Gibbens is a good man, Mike, and no, you haven't sent me the claims analysis. I am pleased to learn that the Agency is moving on this.

-Ed
-----Original Message-----
From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:45 AM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Cc: DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA)
Subject: RE: US Patents 5566073 and 5904724
Hi Ed,

Happy to keep you involved. I appreciated that article you sent me on the topic. The one thing that concerned me in the article is that I realized if Alan just sends the claims analysis to the PTO without requesting a re-exam then the owner will have the leisure to think up excuses for why this is not so, and prepare a defense maybe even ask for his own re-exam. Yikes! If NASA does not ask for the re-exam upon finding the prior art, we are basically strengthening his position to sue NASA by allowing him the time to synthesize a defense against the defects of his patent. It appears that Barry Gibbens is ready to press forward, happily.

Have I sent you the claims analysis yet?

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
www.visualflight.com

-----Original Message-----
From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted] b(6)
Sent: Wednesday, September 01, 2004 10:06 AM
To: 'Mike Abernathy'
Subject: RE: US Patents 5566073 and 5904724

Thanks, Mike, for keeping me in the loop.

-Ed
-----Original Message-----
From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, September 01, 2004 10:33 AM
To: 'Kennedy, Alan'
Cc: 'Barry V. Gibbens, LaRC'; Dan Baize; 'Trey Arthur'; DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA); FEIN, EDWARD K. (JSC-HA) (NASA); BOE, ERIC A., LTCOL. (JSC-CB) (NASA)
Subject: US Patents 5566073 and 5904724
Good Morning Alan,

Per our discussions this morning I called both Dan Baize and Barry Gibbens at Langley to discuss the resolution of questions surrounding patents 5566073 and 5904724. When we spoke earlier you indicated that based on the evidence

of prior art uncovered so far, that NASA might move for an Ex-Parte re-examination of patent 5566073, provided that NASA patent counsel at LARC concurs. Mr. Baize feels that this patent may invalid because of copious prior art, and that it is therefore a significant impediment to the development of life-saving synthetic vision technologies. Mr. Gibbens has indicated that he and Ms. Blackwell feel it is now appropriate to for NASA LARC to proceed to request a re-examination. We will therefore forward them the same information on prior art that I forwarded to HQ. Please let us know how we can continue to be of help.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

~~~

RE: US Patents 5566073 and 5904724

From: Mike Abernathy [redacted] b(6)
To: 'FEIN, EDWARD K. (JSC-HA) (NASA)' [redacted]
Date: Sep 01 2004 - 12:44pm

Sir,

Could you read this and let me know what you think of it? I know it will evolve a lot in Barry's hands – which is good. But I would like your thoughts on it for my own and Frank's edification.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
www.visualflight.com

-----Original Message-----
From: FEIN, EDWARD K. (JSC-HA) (NASA [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:41 AM
To: 'Mike Abernathy'
Subject: RE: US Patents 5566073 and 5904724

thanks!
-----Original Message-----
From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, September 01, 2004 12:25 PM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Subject: RE: US Patents 5566073 and 5904724
Here it is.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
www.visualflight.com

-----Original Message-----
From: FEIN, EDWARD K. (JSC-HA) (NASA) [mailto:edward.k.fein@nasa.gov]
~~~

Sent: Wednesday, September 01, 2004 11:19 AM
To: 'Mike Abernathy'
Subject: RE: US Patents 5566073 and 5904724

Barry Gibbens is a good man, Mike, and no, you haven't sent me the claims analysis. I am pleased to learn that the Agency is moving on this.

-Ed
-----Original Message-----
From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, September 01, 2004 11:45 AM
To: FEIN, EDWARD K. (JSC-HA) (NASA)
Cc: DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA)
Subject: RE: US Patents 5566073 and 5904724
Hi Ed,

Happy to keep you involved. I appreciated that article you sent me on the topic. The one thing that concerned me in the article is that I realized if Alan just sends the claims analysis to the PTO without requesting a re-exam then the owner will have the leisure to think up excuses for why this is not so, and prepare a defense maybe even ask for his own re-exam. Yikes! If NASA does not ask for the re-exam upon finding the prior art, we are basically strengthening his position to sue NASA by allowing him the time to synthesize a defense against the defects of his patent. It appears that Barry Gibbens is ready to press forward, happily.

Have I sent you the claims analysis yet?

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
www.visualflight.com

-----Original Message-----
From: FEIN, EDWARD K. (JSC-HA) (NASA) [redacted] b(6)
Sent: Wednesday, September 01, 2004 10:06 AM
To: 'Mike Abernathy'
Subject: RE: US Patents 5566073 and 5904724

Thanks, Mike, for keeping me in the loop.

-Ed
-----Original Message-----
From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, September 01, 2004 10:33 AM
To: 'Kennedy, Alan'
Cc: 'Barry V. Gibbens, LaRC'; Dan Baize; 'Trey Arthur'; DELGADO, FRANCISCO J. (FRANK) (JSC-ER2) (NASA); FEIN, EDWARD K. (JSC-HA) (NASA); BOE, ERIC A., LTCOL. (JSC-CB) (NASA)
Subject: US Patents 5566073 and 5904724
Good Morning Alan,

Per our discussions this morning I called both Dan Baize and Barry Gibbens at Langley to discuss the resolution of questions surrounding patents 5566073 and 5904724. When we spoke earlier you indicated that based on the evidence of prior art uncovered so far, that NASA might move for an Ex-Parte re-examination of patent 5566073, provided that NASA patent counsel at LARC concurs. Mr. Baize feels that this patent may invalid because of copious prior art, and that it is therefore a significant impediment to the development of life-saving synthetic vision technologies. Mr. Gibbens has indicated that he and Ms. Blackwell feel it is now appropriate to for NASA LARC to proceed to request a re-examination. We will therefore forward them the same information on prior art that I forwarded to HQ. Please let us know how we can continue to be of help.

Best regards,

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)

www.landform.com
www.visualflight.com

Claims Analysis of Patent.doc

~~~

Re: US Patents 5566073 and 5904724

From: Barry V. Gibbens, LaRC [redacted]
To: Mike Abernathy [redacted] "Kennedy, Alan" [redacted]
CC: Linda B. Blackburn [redacted], Dan Baize [redacted]
'Trey Arthur' [redacted], DELGADO FRANCISCO J. (FRANK)
[redacted], FEIN, EDWARD K. (JSC-HA) (NASA)
[redacted], Eric Boe [redacted] b(6)
Date: Sep 01 2004 - 11:29am

Hi Alan (and others),
Just to clarify the message below, I spoke with Mike Abernathy this morning, and I've spoken with Dan Baize on a number of occasions concerning this topic. I've also spoken with you (Alan) briefly, and with Linda Blackburn, Patent Counsel here at Langley (not Linda "Blackwell" :-). It seems clear that the technical folks have determined that the Margolin patent on Synthetic Vision creates a substantial problem for many of our partners in the aviation safety industry for a variety of reasons. It also seems clear that there is substantial prior art in existence to make an argument for re-examination of the Margolin patent. Linda has stated that we at Langley are willing to support an analysis of this situation at the Center level. She has, however, also told me that we first need to perform a formal infringement analysis to confirm (from a legal perspective) that we are in fact practicing the patent as described by its claims. If that analysis shows probable infringement, then we can proceed with a re-examination request, which Dan Baize has indicated he would be willing to fund. It is my understanding that you (again Alan) gave your blessing this morning for us to proceed at the Center level on these activities. If that is the case, I'll go ahead and begin moving on the formal infringement analysis, keeping you apprised of progress as it develops. Please let me know if you are in agreement with the situation as I have described it. If so, I'll begin work here shortly.
Thanks,
Barry

At 09:33 AM 9/1/2004 -0600, Mike Abernathy wrote:

Good Morning Alan,

Per our discussions this morning I called both Dan Baize and Barry Gibbens at Langley to discuss the resolution of questions surrounding patents 5566073 and 5904724. When we spoke earlier you indicated that based on the evidence of prior art uncovered so far, that NASA might move for an Ex-Parte re-examination of patent 5566073, provided that NASA patent counsel at LARC concurs. Mr. Baize feels that this patent may invalid because of copious prior art, and that it is therefore a significant impediment to the development of life-saving synthetic vision technologies. Mr. Gibbens has indicated that he and Ms. Blackwell feel it is now appropriate to for NASA LARC to proceed to request a re-examination.
~~~

We will therefore forward them the same information on prior art that I forwarded to HQ. Please let us know how we can continue to be of help.

Best regards,

Mike Abernathy

Rapid Imaging Software, Inc.

[redacted] b(6)

www.landform.com

HYPERLINK "http://www.visualflight.com/"www.visualflight.com

Barry V. Gibbens
NASA Langley Research Center
Intellectual Property Law Team - Office of Chief Counsel

[redacted] b(6)

wwwebsite: http://tech-transfer.larc.nasa.gov/

NEW E-MAIL ADDRESS: Please note that effective immediately, my e-mail address is now [redacted]
Please update your mail systems accordingly. Thanks.

b(6)

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, August 06, 2008 1:36 PM

01743

To: Fein, Edward K. (JSC-AL)
Cc: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Subject: Patent Infringement claim from Jed Margolin; NASA Case No. I-222

Hello Mr. Fein,

I am a new attorney working commercial law and also helping out Gary and Bob. Do you remember working on this infringement claim, and if so, what was the outcome, if any? See attached.

<< File: Kennedy to JSC.pdf >> << File: Margolin FOIA.pdf >> << File: Letter from Optima 20080714.pdf >>

Thank you,

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

01747

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Monday, August 11, 2008 3:53 PM
To: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Subject: FW: NASA FOIA HQ 08-270
Attachments: jm_nasa_foia_x.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Gary/Bob

[redacted] b(5)

Jan

-----Original Message-----
From: Jed Margolin [mailto:jm@jmargolin.com]
Sent: Friday, August 08, 2008 2:19 PM
To: McNutt, Jan (HQ-MC000)
Subject: Re: NASA FOIA HQ 08-270

Dear Mr. McNutt.

I will agree to the 90 day extension you have requested for NASA to respond to my FOIA Request (HQ 08-270) if NASA acknowledges that my FOIA request is entirely separate from Optima Technology Group's Claim Case No. I-222.

Please see attached letter.

Sincerely yours,

Jed Margolin
[redacted] b(6)
[redacted]
==========
----- Original Message -----
From: "McNutt, Jan (HQ-MC000)" [redacted] b(6)
To: "Jed Margolin" [redacted]
Sent: Wednesday, August 06, 2008 6:44 AM
Subject: RE: NASA Case I-222

Dear Mr. Margolin,

Please see the attached. Hard copy to follow.

01760

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

-----Original Message-----
From: Jed Margolin [redacted] b(6)
Sent: Tuesday, August 05, 2008 1:56 PM
To: McNutt, Jan (HQ-MC000)
Subject: NASA Case I-222

Dear Mr. McNutt.

I have attached the documents we discussed.

Regards,

Jed Margolin

01730

Jed Margolin
Phone: 775-847-7845

1981 Empire Rd.
jm@jmargolin.com

Reno, NV 89521-7430
August 8, 2008

Mr. Jan S. McNutt
Office of the General Counsel
NASA Headquarters
Washington, DC 20546-0001

Re: FOIA Request (FOIA HQ 08-270) regarding NASA Case No. I-222

Dear Mr. McNutt,

As we discussed in our recent telephone conversations, my FOIA Request is entirely separate from NASA Claim Case I-222. The patents involved in the claim are now owned by Optima Technology Group, Inc. I trust that Optima Technology Group has now provided you with the documentation you requested in order to establish their ownership of the Patents.

I will agree to the 90 day extension you have requested for NASA to respond to my FOIA Request (HQ 08-270) if NASA acknowledges that my FOIA request is entirely separate from Optima Technology Group's Claim Case No. I-222.

Sincerely yours,

Jed Margolin

01771

[redacted]

From: Rotella, Robert F. (HQ-MA000)
Sent: Monday, August 11, 2008 4:12 PM
To: McNutt, Jan (HQ-MC000); Borda, Gary G. (HQ-MC000)
Subject: Re: NASA FOIA HQ 08-270

Jan-

[redacted]

b(5)

My two cents!

Bob

This Message was sent from my BlackBerry

----- Original Message -----
From: McNutt, Jan (HQ-MC000)
To: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Sent: Mon Aug 11 14:53:23 2008
Subject: FW: NASA FOIA HQ 08-270

Gary/Bob

[redacted]

b(5)

Jan

-----Original Message-----
From: Jed Margolin [mailto:jm@jmargolin.com]
Sent: Friday, August 08, 2008 2:19 PM
To: McNutt, Jan (HQ-MC000)
Subject: Re: NASA FOIA HQ 08-270

Dear Mr. McNutt.

I will agree to the 90 day extension you have requested for NASA to respond to my FOIA Request (HQ 08-270) if NASA acknowledges that my FOIA request is entirely separate from Optima Technology Group's Claim Case No. I-222.

Please see attached letter.

Sincerely yours,

Jed Margolin

[redacted]

b(6)

01772

[redacted] b(6)

==========

----- Original Message -----
From: "McNutt, Jan (HQ-MC000)" <jan.mcnutt@nasa.gov>
To: "Jed Margolin" <jm@jmargolin.com>
Sent: Wednesday, August 06, 2008 6:44 AM
Subject: RE: NASA Case I-222

Dear Mr. Margolin,

Please see the attached. Hard copy to follow.

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters

[redacted] b(6)

-----Original Message-----
From: Jed Margolin [mailto:jm@jmargolin.com]
Sent: Tuesday, August 05, 2008 1:56 PM
To: McNutt, Jan (HQ-MC000)
Subject: NASA Case I-222

Dear Mr. McNutt.

I have attached the documents we discussed.

Regards,

Jed Margolin

01773

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Monday, August 11, 2008 4:39 PM
To: Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000)
Subject: RE: NASA FOIA HQ 08-270

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Bob,

[redacted] b(5)

-Jan

-----Original Message-----
From: Rotella, Robert F. (HQ-MA000)
Sent: Monday, August 11, 2008 4:12 PM
To: McNutt, Jan (HQ-MC000); Borda, Gary G. (HQ-MC000)
Subject: Re: NASA FOIA HQ 08-270

Jan-

[redacted]

b(5)

My two cents!

Bob

This Message was sent from my BlackBerry

----- Original Message -----
From: McNutt, Jan (HQ-MC000)
To: Borda, Gary G. (HQ-MC000); Rotella, Robert F. (HQ-MA000)
Sent: Mon Aug 11 14:53:23 2008
Subject: FW: NASA FOIA HQ 08-270

Gary/Bob

[redacted] b(5)

Jan

-----Original Message-----

01774

From: Jed Margolin [mailto:jm@jmargolin.com]
Sent: Friday, August 08, 2008 2:19 PM
To: McNutt, Jan (HQ-MC000)
Subject: Re: NASA FOIA HQ 08-270

Dear Mr. McNutt.

I will agree to the 90 day extension you have requested for NASA to respond to my FOIA Request (HQ 08-270) if NASA acknowledges that my FOIA request is entirely separate from Optima Technology Group's Claim Case No. I-222.

Please see attached letter.

Sincerely yours,

Jed Margolin
[redacted] b(6)
[redacted]

==========
----- Original Message -----
From: "McNutt, Jan (HQ-MC000)" [redacted] b(6)
To: "Jed Margolin" [redacted]
Sent: Wednesday, August 06, 2008 6:44 AM
Subject: RE: NASA Case I-222

Dear Mr. Margolin,

Please see the attached. Hard copy to follow.

Jan S. McNutt
Attorney-Advisor (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

-----Original Message-----
From: Jed Margolin [redacted] b(6)
Sent: Tuesday, August 05, 2008 1:56 PM
To: McNutt, Jan (HQ-MC000)

01775

Subject: NASA Case I-222

Dear Mr. McNutt.

I have attached the documents we discussed.

Regards,

Jed Margolin

01776

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Monday, October 06, 2008 11:18 AM
To: Rotella, Robert F. (HQ-MA000)
Cc: Borda, Gary G. (HQ-MC000)
Subject: FW: Optima Technology Group - Margolin Patents

First attorney.

-----Original Message-----
From: krukar@olpatentlaw.com [redacted]
Sent: Friday, October 03, 2008 5:13 PM
To: Mike Abernathy
Cc: McNutt, Jan (HQ-MC000); [redacted]
Subject: RE: Optima Technology Group - Margolin Patents

b(6)

Hi Jan,

Richard Krukar, the guy that prepped the reexam request here.

Another issue we found is that Rapid Imaging Software (RIS) is not infringing either directly or indirectly.

...richard

On Fri, October 3, 2008 2:48 pm, Mike Abernathy wrote:
> Privileged and Confidential
>
>
>
>
> Dear Jan,
>
>
>
>
> We will of course be happy to help however possible. Our company
> prepared a request for re-examination of these patents based on prior art
> and would have used it had OTG not gone away.
>
>
>
> These patents are defective because the invention is both obvious and
> non-novel as evidenced by numerous printed published works. (We can
> provide these references if needed). Ironically, they claim patent on
> work already published by NASA over a decade earlier.
>
>
>
> The attached NASA technical publication by Shahan Serrafian, Simulator
> Evaluation of a Remotely Piloted Vehicle Lateral Landing Task Using a
> Visual
> Display, dates from 1984 and fully anticipates both Margolin patents, and
> is referenced by neither one.

> http://en.wikipedia.org/wiki/Highly Maneuverable Aircraft Technology
>
> In other words, OTG is attempting force NASA to pay for a patent
> infringement on something that NASA in fact invented and published more
> than a decade prior to the patent filing.
>
> Would Wednesday at 10AM MT be convenient for you?
>
> Mike Abernathy
>
> Rapid Imaging Software, Inc.
>
> [redacted] b(6)
>
> [redacted]
>
> www.landform.com
>
> From: McNutt, Jan (HQ-MC000) [redacted] b(6)
> Sent: Friday, October 03, 2008 1:37 PM
> To: mikea@landform.com
> Subject: Optima Technology Group - Margolin Patents
>
> Dear Mr. Abernathy,
>
> I am a new attorney working on Intellectual Property and Commercial Law
> matters at NASA and have been assigned to handle a long outstanding claim
> against the agency for patent infringement due to NASA's collaboration
> with your company in the late 90s. Mr. Ed Fein of the Johnson Space
> Center
> suggested I contact you to discuss the infringement action brought against
> us by the Optima Technology Group regarding a patent they own by the
> inventor Jed Margolin. I would like to set up a conference next week
> sometime for this purpose. Please let me know if you are inclined to
> speak with NASA on this and if so, when would be a good time for you.
>

> Regards,
>
>
> Jan S. McNutt
> Senior Attorney (Commercial)
> Office of the General Counsel
> NASA Headquarters
> [redacted] b(6)
>
>
>

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Monday, October 06, 2008 11:18 AM
To: Rotella, Robert F. (HQ-MA000)
Cc: Borda, Gary G. (HQ-MC000)
Subject: FW: Optima Technology Group - Margolin Patents

Second attorney.

From: Benjamin W. Allison [redacted] b(6)
Sent: Friday, October 03, 2008 5:46 PM
To: Mike Abernathy; McNutt, Jan (HQ-MC000)
Cc: krukar@olpatentlaw.com
Subject: RE: Optima Technology Group - Margolin Patents

Jan,

We're assisting RIS in the Optima matter as well, and I would like to participate in the call Wednesday. Let me know call-in information when you can.

Regards,

Ben

Benjamin Allison
Sutin Thayer & Browne PC
[redacted] b(6)

From: Mike Abernathy [redacted] b(6)
Sent: Friday, October 03, 2008 2:49 PM
To: 'McNutt, Jan (HQ-MC000)'
Cc: Benjamin W. Allison; krukar@olpatentlaw.com
Subject: RE: Optima Technology Group - Margolin Patents

Privileged and Confidential

Dear Jan,

We will of course be happy to help however possible. Our company prepared a request for re-examination of these patents based on prior art and would have used it had OTG not gone away.

These patents are defective because the invention is both obvious and non-novel as evidenced by numerous printed published works. (We can provide these references if needed). Ironically, they claim patent on work already published by NASA over a decade earlier.

The attached NASA technical publication by Shahan Serrafian, *Simulator Evaluation of a Remotely Piloted Vehicle Lateral Landing Task Using a Visual Display,* dates from 1984 and fully anticipates both Margolin patents, and is referenced by neither one.

http://en.wikipedia.org/wiki/Highly_Maneuverable_Aircraft_Technology

In other words, OTG is attempting force NASA to pay for a patent infringement on something that NASA in fact invented and published more than a decade prior to the patent filing.

Would Wednesday at 10AM MT be convenient for you?

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

01564

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Monday, October 06, 2008 11:19 AM
To: Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Cc: Borda, Gary G. (HQ-MC000)
Subject: FW: patent
Attachments: HiMAT Claims Analysis of Patent 5904724.doc; HIMAT_Kempel_1988_0006558_1989006558.pdf

Second email from Abernathy.

From: Mike Abernathy [redacted] b(6)
Sent: Saturday, October 04, 2008 7:08 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted]
Subject: patent

Privileged and confidential

Hi Jan,

Richard is quite correct to point out that we did not infringe. Our software license in fact prohibits this use of our software.

I have attached a claims chart regarding NASA research fully anticipating the patent, to help you become familiar with the patent in question. Please keep this information confidential for now.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)

Office of the General Counsel
NASA Headquarters

[redacted]

b(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Tuesday, October 07, 2008 9:27 AM
To: Mike Abernathy
Cc: [redacted] Edward K. (JSC-AL)
Subject: RE: patent

b(6)

Hello Mike,

I've set up a telephone conference for 10:00 AM MT (12:00 PM EDT), Wednesday, October 15th. The call in number is Toll Free: (866) 459-3154 and the Passcode is: 3230932. I think I have the time right. Please check this (Arizona??).

Mr. Bob Rotella from HQ and Mr. Ed Fein with JSC will be joining us.

Thanks and looking forward to talking to you.

Regards,
Jan

From: Mike Abernathy [redacted] b(6)
Sent: Saturday, October 04, 2008 7:08 PM
To: McNutt, Jan (HQ-MC000)
Cc: ballison@sutinfirm.com; krukar@olpatentlaw.com
Subject: patent

Privileged and confidential

Hi Jan,

Richard is quite correct to point out that we did not infringe. Our software license in fact prohibits this use of our software.

I have attached a claims chart regarding NASA research fully anticipating the patent, to help you become familiar with the patent in question. Please keep this information confidential for now.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

[redacted]

From: [redacted] b(6)
Sent: Wednesday, October 08, 2008 12:59 PM
To: McNutt, Jan (HQ-MC000)
Cc: Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

It was a pleasure to hear your viewpoints on the Margolin patent. I'm just shooting a side email to mention how thankful I am for NASA's work over the last 50 years and for how much of it is searchable online. I've actually used some NASA reports from the '60s (Apollo program) in filing a reexamination request for another client.

all for now
Richard Krukar
Ortiz and Lopez, PLLC

01962

[redacted]

From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, October 08, 2008 1:29 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

Privileged and confidential

Dear Jan,

After speaking with Richard and Ben RIS, Inc. has decided to honor your request to provide NASA with our research regarding the subject patent.

We sincerely appreciate your interest in protecting NASA's important published work in synthetic vision research for the benefit of the American people.

I will begin forwarding the subject research papers and Richard's claims charts in several emails.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted]
Sent: Tuesday, October 07, 2008 7:27 AM
To: Mike Abernathy
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL) b(6)
Subject: RE: patent

Hello Mike,

I've set up a telephone conference for 10:00 AM MT (12:00 PM EDT), Wednesday, October 15th. The call in number is [redacted] I think I have the time right. Please check this (Arizona??). b(6)

Mr. Bob Rotella from HQ and Mr. Ed Fein with JSC will be joining us.

Thanks and looking forward to talking to you.

Regards,
Jan

From: Mike Abernathy [redacted] b(6)
Sent: Saturday, October 04, 2008 7:08 PM
To: McNutt, Jan (HQ-MC000)
Cc: ballison@sutinfirm.com; krukar@olpatentlaw.com
Subject: patent

Privileged and confidential

Hi Jan,

Richard is quite correct to point out that we did not infringe. Our software license in fact prohibits this use of our software.

I have attached a claims chart regarding NASA research fully anticipating the patent, to help you become familiar with the patent in question. Please keep this information confidential for now.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, October 08, 2008 2:30 PM
To: Mike Abernathy
Cc: [redacted]; Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

b(6)

Hi Mike,

I'm sorry we were cut off earlier when you called. I must have pushed the wrong button when I put on my headset.

Thank you also for taking the time and effort and to allow us to benefit from your years of dealing with this technology. A quick look confirms that I have received all the attachments that you sent, so we will spend a little time looking them over. It's nice to know NASA technology has been of such benefit for all of you. NASA tries hard to make technology available to the world without restrictions unless absolutely necessary. In fact, my main job is to assist the efforts of technology transfer, rather than have it locked up in our agency. See: http://www.ipp.nasa.gov/ .

I will let you know the development of this in as much as I can. Hopefully, we will find a solution that everyone can share in.

Regards,
Jan

From: Mike Abernathy [redacted]
Sent: Wednesday, October 08, 2008 1:29 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

b(6)

Privileged and confidential

Dear Jan,

After speaking with Richard and Ben RIS, Inc. has decided to honor your request to provide NASA with our research regarding the subject patent.

We sincerely appreciate your interest in protecting NASA's important published work in synthetic vision research for the benefit of the American people.

I will begin forwarding the subject research papers and Richard's claims charts in several emails.

Mike Abernathy
Rapid Imaging Software, Inc.

[redacted]
www.landform.com

From: McNutt, Jan (HQ-MC000)[redacted] b(6)
Sent: Tuesday, October 07, 2008 7:27 AM
To: Mike Abernathy
Cc: ballison@sutinfirm.com; krukar@olpatentlaw.com; Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

Hello Mike,

I've set up a telephone conference for 10:00 AM MT (12:00 PM EDT), Wednesday, October 15th. The call in number is Toll Free: (866) 459-3154 and the Passcode is: 3230932. I think I have the time right. Please check this (Arizona??).

Mr. Bob Rotella from HQ and Mr. Ed Fein with JSC will be joining us.

Thanks and looking forward to talking to you.

Regards,
Jan

From: Mike Abernathy[redacted] b(6)
Sent: Saturday, October 04, 2008 7:08 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted]
Subject: patent

Privileged and confidential

Hi Jan,

Richard is quite correct to point out that we did not infringe. Our software license in fact prohibits this use of our software.

I have attached a claims chart regarding NASA research fully anticipating the patent, to help you become familiar with the patent in question. Please keep this information confidential for now.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

01966

From: McNutt, Jan (HQ-MC000) [mailto:jan.mcnutt@nasa.gov]
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

01967

[redacted]

From: Mike Abernathy [redacted]m]
Sent: Wednesday, October 08, 2008 4:18 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: draft article
Attachments: REVISEDAUVSIcolumn v5 clean.doc

b(6)

Hi All,

The attached article is one written by myself and Dr. Mark Draper and Gloria Calhoun of the Air Force Research Lab about the history of synthetic vision naturally with particular focus on the USAF and with an eye toward UAVs. This is a draft technical journal article which has not yet been published, but which will be submitted for publication in the near future as soon as it is approved through AFRL channels.

I am sending it to you because it tells the story of how NASA and USAF developed this powerful technology called synthetic vision. The article is entitled "*Synthetic Vision Technology for Unmanned Aerial Vehicles: Historical Examples and Current Emphasis*". I hope you find it interesting and useful.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Wednesday, October 08, 2008 12:30 PM
To: Mike Abernathy
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

Hi Mike,

I'm sorry we were cut off earlier when you called. I must have pushed the wrong button when I put on my headset.

Thank you also for taking the time and effort and to allow us to benefit from your years of dealing with this technology. A quick look confirms that I have received all the attachments that you sent, so we will spend a little time looking them over. It's nice to know NASA technology has been of such benefit for all of you. NASA tries hard to make technology available to the world without restrictions unless absolutely necessary. In fact, my main job is to assist the efforts of technology transfer, rather than have it locked up in our agency. See: http://www.ipp.nasa.gov/ .

I will let you know the development of this in as much as I can. Hopefully, we will find a solution that everyone can share in.

Regards,
Jan

From: Mike Abernathy [redacted] b(6)
Sent: Wednesday, October 08, 2008 1:29 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

Privileged and confidential

Dear Jan,

After speaking with Richard and Ben RIS, Inc. has decided to honor your request to provide NASA with our research regarding the subject patent.

We sincerely appreciate your interest in protecting NASA's important published work in synthetic vision research for the benefit of the American people.

I will begin forwarding the subject research papers and Richard's claims charts in several emails.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted] b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Tuesday, October 07, 2008 7:27 AM
To: Mike Abernathy
Cc: [redacted] Rotella, Robert F. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: patent

Hello Mike,

I've set up a telephone conference for 10:00 AM MT (12:00 PM EDT), Wednesday, October 15th. The call in number is [redacted] I think I have the time right. Please check this (Arizona??).

Mr. Bob Rotella from HQ and Mr. Ed Fein with JSC will be joining us. b(6)

Thanks and looking forward to talking to you.

Regards,
Jan

From: Mike Abernathy [redacted]
Sent: Saturday, October 04, 2008 7:08 PM
To: McNutt, Jan (HQ-MC000)
Cc: [redacted]
Subject: patent

b(6)

Privileged and confidential

Hi Jan,

Richard is quite correct to point out that we did not infringe. Our software license in fact prohibits this use of our software.

I have attached a claims chart regarding NASA research fully anticipating the patent, to help you become familiar with the patent in question. Please keep this information confidential for now.

Mike Abernathy
Rapid Imaging Software, Inc.
[redacted]
b(6)
www.landform.com

From: McNutt, Jan (HQ-MC000) [redacted]
Sent: Friday, October 03, 2008 1:37 PM
To: mikea@landform.com
Subject: Optima Technology Group - Margolin Patents

b(6)

Dear Mr. Abernathy,

I am a new attorney working on Intellectual Property and Commercial Law matters at NASA and have been assigned to handle a long outstanding claim against the agency for patent infringement due to NASA's collaboration with your company in the late 90s. Mr. Ed Fein of the Johnson Space Center suggested I contact you to discuss the infringement action brought against us by the Optima Technology Group regarding a patent they own by the inventor Jed Margolin. I would like to set up a conference next week sometime for this purpose. Please let me know if you are inclined to speak with NASA on this and if so, when would be a good time for you.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted]
b(6)

[redacted]

From: Fein, Edward K. (JSC-AL)
Sent: Friday, October 17, 2008 10:10 AM
To: Galus, Helen M. (LARC-B2); Rotella, Robert F. (HQ-MA000); Homer, Mark W. (JPL-0910)
Cc: Blackburn, Linda B. (LARC-B2)
Subject: RE: File wrapper for 5,904,724

Got it. Thanks. (I think.)

Have a great weekend, Helen!

-Ed

From: Galus, Helen M. (LARC-B2)
Sent: Friday, October 17, 2008 9:00 AM
To: Rotella, Robert F. (HQ-MA000); Homer, Mark W. (JPL-0910); Fein, Edward K. (JSC-AL)
Cc: Blackburn, Linda B. (LARC-B2); Galus, Helen M. (LARC-B2)
Subject: FW: File wrapper for 5,904,724

Dear Bob, Mark and Ed,

Here is the file wrapper for the Margolin Patent 5,904,724 - "Method and Apparatus for Remotely Piloting an Aircraft" (I also have the file wrapper for the synthetic vision technology). It apparently was prepared by ReedFax

Please let me know if you have any trouble opening or receiving all of the attachments (there should be eight of them).

Thanks,
Helen

Helen M. Galus
Patent Attorney
Office of Chief Counsel
NASA Langley Research Center
[redacted]
[redacted]
[redacted]
b(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Thursday, January 29, 2009 10:41 AM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Fein, Edward K. (JSC-AL); Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000)
Subject: Margolin Patent Infringement Claim

Kurt,

As we discussed, here are the original claim documents


Margolin Claim 20030607.pdf


Margolin Claim 20030617.pdf


SBIR Margolin Claim.pdf

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters

[redacted] b(6)

02130

13 Sheets

Jed Margolin [redacted] [redacted] [redacted]

June 7, 2003

b(6)

Mr. Alan J. Kennedy
Office of the General Counsel
National Aeronautics and Space Administration
[redacted]

b(6)

Dear Mr. Kennedy,

Mr. Barry Gibbens of your Langley Research Center suggested I contact you. I missed you when I called on Friday so I am sending this fax to provide background.

I believe that NASA may have used one or more of my patents in connection with the X-38 project and may be using one or more of my patents in other projects using Synthetic Vision.

This fax contains a number of Internet links. If you would like an email version of this fax containing active links please send me an email [redacted] with your email address.

b(6)

Summary

In Synthetic Vision (NASA's term), the aircraft's position and orientation are used with a terrain database (such as the Digital Elevation Database) to produce a 3D projected view of the terrain over which the aircraft is flying. One of the advantages of this system is that the pilot is able to "see" the terrain regardless of weather conditions or whether it is day or night.

My U.S. Patent that pertains to this use of synthetic vision is: **U.S. Patent 5,566,073 Pilot Aid Using a Synthetic Environment** issued October 15, 1996 to Margolin. (I am the inventor and owner of the patent.) The patent application was filed August 9, 1995, and was a continuation of Application Ser. No. 08/274,394, filed July 11, 1994.

With synthetic vision it is not necessary for the pilot to be in the aircraft. I believe the X-38 project used this method.

My U.S. Patent that pertains to this use of synthetic vision is: **U.S. Patent 5,904,724 Method and Apparatus For Remotely Piloting an Aircraft** issued May 18, 1999 to Margolin. (I am the inventor and owner of the patent.) The patent application was filed January 19, 1996.

02131

X-38 Project

I became aware that NASA was using synthetic vision in the X-38 project in the January 2003 issue of NASA Tech Briefs, page 40, **"Virtual Cockpit Window" for a Windowless Aerospacecraft**. The article is available at: http://www.nasatech.com/Briefs/Jan03/MSC23096.html

This led me to Rapid Imaging Software, Inc. and their press release (http://www.landform.com/pages/PressReleases.htm) which states:

> *"On December 13th, 2001, Astronaut Ken Ham successfully flew the X-38 from a remote cockpit using LandForm VisualFlight as his primary situation awareness display in a flight test at Edwards Air Force Base, California. This simulates conditions of a real flight for the windowless spacecraft, which will eventually become NASA's Crew Return Vehicle for the ISS. We believe that this is the first test of a hybrid synthetic vision system which combines nose camera video with a LandForm synthetic vision display. Described by astronauts as 'the best seat in the house', the system will ultimately make space travel safer by providing situation awareness during the landing phase of flight."*

The RIS press release provided a link to an article in Aviation Week & Space Technology: http://www.aviationnow.com/avnow/news/channel_space.jsp?view=story&id=news/sx381211.xml

As a result of more searching I have discovered a link to a Johnson Space Center SBIR Phase II award to Rapid Imaging Systems at http://sbir.gsfc.nasa.gov/SBIR/successes/ss/9-058text.html .

It includes a particularly relevant paragraph:

> *The Advanced Flight Visualization Toolkit (VisualFlight™) project is developing a suite of virtual reality immersive telepresence software tools which combine the real-time flight simulation abilities with the data density of a Geographic Information System (GIS). This technology is used for virtual reality training of crews, analysis of flight test data, and as an on-board immersive situation display. It will also find application as a virtual cockpit, and in teleoperation of remotely piloted vehicles.*
>
> {The emphasis on teleoperation of remotely piloted vehicles is mine.}

A search of the SBIR archive shows the following entries.

For 2001 Phase I:
Rapid Imaging Software, Inc.
[redacted] b(6)
Integrated Video for Synthetic Vision Systems

For 2001 Phase II:
Rapid Imaging Software, Inc.
[redacted] b(6)

[redacted]

From: Rotella, Robert F. (HQ-MA000)
Sent: Thursday, January 29, 2009 12:18 PM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Fein, Edward K. (JSC-AL); McNutt, Jan (HQ-MC000)
Subject: Margolin Patent

Kurt-

Would you please confirm that you have the USPTO file history for Patent No. 5,904,724 by Margolin.

We asked Helen Galus to send it to Ed when we began our review of this matter.

Thanks,
Bob

Robert F. Rotella
Senior Patent Attorney
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, February 11, 2009 3:01 PM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Delgado, Francisco J. (JSC-ER6); Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: Margolin Claim

Kurt (and Frank),

Jed Margolin sent me this document.

auvsi_answer.pdf

b(5)

[redacted]

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters

[redacted] b(6)

[redacted]

From: Rotella, Robert F. (HQ-MA000)
Sent: Wednesday, February 11, 2009 4:00 PM
To: Homer, Mark W. (JPL)
Cc: McNutt, Jan (HQ-MC000); Borda, Gary G. (HQ-MC000)
Subject: FW: Margolin Claim

Mark-

We just received the attached extensive analysis of the Margolin technology, prepared by Margolin himself.

[redacted]

b(5)

Please let Jan or myself know if you have any questions.

Thanks for your assistance,
Bob

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, February 11, 2009 3:01 PM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Delgado, Francisco J. (JSC-ER6); Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: Margolin Claim

Kurt (and Frank),

Jed Margolin sent me this document.

auvsi_answer.pdf

b(5)

[redacted]

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

02223

[redacted] b(6)

[redacted]

From: Delgado, Francisco J. (JSC-ER6)
Sent: Wednesday, February 11, 2009 9:29 PM
To: McNutt, Jan (HQ-MC000); Hammerle, Kurt G. (JSC-AL)
Cc: Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: RE: Margolin Claim

I started working on a synthetic vision program in 1996 while on the X-38 program. The following is obviously incorrect.

When did NASA start working on Synthetic Vision?
The answer is: 1999.

[redacted] b(5)

Frank Delgado

From: McNutt, Jan (HQ-MC000)
Sent: Wednesday, February 11, 2009 2:00 PM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Delgado, Francisco J. (JSC-ER6); Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MA000); Fein, Edward K. (JSC-AL)
Subject: Margolin Claim

Kurt (and Frank),

Jed Margolin sent me this document.

[redacted] b(5)

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters

[redacted] b(6)

[redacted]

From: McNutt, Jan (HQ-MC000)
Sent: Friday, February 13, 2009 2:08 PM
To: Hammerle, Kurt G. (JSC-AL)
Cc: Fein, Edward K. (JSC-AL); Rotella, Robert F. (HQ-MA000); Borda, Gary G. (HQ-MC000)
Subject: Margolin

Kurt,

[redacted]

b(5)

Thanks,
Jan

From: Robert Adams-OTG [mailto:radams@optimatechnologygroup.com]
Sent: Thursday, February 12, 2009 5:35 PM
To: McNutt, Jan (HQ-MC000)
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Jan,

We have now licensed Cobham the parent company of Chelton Flight System and expect to wrap up a license for Rockwell in the coming weeks.

Attached you will find the voicemail from Cobham's attorney that concluded a yearlong drawn out process; as I write this letter we await the signed hard copies in the mail.

We shall be filing in Federal Court against Garmin in the coming months as they are the last one who is being definite due to their bad advice from a money hungry attorney.

Can you please provide me a status as to the resolve regarding the issues between our two companies'?

With the recent new licensee's I remain optimistic that this business matter can be resolved peacefully between our two companies.

Thank you,

Robert

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Thursday, January 22, 2009 1:16 PM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dr. Adams,

We are close to a decision on this matter. I will inform you of our progress (possibly decision) in the next couple of weeks.

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
[redacted] b(6)

From: Robert Adams-OTG [redacted] b(6)
Sent: Saturday, December 27, 2008 7:27 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

Please advise us as to our progress of settlement on this matter and NASA taking a license of our patented technology.

I will advise you that a lack of response or no response could be a violation of Rule 11, thus your continued delay tactics could allow us to move forward and ask the court to impose an appropriate sanction.

Dr. Adams

From: Robert Adams-OTG [redacted] b(6)
Sent: Friday, October 03, 2008 5:18 AM
To: 'McNutt, Jan (HQ-MC000)'
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Mr. McNutt,

Our company provided you're everything that had been requested by your counsel as all of that is legal and current, for you to say otherwise is nothing more than an attempt to delay the process and shall be brought up latter to the judge should this matter go to court.

Dr. Adams

From: McNutt, Jan (HQ-MC000) [redacted] b(6)
Sent: Wednesday, October 01, 2008 7:58 AM
To: Robert Adams-OTG
Subject: RE: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Dear Mr. Adams,

[redacted] b(4)

[redacted] b(4)

Regards,

Jan S. McNutt
Senior Attorney (Commercial)
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

From: Robert Adams-OTG [redacted] b(6)
Sent: Tuesday, September 30, 2008 1:04 PM
To: McNutt, Jan (HQ-MC000)
Subject: FW: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Sir,

[redacted] b(4)

Dr. Adams

From: Robert Adams-OTG [redacted] b(6)
Sent: Monday, August 25, 2008 3:48 PM
To: 'McNutt, Jan (HQ-MC000)'; 'jan.mcnutt@nasaq.gov'
Subject: Jan S. McNutt, Please see the attached letter; it is your response to your most recent letter.

Sent via U.S. Mail with tracking number

Jan S. McNutt,

Please see the attached letter; it is your response to your most recent letter.

Thank you,

Dr. Robert Adams – CEO
Optima Technology Group
[redacted] b(6)

[redacted]

From: Bob Rotella [r.rotella@att.net]
Sent: Thursday, March 19, 2009 10:17 AM
To: Rotella, Robert F. (HQ-MC000)
Subject: war

NASA Administrative Claims - Jed Margolin and its successor in interest, Optima, have pursued an administrative claim for patent infringement. Upon completion of investigation by JSC and DFC, reviewed all materials and prepared initial draft of final agency determination letter denying claim based on lack of infringement. (Rotella, McNutt, Borda)(3/9/09)

02363

[redacted]

From: Rotella, Robert F. (HQ-MC000)
Sent: Thursday, March 19, 2009 10:24 AM
To: Borda, Gary G. (HQ-MC000); Graham, Courtney B. (HQ-MC000)
Cc: Bayer, Kathy (HQ-MC000)
Subject: WAR item

NASA Administrative Claims - Jed Margolin and its successor in interest, Optima, have pursued an administrative claim for patent infringement. Upon completion of investigation by JSC and DFC, reviewed all materials and prepared initial draft of final agency determination letter denying claim based on lack of infringement. (Rotella, McNutt, Borda)

Robert F. Rotella
Senior Patent Attorney
Office of the General Counsel
NASA Headquarters
[redacted] b(6)

[redacted]

From: Rotella, Robert F. (HQ-MC000)
Sent: Tuesday, May 05, 2009 2:14 PM
To: Graham, Courtney B. (HQ-MC000)
Subject: CIPLG Practice Group

1) Node 3 module of ISS online naming contest: Drafted set of rules and entry conditions for participants; the most significant was that the agency was not bound to accept the results of the online voting which avoided having to name Node 3 after Stephen Colbert, who encouraged viewers to nominate him.

2) Administrative Claims for Patent Infringement:
a) Delta Engineers' allegation of infringement of its U.S. patent covering a "High Performance Cold Plate." Claim was denied in a final agency decision following extensive review;
b) Margolin/Optima allegation of patent infringement by X-38 Project, based on patent covering "Synthetic Vision." Claim was denied in a final agency decision following extensive review and coordination with Center patent staffs.

3) NASA trademarks: agency will pursue formal trademark registration in US and European Community for NASA brands, including: meatball, NASA seal, NASA acronym, "National Aeronautics and Space Administration.

Robert F. Rotella
Senior Patent Attorney
Office of the General Counsel
[redacted] b(6)

02367

[redacted]

From: Jed Margolin [redacted]
Sent: Tuesday, August 05, 2008 1:56 PM
To: McNutt, Jan (HQ-MC000)
Subject: NASA Case I-222
Attachments: jm_scs_report.zip

b(6)

Dear Mr. McNutt.

I have attached the documents we discussed.

Regards,

Jed Margolin

02434