



IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder
Direct Dial: 561.364.4240

Via: Express Mail Post Office to Addressee

Monday, October 25, 2004

Charles Pearson
Director, Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Re: Renewed Petition under 37 C.F.R. 1.137(a); Request for Reconsideration of Application No. 09/522,721

Dear Mr. Pearson:

Thank you for the conversation on the afternoon of Friday, October 22, 2004, and pursuant to your instructions, we reply as follows to the denied petition to revive the abandoned application of 09/522/721.

1. Required Reply to Office Action of September 26, 2001

By a letter dated August 24, 2004, entitled Decision of Petition attached herein as Exhibit A ("Brown Decision"), Alesia M. Brown, Senior Petitions Attorney, indicated the failure to enclose the required reply of the September 26, 2001 Office Action as the FIRST reason for the denial of the petition to revive, and, in answer, we submitted the required reply on February 25, 2004 that was acknowledged and accepted by Kenneth Weider, Special Program Examiner attached herein as Exhibit B. Moreover, we submitted similar responses to Office Actions with Mr. Weider, and those responses formed the basis for suspension of patent prosecution for our patent applications of 09/630,939, 09/587,730, and 09/587,734.

2. Petition Fee Set Forth in 37 CFR 1.17(1)



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Complied with and accepted by Alesia M. Brown, Senior Petitions Attorney.

3. Unavoidability and Unintentional Delay of Filing Petition to Revive

By the Brown Decision, it was indicated that the lack of “a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable,” as the SECOND reason for the denial of the petition to revive, and, in answer, we state that knowledge of the abandonment of the application in question was first discovered in the November 20, 2003 Patent Status Report of prior patent counsel Blakely Sokoloff Taylor & Zafman LLP (“BSTZ”), attached herein as Exhibit C, received on November 24, 2004; no other patent status reports were received from BSTZ from the time of July 18, 2001 to November 24, 2003, and we did not receive nor were made aware of the Notice of Abandonment of May 23, 2002.

That in a telephone conversation with Harry I. Moatz, Director of Office of Enrollment and discipline, on or about January 5, 2004, Mr. Moatz, responding to our complaint of on or about September 2003 attached herein as Exhibit D, instructed us to file the requisite forms to put our patent applications into suspension, or revival of same, particularly the patent application at issue here. Consequently, the delay in filing of the revival petition between the time of receipt of the BSTZ docket and the telephone conversation with Mr. Moatz was a mere forty two (42) days and handled by pro se applicants navigating the complex rules of the United States Patent and Trademark Office and the Code of Federal Regulations and fits squarely within the “reasonably prudent person standard” of Ex Parte Pratt, 1887 Comm ’r Pat. 31, 32-33 (Comm’r Pat. 1887).

Equally relevant, and pursuant to 37 CFR 1.137(B), is that the set of circumstances, specifically the lack of patent status reports from BSTZ described above, wholly contributed to applicants’ entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition, and was unintentional; these circumstances similarly fit squarely within the “reasonably prudent person standard” of Ex Parte Pratt, 1887 Comm ’r Pat. 31, 32-33 (Comm’r Pat. 1887).

4. Terminal Disclaimer (and fee) Required Pursuant to 37CFR. 1.137(c)

Complied with and accepted by Alesia M. Brown, Senior Petitions Attorney.

Accordingly, we request your reconsideration of the revival of abandoned application, 09/522/721.



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Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Bernstein", is positioned below the "Respectfully yours," text. The signature is fluid and cursive, with the first and last names being clearly legible.

Eliot I Bernstein
President, Founder & Inventor
Iviewit Holdings, Inc.

cc: P. Stephen Lamont, Chief Executive Officer
Harry I. Moatz
Joseph Rolla
Kenneth Weider
Alesia M. Brown



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Exhibit A - Alesia Letter

Organization _____ Bldg./Room _____
U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

IF UNDELIVERABLE, RETURN IN TEN DAYS

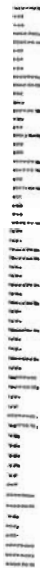
AN EQUAL OPPORTUNITY EMPLOYER

ELIOT I. BERSTEIN
310158 STONEHENGE CIRCLE
SUITE 801
BOYNTON BEACH, FL 33437-3546



8/27/04

33437+3546 26





UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thought Moatz took care of,
we should send letter for all to
be safe and foreign. FIND
OUT WHO IS ON AND WHAT
THEY HAVE RECEIVED

Paper No. 8

THOMAS M. COESTER ESQ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BLVD.
SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

AUG 24 2004

OFFICE OF PETITIONS

In re Application of
Bernstein
Application No. 09/522,721
Filed: March, 2000
Atty. Dkt. No.: 5865-1

:
: DECISION ON PETITION

:
: Note in response we do not have full files of USPTO to
: respond yet, and what is up

This is a decision on the petition under 37 CFR 1.137(a), filed
July 30, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be
submitted within **TWO (2) MONTHS** from mail date of this decision.
Extensions of time under 37 CFR 1.136(a) are permitted. The
reconsideration request should include a cover letter entitled
"Renewed Petition under 37 CFR 1.137(a)." This is not a final
agency decision.

WHAT ABOUT
INSTANCES
OF FRAUD
AND DECIET
AS THE
REASON?

This application became abandoned December 27, 2001 for failure
to timely reply to the non-final Office action mailed September
26, 2001. The non-final Office action set a three (3) month
shortened statutory period of time for reply. No extensions of
time in accordance with 37 CFR 1.136(a) were timely requested.
Notice of Abandonment was mailed May 23, 2002.

A grantable petition under 37 CFR 1.137(a) must be accompanied
by: (1) the required reply, unless previously filed; (2) the
petition fee as set forth in 37 CFR 1.17(1); (3) a showing to
the satisfaction of the Commissioner that the entire delay in
filing the required reply from the due date for the reply until
the filing of a grantable petition pursuant to 37 CFR 1.137(a)
was unavoidable; and (4) any terminal disclaimer (and fee as set
forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition lacks requirements (1) and (3) set forth above.

 8/27/04

Application No. 09/522,721

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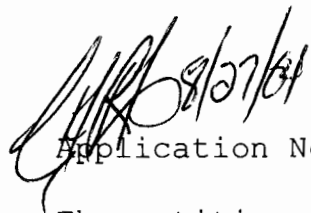
As to item (1), petitioner has failed to submit a proper reply to the outstanding Office action. Any renewed petition must be accompanied by a proper response in the form of an amendment in compliance with 37 CFR 1.121 or a continuation application. Enclosed as a courtesy, please reference materials regarding amendment practice. Inquiries regarding the formation of an amendment **MUST** be directed to the examiner of record for the instant application or the Independent Inventor Assistance Center (1-800-PTO-9199).

As to item (2), petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

WHAT IF UNKNOWN AND IF PRACTITIONER IS INTENTIONALLY ABANDONING FOR PERSONAL

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the delay in timely submitting a proper response to the non-final Office action to the actions counsel. The petition also implies that the instant application was allowed to go abandoned in favor of U.S. App. No. 09/630,939, filed August 2, 2000.



Application No. 09/522,721

POINT OUT FRAUD AGAIN, PETITIONER THOUGHT ONE COURSE OF ACTION WAS TAKING PLACE AND ANOTHER WAS, AGAIN TO PERPETRATE A FRAUD. CHANGING INVENTORS AND CONTENT TO MOVE PATENTS OUT.

3

The petition fails to set forth with specificity the precise actions by counsel that petitioner believes led to the abandonment of the application. Nor has the petition set forth the manner in which petitioner became aware that the application was abandoned and what steps were taken to seek revival. Thus, petitioner has failed to establish that the entire period of delay from the time a reply to the non-final Office action was due until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable.

To the extent petitioner alleges the actions of counsel resulted in the abandonment of the instant application, petitioner is reminded that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. See, Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, applicant's delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA) (1697) (E.D. PA Nov. 7, 1991). Consequently, the delay allegedly caused by counsel does not constitute unavoidable delay. Moreover, that delay is imputed to applicant. Petitioner is further reminded the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative. See, Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

To the extent petitioner implies the instant application abandoned in favor of U.S. App. No. 09/630,939, should be aware that unavoidable delay is the epitome of unintentional delay. Thus, an intentional delay precludes revival under 37 CFR 1.137(a) ("unavoidable" delay) or 37 CFR 1.137(b) ("unintentional" delay). See, In re Maldague, 10 USPQ2d 1477 at 1478. Hence, a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay. Where the applicant deliberately permits an application to become abandoned, the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137. See, In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the

CHOOSEN COURSE WAS BASED ON FALSE CONVEYANCE OF ATTORNEYS REGARDING THE TRANSITIONS AND A DELIBERATE COURSE TO DERAIL. CHOOSEN COURSE WAS NOT FOLLOWED BY ATTORNEYS AS CONVEYED TO INVENTORS, THEREFORE HOW CAN IT BE INTENTIONAL WHEN BASED ON FALSE INFORMATION. IF SO ATTORNEY LIABILITY MOUNTS FOR FRAUD.

STARTED TO
REVIVE MINUTE
WE FOUND OUT
PATENT
COUNSEL HAD
BEEN LYING
AND GOT CONF
FROM USPTO

FIND THESE



Application No. 09/522,721

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course of action that should have been taken. See, Maldague at 1478 and MPEP 711.01(c).

CALL MOATZ
WHERE ARE FILES
AND STATUS ON
INVENTORS, ETC.
ATTORNEY
MISCONDUCT,
WILL NEED FOR
RESPONSE TO
THIS ASAP

Any renewed petition must be accompanied by evidence to sufficiently establish that the entire period of delay in responding to the non-final Office action was unavoidable. Petitioner must specify the exact nature of the alleged delay and provide supporting evidence of the delay. Petitioner should also detail when petitioner became aware of the abandonment and what steps were taken thereafter to seek revival.

STARTED
WHEN WE
FOUND OUT
SHEETS WERE
WRONG AND
DID NOT JIVE
WITH USPTO

Normally, the undersigned would encourage a petitioner to seek revival under 37 CFR 1.137(b) when an unfavorable decision under 37 CFR 1.137(a) is rendered. However, the instant petition raises questions as to whether the delay in question was in fact "intentional". Nonetheless, petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable".

Petitioner is, however, strongly encouraged to seek counsel. While an inventor may prosecute an application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent. Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is no indication that petitioner has ever submitted a revocation of power of attorney or change of correspondence address. If petitioner desires to receive future communication regarding this patent at an address other than that currently of record, the appropriate documentation must be submitted.

Petitioner is advised that all future correspondence will be directed to the fee address currently of record until such time as appropriate instructions are received to the contrary.

Enclosed please find form for petitioner's consideration.

FILE TODAY,
ASK MOATZ
WHO IS ON
FIRST AND
WHAT APP
HAS EACH
CURRENT

Application No. 09/522,721

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Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

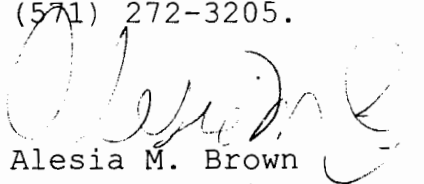
(703) 872-9306

By hand delivery or:

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UPS, DHL, etc.)

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310. Inquiries made after September 27, 2004 should be directed to the undersigned at (571) 272-3205.


Alesia M. Brown
Senior Petitions Attorney
Office of Petitions


Reed
8/27/04

Enclosures: USPTO Privacy Statement
Amendment Practice Materials
PTO/SB/82

CC: ELIOT I. BERSTEIN
10158 STONEHENGE CIRCLE
SUITE 801
BOYNTON BEACH, FL 33437-3546



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Charles Pearson – Director Petitions
United States Patent & Trademark Office
Monday, October 25, 2004
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Exhibit B – Weider Letter



I View It Technologies, Inc.
10158 Stonehenge Circle
Suite 801
Boynton Beach, FL 3343-3546
Tel: 561 364 4240
Fax: 561 364 4240

CONFIDENTIAL FACSIMILE COVER PAGE

MESSAGE:

Ken,

Attached is the completed paperwork for application 09/522,721. If you have any questions or need additional information please feel free to call.

Thanks,

Eliot

To: Kenneth Weider

From: Eliot I Bernstein

Fax #: 17033053991

Fax #: 561 364 4240

Company: United States Patent &

Tel #: 561 364 4240

Subject: 09/522,721 Iviewit Filing

Sent: 2/26/2004 at 3:49:20 PM

Pages: 21 (including cover)

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(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

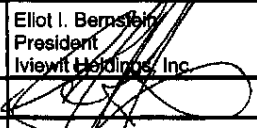
21

Application Number	09/522,721
Filing Date	March 10, 2000
First Named Inventor	Eliot I. Bernstein
Art Unit	2624
Examiner Name	Stephen M. Brinich
Attorney Docket Number	

ENCLOSURES (Check all that apply)

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | Inventor Change Form Petition |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | Request to Suspend Application |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | Remarks | Petition to Revive Abandoned Patent |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | ***** | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | Response To Office Action September 24, 2001 | |
| | Credit Card Payment attached - please detach | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Eliot I. Bernstein President Iviewit Holdings, Inc.
Signature	
Date	February 25, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Eliot I. Bernstein		
Signature		Date	February 25, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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United States Patent and Trademark Office
Credit Card Payment Form
Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: ☐ Visa ☐ MasterCard ☒ American Express ☐ Discover

Credit Card Account #: 3713 887460 52000

Credit Card Expiration Date: 12/05

Name as it Appears on Credit Card: Simon L. Bernstein

Payment Amount: \$ (US Dollars): 55.00

Cardholder Signature:  **Date:** 2/23/2004

Refund Policy: The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The office will not refund amounts of \$25.00 or less unless a refund is specifically requested, and will not notify the payor of such amounts (37 CFR § 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR § 1.21 (m)).

Credit Card Billing Address

Street Address 1: 7020 Lions Head Lane

Street Address 2:

City: Boca Raton

State/Province: FL

Zip/Postal Code: 33496

Country: USA

Daytime Phone #: 561-988-8984

Fax #:

Request and Payment Information

Description of Request and Payment Information:

<input type="checkbox"/> Patent Fee	<input checked="" type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No.	Application No. 09 522 721	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No.		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

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FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 55

Complete if Known

Application Number	09/522,721
Filing Date	March 10, 2000
First Named Inventor	Eliot I. Bernstein
Examiner Name	Stephen M. Brinich
Art Unit	2624
Attorney Docket No.	

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number
Deposit Account Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 185	Notice of Appeal	
1402 330	2402 185	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	55
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1808 180	1808 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 55

SUBMITTED BY

Name (Print/Type)	Eliot I. Bernstein	Registration No. (Attorney/Agent)	Telephone	561-364-4240
Signature	X	Date	February 25, 2004	

(Complete if applicable)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor: Eliot I. Bernstein

Art Unit: 2624

Application Number: 09/522,721

Examiner: Stephen M. Brinich

Filed: March 10, 2000

Title: Apparatus & Method For Producing Enhanced Digital Images

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity – fee \$ 55 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity – fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
See attached office action response for outstanding action (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

February 25, 2004

Date

561-364-4240

Telephone Number

Registration Number, if applicable

X

Eliot I. Bernstein

Signature

Typed or printed name

10158 Stonehenge Circle
Suite 801
Boynton Beach, FL 33437-3546

Address

Address

Enclosure ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☐**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

February 25, 2004

Date

Signature

Eliot I. Bernstein

Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

February 25, 2004

Date


SignatureEliot I. Bernstein

Typed or printed name

Registration Number, if applicable(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Please see attached statement

(Please attach additional sheets if additional space is needed.)



IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder
Direct Dial: 561.364.4240

VIA – FACSIMILE

Thursday, February 26, 2004

U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks

**Re: PETITION TO REVIVE ABANDONED PATENT – INTENT TO
DECIEVE AND COMMITT FRAUD UPON THE UNITED STATES
PATENT & TRADEMARK OFFICE (USPTO) IS CLAIMED**

US SERIAL NO. 09 522 721

Dear Commissioner of Patent & Trademarks:

Please let the attached Petition to Revive Abandoned Patent request serve as an official request to have this application revived, so that we may answer the outstanding office action and place the application in immediate suspension. Whereby, intent to commit fraud on the USPTO is the listed reason.

This application was lapsed by counsel against the desires of the Company and contrary to the reasons stated to us by our attorneys. Originally, it was expressed that it had a replacement application of 09/630,939 but the replacement is fraught with errors and wrong inventors and despite what counsel told us that the new application would be identical other than correcting the errors we were completely misled with the negative impact this lapse may now have.



U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks
Thursday, February 26, 2004
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Therefore, we request to revive the application due to these unavoidable circumstances.

Very truly yours,

A handwritten signature in black ink, appearing to read "E.I. Bernstein", written in a cursive style.

Eliot I Bernstein
President
I View It Holdings, Inc. and any/all affiliates




U.S. Patent and Trademark Office
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Thursday, February 26, 2004
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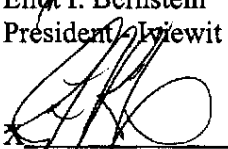
REQUEST TO REVIVE ABANDONED PATENT
US SERIAL NO. 09 522 721
INTENT TO DECIEVE AND COMMITT FRAUD UPON THE USPTO

I, Eliot I. Bernstein, as acting President of Iviewit and its affiliates, and as a named inventor on this application, hereby request that this application be revived from an abandoned status, so that we make answer the outstanding office action and immediately suspended the application, until the true and correct inventors can be added and the wrong inventors removed from this Non Provisional application **09 522 721** to properly name the inventors of this invention. Further, due to failed disclosures and missing content in the application and it's predecessor Provisional application, we await investigation by the OED offices whom has advised that suspending this application is the desired course of action until the problems can be dealt with and attempted to be rectified. The problems are partially explained in the attached inventor change form that is simultaneously being submitted with this request for suspension. This application was lapsed by counsel against the desires of the Company and contrary to the reasons stated to us by our attorneys. Originally, it was expressed that it had a replacement application of 09/630,939 but the replacement is fraught with errors and wrong inventors and despite what counsel told us that the new application would be identical other than correcting the errors we were completely misled with the negative impact this lapse may now have. Therefore, we request to revive the application due to these unavoidable circumstances and then suspend it until the allegations can be investigated and the corrections made.

I make this request on behalf of Iviewit and its affiliates and, on my own behalf as an original inventor at the time of creation, I was there at the time of invention and all times relevant hereto, and, swear that all of the following statements are true and correct statements to the best of my knowledge.

Signed on this 26th day of February 2004,

By: 
X _____
Eliot I. Bernstein
President, Iviewit and any/all affiliates


X _____
Eliot I. Bernstein
Inventor



U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks
Thursday, February 26, 2004
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IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder
Direct Dial: 561.364.4240

VIA – FASCIMILE

Thursday, February 26, 2004

U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks

**Re: CHANGE OF INVENTOR REQUEST – INTENT TO DECIEVE AND
COMMITT FRAUD UPON THE USPTO IS CLAIMED**

US SERIAL NO. 09 522 721

Dear Commissioner of Patent & Trademarks:

Please let the attached changed of inventors request serve as an official request pursuant Section **37CFR 1.48** to change the inventors. Whereby, intent to commit fraud on the USPTO is the listed reason.

Very truly yours,

A handwritten signature in dark ink, appearing to read "EIB", written over a light blue horizontal line.

Eliot I Bernstein
President
I View It Holdings, Inc. and any/all affiliates



U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks
Thursday, February 26, 2004
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CHANGE OF INVENTOR REQUEST
US SERIAL NO. 09 522 721

PURSUANT TO 37CFR 1.48
INTENT TO DECIEVE AND COMMITT FRAUD UPON THE USPTO

I, Eliot I. Bernstein, as acting President of Iviewit and its affiliates, and as a named inventor on this application, hereby request that the true and correct inventors be added and the wrong inventors removed from this Non Provisional application **09 522 721** to properly name the inventors of this invention.

The listed and **incorrect** inventors for this application are:

Eliot I. Bernstein

The **true and correct inventors** for this application are:

Eliot I. Bernstein
Zakirul Shirajee
Jude Rosario

The reason for this correction:

The true and correct inventors have been purposefully been left off this patent application by three different counsels all failing to correctly fix the inventor issues and wrong disclosures. Since the creation of the invention, our initial counsel in the Provisional filing **60 125 824** attorneys Kenneth Rubenstein of Proskauer Rose LLP ("PR") and Raymond Joao of Meltzer, Lippe, Goldstein, Wolf & Schlissel, P.C., ("MLGS") failed after repeated requests to make the inventor and content changes, although they had full knowledge of the correct inventors and the correct invention. In addition, the content of the Provisional application had changed from what the inventors disclosed initially and pertinent disclosures were left out with malice and intent to deceive the USPTO and further deprive the inventors of their inventions. Subsequent counsel to "PR" attorneys William Dick, Douglas Boehm and Steven Becker of Foley & Lardner ("FL") on this Non Provisional filing, failed to correct either the inventors or the content of the Provisional or Non-Provisional. This may now leave the pertinent disclosures left off and incorrect inventors, to serve as new matter in the in subsequent Non Provisional filings that claim priority to the Provisional application. Successor counsel to "FL" attorneys



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Norman Zafman, Thomas Coester and Farzad Amini of Blakely Sokoloff Taylor & Zafman LLP ("BSZT") also failed to file the corrections despite repeated requests by the Company to get the corrections to the patent office and further let this application go abandoned as they determined it had little merit based on the problems this application had from Raymond Joao forward and they felt that replacing it was not a problem, although they cautioned that new matter could cause problems in subsequent application filed by "FL" 09 630 939 which contained further errors in the inventors.

Initially, attorneys Kenneth Rubenstein of "PR" and Raymond Joao of "MLGS" knowingly, with malice and intent to commit fraud upon the USPTO, left inventors and critical disclosures off the Provisional application after obtaining the true and correct signatures and disclosures in meetings. Mssrs: Rubenstein and Joao, on the subsequent Non Provisional Filing (**09 522 721**) and the PCT (**00 07772**) filings, despite being aware of the prior problems discovered over the course of the year, made no attempt to fix their errors on the Non-Provisional filing. They further continued the errors of their Provisional filing, despite having the inventors sign and fix the new Non-Provisional filings; the changes and signatures were completely discarded by them and again a different application was filed with wrong content and wrong inventors. Mr. Rubenstein, an Advisor to the Board and Shareholder, who under deposition claimed to not know the Company now, had been the first patent attorney to meet with the inventors and receive the disclosures and he represented that he was directing his underling Mr. Joao to do the Provisional filings with his oversight. Raymond Joao was terminated as counsel for this and other patent malfeasances that became uncovered.

To replace "MLGS", "FL" was retained to make corrections to the patents and get the correct inventors listed. Again, it was fully disclosed who the correct inventors were and what the inventions were to each of these attorneys at "FL" for this application and other applications of the Company. After reviewing Mssrs: Joao and Rubenstein's work "FL" found that Raymond Joao had failed to properly list the inventors and left out pertinent disclosures on the filings. Upon finding out about the correct inventors, "FL" attorneys stated that the corrections were being made to the Provisional & Non-Provisional applications. After meeting with and taking disclosures and signatures of the true inventors, "FL" failed to make the corrections knowingly, with malice and intent to further commit fraud on the USPTO in their Provisional, Non-Provisional and PCT applications filed by them relating to the Provisional filing. Further, in some instances Brain G. Utley becomes a listed inventor, "FL" added inventor Brian G. Utley, knowingly, with malice and intent to further commit fraud upon the USPTO, knowing that he was not an inventor in any material way to the patents and was not even there when they were invented. Mr. Utley replaces the true inventors of this application with a "FL" filing 09 639 939 that intends to replace the problems of Rubenstein\Joao's **09 522**



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721 application and then they too leave off the original inventors. Further, the new application which should only be replacing the **09 522 721** application then adds Brian Utley who was not there when the original invention was made and filed. Mr. Utley neither invented or added to the invention and therefore it becomes apparent that "FL" attempted to replace the original invention and inventors with an application with Mr. Utley on it, knowingly, with malice and intent to commit fraud on the USPTO. Finally, in instances such as this filing, true and correct inventors have been partially left off the application and never corrected. We are working not only to revive the patent but fix the content and inventor problems created by our counsel.

This application is the one-year filing to replace the original Provisional 60 125 824 the Company had filed with Msrs: Joao and Rubenstein for the original invention. It appears that the "FL" application with Utley named was an effort to let the Provisional 60 125 824 and the subsequent Non-Provisional **09 522 721** filing go and let it expire and replace it with a new filing. Yet left uncorrected the **09 522 721** application which served as the basis for the new "FL" application 09 630 939 faced the same problems as the **09 522 721** filing which spawned from the 60 125 824. These problems left uncorrected in the original provisional present problems of new matter being claimed when trying to add back the disclosures and inventors purposely left off by Rubenstein/Joao and "FL", with malice, deceit and intent to commit fraud upon the USPTO and deprive the true and correct inventors of their inventions, in their subsequent Non Provisional filings **09 522 721** and 09 630 939. The application **09 522 721** further was never corrected by "FL" or "BSTZ" although both were aware of the problems in the filing and stated that they were correcting the content and the inventors before abandoning it. Again, these inventors on this application are wrong knowingly, with malice and intent to commit fraud on the USPTO. In this Non Provisional application 09 522 721, the true and correct inventors were dropped, never corrected and in the replacement of this application 09 630 939, the missing inventors are replaced by Brian G. Utley. Mr. Utley should not be on any applications for the Company, as he has not invented anything and I have never invented anything with him.

It will serve to note here that it has come to the attention of the Company after an investigation into Mr. Utley's background that quite the opposite of what his resume states about his prior employment to the Company is true. At his former job as President of Diamond Turf Equipment Inc. in Florida, a company owned by a Mr. Monte Friedkin of Benada Aluminum of Florida, Mr. Utley with the aid of Mr. William Dick of "FL", had stolen off with ideas learned while employed at Friedkin's company relating to turf equipment. Mr. Utley had written these patents into his own company, Premiere Consulting, and his own name as inventor with no assignment to the company he worked for, Premiere Consulting was separate and apart from his employer. Upon discovering



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the absconded with patents, Mr. Friedkin demanded that the patent applications be turned over to the company as they were learned while working at his company by Mr. Utley. Mr. Utley refused to sign them over to his employer and was fired with cause immediately for these patent malfeasances. Mr. Friedkin was forced to immediately close the business and take a substantial multi-million dollar loss on the company due directly to this incident. Additionally, the company, Premiere Consulting, that was set up to receive the patents Mr. Utley misappropriated, was set up by Christopher Wheeler of Proskauer Rose LLP, who was the first person to see the technologies, who then brought to the Company to handle our patents Mssrs: Rubenstein, Joao, Utley and Dick. What Mssrs: Wheeler, Utley and Dick failed to disclose to our Company was the past patent malfeasances and the damage caused to Mr. Friedkin by their actions. I quote from the resume Mr. Wheeler submitted on behalf of his dear friend Mr. Utley to the Company to hire him as President and handle our most prized possession the patents:

Personal Resume

Professional History:

President, Diamond Turf Equipment, Inc. July, 1995 to July 1999.

In 1995 the company was engaged in refurbishing obsolete and run-out golf course maintenance equipment and had annual sales of \$250K. Since that time the company has been transformed into a manufacturer of new machines which compete favorably with the best of the market leaders and an expected revenue for 1999 of \$6M. The design of the machines was by Brian and was accomplished while putting together a manufacturing and marketing team capable of supporting the rapid growth of the company.

This resume is materially different from the truth. Mr. Utley was fired for cause and the company Diamond Turf Equipment Inc. closed upon his firing. Understanding that the same people (Wheeler, Utley & Dick) who had caused this calamity are the very same people who have caused similar harm to our Company, using similar patent malfeasances is core to understanding why our patents have such a bizarre array of problems. The very fact that this was not disclosed in writing and waivers, by any of the attorneys and further lied about in Utley's resume by Mr. Wheeler who procures the false resume to cover this up, is a sign of their intent to commit similar crime upon our Company and perpetrate similar fraud upon the USPTO. Had the Company been aware of this past patent malfeasance they were involved with the Company surely would have never hired any of them.

With this understanding, it appears that the intent of "FL" was to replace patents of the original inventions with patents whereby Mr. Utley was now named an inventor and finally in some instances Mr. Utley was named sole inventor of certain inventions of the Company. These applications in Utley's sole name are for part of the core technology



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that he did not invent such as; "Zoom and Pan Imaging Design Tool" Provisional patent 60 233 341 and "Zoom and Pan Imaging Using A Digital Camera" Provisional patent 60 233 344. These patents in Utley's sole name serve to show a pattern of attempts at patent theft against the Company by its entrusted patent attorney, representatives of the USPTO whom are supposed to protect us against these very crimes. Instances whereby "FL" writes patents directly into Mr. Utley's name are an attempt to abscond with core formulas and ideas of the original inventions by the true and correct inventors.

These Provisional applications with Mr. Utley as sole inventor, with no assignment to the Company, were never disclosed to the Company or its shareholders. They were only revealed when the Company found in Mr. Utley's possession a set of patents that was markedly different from what the inventors were seeing and signing for and in fact further were with fraught with errors and wrong inventors contrary to what the inventors had been seeing and signing. These inventions were undisclosed to the Company and appear to be filed in an attempt to abscond with core features of the original inventions from the true and correct inventors listed above. When caught with two sets of patent books, similar to maintaining cooked accounting books, Mr. Utley was terminated with cause from the Company and "FL" was terminated as patent counsel. This patent 09 522 721, has similar elements to their prior patent scam at Diamond Turf, Inc. in that Mr. Utley writes and re-writes others inventions, with the aid of Mr. Dick and other "FL" attorneys, patents again into his name that were not his inventions. This Non Provisional patent 09 522 721 was replacing the original Provisional, which Joao had already filed as Non Provisional, which "FL" then claimed Joao's work was so wrong, that correcting it was impossible, and that their new Non-Provisional was needed to be filed with the correct content and correct inventors. Knowing the true and correct inventors and having had them sign applications for what appeared the true invention, "FL" attorneys then threw those signatures and the application out and replaced it with the 09 630 939 application before the USPTO, claiming Mr. Utley as an inventor and replacing himself with inventors Mssrs: Rosario and Shirajee.

Finally, "BSZT" the last attorneys of record handling the patents, also failed to file the correct inventors knowingly, with malice and intent to further perpetrate and cover up such fraud of prior attorneys to the USPTO, after repeatedly being requested to make the changes to them and finally abandoned the 09 522 721 without making the changes in content or the inventors leaving the 09 630 939 patent to have similar problems of new matter being added when trying to insert the missing disclosures of Joao/Rubenstein. Upon finding that Mr. Utley was not an inventor of anything and that the inventors were wrong, "BSZT" assured the Company that these issues were being corrected. They had me sign a power of attorney on Mr. Utley's behalf to turn any/all inventions with his name back over to the Company and remove him from any/all pending applications his



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name remained listed on. They claimed that they could achieve this due to his employment and invention agreements signed with the Company that strictly prohibited such misappropriations and then they failed to remove him and replace him with the true and correct inventors. Mr. Utley was to be removed from any/all patents that have his name on them and the ones in which he was named as the sole inventor, were to be corrected and turned back over to the Company. Now, upon contacting the USPTO we find that many of these changes remain unchanged, in what appears another attempt to continue this fiasco and cover up for the attorneys before them, "BSZT" made virtually no changes requested by the Company to this or other applications.

At all times, all attorneys were fully cognizant of the true inventors and the true invention for this application. Finally, all these attorneys failed to report the prior counsels misconduct in these matters to the OED Director or any other department at the USPTO or other Federal Agencies and left the Company with many serious problems in the patents. The incorrect inventors are a great risk to the shareholders of the Company and need to be remedied immediately if possible, as the assignment of these patents to the Company and any successive assignments are not signed by the true and correct inventors and thus pose the question of what they currently have rights to in relation to their investments. Finally, many of the attorneys involved in these patents appear to have financial interests and severe conflicts of interest with the Company whereby the company's inventions being approved would stand in direct conflict with either with inventions of their own (Raymond Joao) or patent pools overseen by them (Kenneth Rubenstein).

Currently, I am listed on the patents for examination purposes and after reviewing the inventors listed have determined on behalf of Iviewit and its affiliates, and, on my own behalf as an original inventor at the time of creation, that the true inventors are as listed above and not what exists currently on this application. I was there at the time of invention and all times relevant hereto, and, swear that all of the following statements are true and correct statements to the best of my knowledge.



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These issues and many other of attorney misconduct in the above mentioned application are currently under a pending investigation with the Director of OED whom advised me to begin correcting the inventor issues with the USPTO Examiners.

Signed on this 26th day of February 2004,

By:

A handwritten signature in black ink, appearing to be "E. Bernstein", written over a horizontal line.

Eliot I. Bernstein
President Inewit and any/all affiliates

A handwritten signature in black ink, appearing to be "E. Bernstein", written over a horizontal line.

Eliot I. Bernstein
Inventor



IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder & President
Direct Dial: 561.364.4240

VIA – FACSIMILE

February 26, 2004

U.S. Patent and Trademark Office
Stephen M. Brinich
Examiner
Art Unit 2624

Re: UNITED STATES PATENT APPLICATION NO. 09/522,721
APPLICANT: ELIOT I. BERNSTEIN
RESPONSE TO OFFICE ACTION DATED SEPTEMBER 24, 2001

Dear Mr. Brinich:

Please let the attached Response to Office Action Dated September 24, 2001 serve as an official answer to your action. Whereby, we summarily state intent to commit fraud by the company's patent counsel on the United States Patent and Trademark Office ("USPTO") as the answer to the office action issues and follows upon the complaint of Iviewit Holdings, Inc. ("Company") to Harry I. Moatz, Director of the Office of Enrollment and Discipline of the United States Patent and Trademark Office dated September 25, 2003 ("OED Letter," available upon request).

Very truly yours,

A handwritten signature in black ink, appearing to read "E.I. Bernstein", written in a cursive style.

Eliot I Bernstein
Founder & President



U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks
February 26, 2004
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RE: UNITED STATES PATENT APPLICATION NO. 09/522,721
APPLICANT: ELIOT I. BERNSTEIN
RESPONSE TO OFFICE ACTION DATED SEPTEMBER 24, 2001

Claims Rejections – 35 USC § 112

From the OED Letter you will understand that the Applicant contends that provisional patent counsel intentionally omitted critical elements of the invention that subsequent patent counsel failed to adequately repair, equally intentional, as well as intentionally omitting two other *bona fide* inventors.

Accordingly, the Applicant requests that further examination of the subject application be deferred until which time as there is a resolution of the findings with respect to the OED Letter.

If the Examiner should have any further questions regarding this application, the Applicant invites the Examiner to contact the undersigned. If the Examiner's further objections are such that they cannot readily handle by way of telephone communication, then the Applicant invites the Examiner to issue a further substantive office action.

Claims Rejections – 35 USC § 102

From the OED Letter you will understand that the Applicant contends that provisional patent counsel intentionally omitted critical elements of the invention that subsequent patent counsel failed to adequately repair, equally intentional, as well as intentionally omitting two other *bona fide* inventors.

Accordingly, the Applicant requests that further examination of the subject application be deferred until which time as there is a resolution of the findings with respect to the OED Letter.

If the Examiner should have any further questions regarding this application, the Applicant invites the Examiner to contact the undersigned. If the Examiner's further objections are such that they cannot readily handle by way of telephone communication, then the Applicant invites the Examiner to issue a further substantive office action.



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Claims Rejections – 35 USC § 103

From the OED Letter you will understand that the Applicant contends that provisional patent counsel intentionally omitted critical elements of the invention that subsequent patent counsel failed to adequately repair, equally intentional, as well as intentionally omitting two other *bona fide* inventors.

Accordingly, the Applicant requests that further examination of the subject application be deferred until which time as there is a resolution of the findings with respect to the OED Letter.

If the Examiner should have any further questions regarding this application, the Applicant invites the Examiner to contact the undersigned. If the Examiner's further objections are such that they cannot readily handle by way of telephone communication, then the Applicant invites the Examiner to issue a further substantive office action.

Conclusion

Currently, I am listed on the patents for examination purposes and I was there at the time of invention and all times relevant thereto, and, swear that all of the following statements are true and correct statements to the best of my knowledge.

Lastly, as a result of these instances of attorney misconduct in the above mentioned application, the OED Director advised me to begin correcting the issues with the USPTO examiners, answer the outstanding office actions, and other necessary changes and place the application in a six-month suspension until determination of the corrective actions can ascertained.

Signed on this 26th day of February 2004.

By:



Eliot I. Bernstein
Founder & President

Eliot I. Bernstein
Inventor



I View It Technologies, Inc.
10158 Stonehenge Circle
Suite 801
Boynton Beach, FL 3343-3546
Tel: 561 364 4240
Fax: 561 364 4240

CONFIDENTIAL FACSIMILE COVER PAGE

MESSAGE:

Ken,

Attached is the request to suspend 09/522,721 that I did not attach to the last fax, could you please add this to that file.

Thanks,

Eliot

To: Kenneth Weider

From: Eliot I Bernstein

Fax #: 17033053991

Fax #: 561 364 4240

Company: United States Patent &

Tel #: 561 364 4240

Subject: 09/522,721 Iviewit Request to Suspend Application

Sent: 2/26/2004 at 4:26:46 PM

Pages: 3 (including cover)

THIS MESSAGE AND ITS EMBEDDED FILES INCORPORATED HEREIN CONTAIN INFORMATION THAT IS PROPRIETARY AND CONFIDENTIAL PRIVILEGED INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE PROHIBITED FROM READING, OPENING, PRINTING, COPYING, FORWARDING, OR SAVING THIS MAIL AND IT'S ATTACHMENTS. PLEASE DELETE THE MESSAGE AND ITS EMBEDDED FILES WITHOUT READING, OPENING, PRINTING, COPYING, FORWARDING, OR SAVING THEM, AND NOTIFY THE SENDER IMMEDIATELY AT 561.364.4240. IF YOU ARE THE INTENDED RECIPIENT, YOU ARE PROHIBITED FROM FORWARDING THEM OR OTHERWISE DISCLOSING THESE CONTENTS TO OTHERS, UNLESS EXPRESSLY DESIGNATED BY THE SENDER. THANK YOU!



IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder
Direct Dial: 561.364.4240

VIA – FACSIMILE

Thursday, February 26, 2004

United States Patent and Trademark Office
Commissioner of Patent & Trademarks

Re: **REQUEST TO SUSPEND APPLICATION – INTENT TO DECIEVE AND
COMMIT FRAUD UPON THE UNITED STATES PATENT &
TRADEMARK OFFICE (USPTO) IS CLAIMED**

US SERIAL NO. 09 522 721

Dear Commissioner of Patent & Trademarks:

Please let the attached Request to Suspend Application request serve as an official request to have this application suspended for a 6-month period. Whereby, intent to commit fraud on the USPTO is the listed reason.

Very truly yours,

A handwritten signature in black ink, appearing to read "EIB", is written over a light blue horizontal line.

Eliot I Bernstein
President
I View It Holdings, Inc. and any/all affiliates



U.S. Patent and Trademark Office
Commissioner of Patent & Trademarks
Thursday, February 26, 2004
Page 2 of 2

REQUEST TO SUSPEND APPLICATION
US SERIAL NO. 09 522 721
INTENT TO DECIEVE AND COMMITT FRAUD UPON THE USPTO

I, Eliot I. Bernstein, as acting President of Iviewit and its affiliates, and as a named inventor on this application, hereby request that this application be immediately suspended until the true and correct inventors can be added and the wrong inventors removed from this Non Provisional application 09 522 721 to properly name the inventors of this invention. Further, due to failed disclosures and missing content in the application and it's predecessor Provisional application, we await investigation by the OED offices whom has advised that suspending this application is desired course of action until the problems can be dealt with and attempted to be rectified. The problems are explained in the attached inventor change form that is simultaneously being submitted with this request for suspension.

I make this request on behalf of Iviewit and its affiliates and, on my own behalf as an original inventor at the time of creation, I was there at the time of invention and all times relevant hereto, and, swear that all of the following statements are true and correct statements to the best of my knowledge.

Signed on this 26th day of February 2004,

By:

A handwritten signature of Eliot I. Bernstein in black ink.

Eliot I. Bernstein
President, Iviewit and any/all affiliates

A handwritten signature of Eliot I. Bernstein in black ink.

Eliot I. Bernstein
Inventor



Petition 09 522 721
Charles Pearson – Director Petitions
United States Patent & Trademark Office
Monday, October 25, 2004
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Exhibit C – Blakely Nov 2003 Docket

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IVIEWIT.COM PATENT STATUS REPORT

UNITED STATES PATENT APPLICATIONS

TITLE	OUR REF.	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	ASSIGNEE	REMARKS
System and Method for Streaming an Enhanced Digital Video File	P010	Eliot I. Bernstein Zakirul A. Shirajee	United States	Serial No. 09/587,730	Filed 06/05/00	Iviewit Holdings, Inc.	Pending. First Office Action received dated 11/10/03.
System and Method for Providing An Enhanced Digital Video File	P011	Eliot I. Bernstein Brian G. Utley Jude R. Rosario	United States	Serial No. 09/587,734	Filed 06/05/00	Iviewit Holdings, Inc.	Pending.
System and Method for Playing a Digital Video File	P014	Eliot I. Bernstein Zakirul A. Shirajee	United States	Serial No. 09/587,026	Filed 06/05/00	Iviewit Holdings, Inc.	Pending.
System and Method for Providing and Enhanced Digital Image File	P018	Eliot I. Bernstein Brian Utley	United States	Serial No. 09/630,939	Filed 08/02/00	Not assigned.	Pending. First Office Action received 10/29/03.
Apparatus and Method for Producing Enhanced Digital Images	P017	Eliot I. Bernstein	United States	Serial No. 09/522,721	Filed 03/10/00	Not assigned	Abandoned. Claims benefit of Provisional Application No. 60/125,824. Deadline to enter National Phase 9/23/01.

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IVIEWIT.COM PATENT STATUS REPORT

FOREIGN PATENT APPLICATIONS

TITLE	OUR REF.	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	ASSIGNEE	REMARKS
System and Method for Streaming an Enhanced Digital Video File	P010EP	Eliot I. Bernstein Zakirul A. Shirajee	EPO - Europe	Serial No. 00938126.0	Filed 06/02/00	Iviewit.com, Inc.	Pending. Published: 3/06/02. Publication No.: 1183870 First Office Action received. Request for Extension to respond pending.
System and Method for Streaming an Enhanced Digital Video File	P010JP	Eliot I. Bernstein Zakirul A. Shirajee	Japan	Serial No. 2001-502364	Filed 06/02/00	Iviewit.com, Inc.	Pending.
System and Method for Streaming an Enhanced Digital Video File	P011EP	Eliot I. Bernstein, Zakirul A. Shirajee	EPO - Europe	Serial No. 00944619.6	Filed 6/20/2000	Iviewit.com, Inc.	Pending. Published: 3/20/02. Publication No.: 1188318 First Office Action received.
System and Method for Streaming an Enhanced Digital Video File	P011JP	Eliot I. Bernstein, Zakirul A. Shirajee	Japan	Serial No. 2001-502362	Filed 6/20/2000	Iviewit.com, Inc.	Pending.
System and Method for Providing and Enhanced Digital Image File	P018EP	Eliot I. Bernstein Brian Utley	EPO - Europe	Serial No. 00955352.0	Filed 08/02/00	Iviewit Holdings, Inc.	Pending. Published: 5/2/2002 Publication No.: 1200935
System and Method for Providing and Enhanced Digital Image File	P018JP	Eliot I. Bernstein Brian Utley	Japan	Serial No. 2001-514379	Filed 08/02/00	Iviewit Holdings, Inc.	Pending.

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IVIEWIT.COM PATENT STATUS REPORT

LAPSED PCT APPLICATIONS

TITLE	OUR REF.	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	APPLICANT	REMARKS
Apparatus and Method for Producing Enhanced Digital Images	P009PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/07772	Filed 03/23/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application No. 60/125824 (P001Z).</i>
System and Method for Streaming an Enhanced Digital Video File	P010PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/15408	Filed 06/02/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application Nos. 60/137,297 (P002Z), 60/155,404 (P007Z) and 60/169,559 (P008Z).</i>
System and Method for Providing an Enhanced Digital Video File	P011PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/15405	Filed 06/02/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application No. 60/137,297 (P002Z), 60/155,404 (P007Z) and 60/169,559 (P008Z).</i>
System and Method for Playing a Digital Video File	P012PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/15406	Filed 06/02/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application No. 60/137,297 (P002Z), 60/155,404 (P007Z) and 60/169,559 (P008Z).</i>
System and Method for Video Playback Over a Network	P016PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/15602	Filed 06/07/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application Nos. 60/137,921 (P003Z), 60/141,440 (P004Z) and 60/155,404 (P007Z).</i>
System and Method for Providing an Enhanced Digital Image File	P018PCT	Eliot I. Bernstein	Patent Cooperation Treaty	Serial No. PCT/US00/21211	Filed 08/02/00	Iviewit Holdings, Inc.	Lapsed. <i>Filed based on Provisional Application Nos. 60/125824 (P001Z), 60/146,726 (P005Z), 60/149,737 (P006Z), 60/155,404 (P007Z) and 60/169,559 (P008Z).</i>

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IVIEWIT.COM PATENT STATUS REPORT

LAPSED PROVISIONAL U.S. PATENT APPLICATIONS

TITLE	OUR REF.	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	ASSIGNEE	REMARKS
Apparatus and Method for Producing Enhanced Digital Images	P001Z	Eliot I. Bernstein	United States	Serial No. 60/125824	Filed 03/24/99	Bernstein to Iviewit LLC to Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame: 010523/0526	Lapsed <i>P009PCT and P018PCT filed based on this provisional application.</i>
Apparatus and Method for Producing Enhanced Video Images	P002Z	Eliot I. Bernstein	United States	Serial No. 60/137,297	Filed 06/03/99	Bernstein to Iviewit LLC to Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame: 010523/0494	Lapsed <i>P010PCT and P011PCT and P012PCT filed based on this provisional application.</i>
Apparatus and Method for Playing Video Files Across the Internet	P003Z	Eliot I. Bernstein	United States	Serial No. 60/137,921	Filed 06/07/99	Bernstein to Iviewit LLC to Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame: 010523/0497	Lapsed <i>P016PCT filed based on this provisional application.</i>
Apparatus and Method for Providing and/or Transmitting Video Data and/or Information in a Communication Network	P004Z	Eliot I. Bernstein	United States	Serial No. 60/141,440	Filed 06/29/99	Iviewit Holdings, Inc. Assigned: 01/03/00 Reel/Frame: 010523/0574	Lapsed <i>P016PCT filed based on this provisional application.</i>
Apparatus and Method for Producing Enhanced Digital Images	P005Z	Eliot I. Bernstein	United States	Serial No. 60/146,726	Filed 08/02/99	Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame: 010523/0509	Lapsed <i>P018PCT filed based on this provisional application.</i>

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IVIEWIT.COM PATENT STATUS REPORT

LAPSED PROVISIONAL U.S. PATENT APPLICATIONS

TITLE	OUR REF.	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	ASSIGNEE	REMARKS
Apparatus and Method for Producing Enhanced Digital Images and/or Digital Video Files	P006Z	Eliot I. Bernstein	United States	Serial No. 60/149,737	Filed 08/19/99	Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame 010523/0506	Lapsed <i>P018PCT filed based on this provisional application.</i>
Apparatus and Method for Producing Enhanced Video Images and/or Video Files	P007Z	Eliot I. Bernstein	United States	Serial No. 60/155,404	Filed 09/22/99	Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame 010523/0183	Lapsed <i>P010PCT, P011PCT, P012PCT, P016PCT and P018PCT all filed based on this provisional application.</i>
Apparatus and Method for Producing Enhanced Video Images and/or Video Files	P008Z	Eliot I. Bernstein	United States	Serial No. 60/169,559	Filed 12/08/99	Iviewit Holdings, Inc. Assigned: 01/06/00 Reel/Frame 010523/0220	Lapsed <i>P010PCT, P011PCT, P012PCT and P018PCT all filed based on this provisional application.</i>
Zoom and Pan Imaging Using a Digital Camera	P020Z	Brian Utley	United States	Serial No. 60/223,344	Filed 09/18/00	Not assigned.	Lapsed
Zoom and Pan Imaging Design Tool	P021Z	Brian Utley	United States	Serial No. 60/233,341	Filed 09/18/00	Not assigned.	Lapsed



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Monday, October 25, 2004
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Moatz Complaint – September 2003



IVIEWIT HOLDINGS, INC.

P. Stephen Lamont
Chief Executive Officer
Direct Dial: 914-217-0038

By Electronic Mail and Certified Mail

September 23, 2003

Harry Moatz
Director, Office of Enrollment and Discipline
United States Patent and Trademark Office
Mail Stop OED, P. O. Box 1450
Alexandria, Va. 22313-1450

Re: Written Statement of Alleged Improprieties in the Filings, Among Others, of U.S. Patent No.'s 09,522,721, 09,587,734, 09,587,026, and 09,587,730, on behalf of Iviewit Holdings, Inc., as Assignee; and 9,630,939, on behalf of Eliot I. Bernstein, Zakirul Shirajee, Jude Rosario, and Jeffrey Friedstein as Inventors.

Dear Mr. Moatz:

Thank you for spending the time on the phone twice previously, on or about May 9, 2002 and on or about August 2003, and your suggestions and descriptions of how Iviewit Holdings, Inc. ("Company") may initiate actions to right the many wrongs in the alleged knowing and willful improprieties in the filing of the above referenced patent applications.

Moreover, in the series of allegations that are enclosed in the CD-ROM titled *Iviewit Bar Complaints* – Table of Contents of which is attached herein as Exhibit A, the Company is confident that your Office will find a reasonable certainty that Messrs. Kenneth Rubenstein, Raymond A. Joao, William J. Dick, Steven Becker, and Douglas Boehm, all present or former members of the distinguished Bar of the United States Patent and Trademark Office ("USPTO"), designed and executed, either for themselves or others similarly situated, the deceptions, improprieties, and, even in certain circumstances, outright misappropriation by the disingenuous redirection of the disclosed Company techniques by: (i) burying the critical elements of the inventions in patent applications; (ii) allowing the unauthorized use of Company inventions under confidentiality



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agreements (“NDA’s”) without enforcement of said NDA’s; (III) filing patent applications of their own or others based on the Company’s inventions; (IV) submitting knowingly false statements and falsified documents done with intent to commit fraud on the USPTO, the Company’s shareholders, and the Company’s inventors .

Furthermore, as a result of the series of allegations enclosed, the Company is confident that your Office: (i) shall find the requisite merit to initiate investigations; (ii) shall pass these allegations to a staff attorney for further investigation; (iii) shall instruct said staff attorney to institute a formal investigation, including questioning, requests for records, and other information from all parties involved; (iv) shall refer said attorney’s findings back to Mr. Moatz in his capacity as Director of the Office of Enrollment and Discipline (“OED”) of the USPTO; (v) shall present such findings to an appropriate Disciplinary Committee for determinative review; and finally (vi) shall witness said Committee initiate disciplinary action against the alleged offending attorneys.

BACKGROUND

In mid 1998, the Company’s founder, Eliot I. Bernstein, among others (“Inventors”), came upon inventions pertaining to what industry experts have heretofore described as profound shifts from traditional techniques in video and imaging then overlooked in the annals of video and imaging technology. Factually, the technology is one of capturing a video frame at a 320 by 240 frame size (roughly, ¼ of a display device) at a frame rate of one (1) to infinity frames per second (“fps” and at the twenty four (24) to thirty (30) range commonly referred to as “full frame rates” to those expert in the industry). Moreover, once captured, and in its simplest terms, the scaled frames are then digitized (if necessary), filtered, encoded, and delivered to an agnostic display device and zoomed to a full frame size of 1280 by 960 at the full frame rates of 24 to 30 fps. The result is, when combined with other proprietary technologies, DVD quality video at bandwidths of 56Kbps to 6MB per second, at a surprising seventy five percent (75%) savings in throughput (“bandwidth”) on any non-terrestrial digital delivery system such as digital terrestrial, cable, satellite, multipoint-multichannel delivery system, or the Internet, and a similar 75% savings in storage on mediums such as digital video discs (“DVD’s”) and the hard drives of personal video recorders. Moreover, said Company inventions, among others, are used on almost every digital camera or present screen technology that utilizes the feature of “digital zoom”. Furthermore, industry observers who benefited from the Company’s disclosures have gone on to claim "you could have put 10,000 engineers in a room for 10,000 years and they would never have come up with these ideas.”



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Not very well connected in emerging technologies, the Inventors contacted an accountant, Mr. Gerald Lewin, CPA of Goldstein Lewin & Co., Boca Raton, Fla., who in turns refers Inventors to Mr. Christopher Wheeler, a partner in the Florida office of Proskauer Rose LLP. Moreover, once Inventors present the technology to

Wheeler, Wheeler in turn introduces Inventors to Mr. Kenneth Rubenstein, a soon to be Proskauer partner, and the main protagonist of the Motion Pictures Experts Group ("MPEG" and the standards body for video technology) patent pool, wherein Rubenstein describes the technology as "novel..." claims that "he missed that..." that "he never thought of that..." that "this changes every thing..." and, paraphrasing, "this is essential to MPEG 2..."

Subsequently, Rubenstein factually becomes a member of the Advisory Board of the Company and is instrumental in securing investments based on his analysis of the inventions and that the aforementioned patent pools would soon pay royalties to the Company based on its inventions. Furthermore, when Rubenstein through Joao fail to properly list inventors, fail to file timely patent filings, fail to file inventions entirely, fail to file copyrights entirely and finally file patents that have been fraudulently changed without knowledge or consent of the inventors constituting a fraud on the USPTO, Wheeler then recommends another friend and patent attorney, William J. Dick of Foley & Lardner, Milwaukee, Wis. to undertake a correction of the errors of Rubenstein through Joao's filings. At this time investigations began that showed that Raymond Joao had begun a series of his own patent filings (now totaling 90 patents filed in his own name) that many appear based on ideas and concepts learned from the Company. Around this time it also became clear that the patent pools overseen by Rubenstein also had begun to use concepts learned by Rubenstein from Company disclosures sent to him and that Proskauer Rose clients introduced to the Company by Proskauer partners under NDA's were also beginning to use the technologies without authorization.

Rather than the unearthing of the buried inventions by Rubenstein through Joao, Dick proceeds to undertake and continue to further fraud on the USPTO by: (i) further compounding the problems by changing titles of applications without knowledge and consent of the inventors, changing the content of applications without knowledge and consent of the inventors, and applying incorrect math to a series of patent filings even after having been informed of the errors prior to filing by the inventors; and (ii) creates further problems as Dick, along with Brian G. Utley, former President & COO of the Company, together with other Foley & Lardner patent attorneys, Steven Becker and Douglas Boehm stage their own spectacular "grab" at the Company's inventions by filing a series of fraudulent patent applications in the name of Utley, their long time associate, sending said patent documents to Utley's home address, and failing to



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assign said patent applications to the Company. Foley and Lardner attorney's were fully cognizant of the inventors of said stolen patent concepts and additionally were aware that Mr. Utley had an employment contract that prohibited such activities and finally that investment documents of the Company called for any inventions to be assigned to the Company.

Still further, it is interesting to note and establishes a past conspiratorial shadow on these stolen patents procured by Foley and Lardner in that Utley and Dick had been involved in other patent misappropriations that led to the closure of a prior employer of Utley's, a one Diamond Turf Lawnmower in Florida, owned by a one Monte Friedkin; this information was not disclosed to the Company by Wheeler, Utley, or Dick, all who were aware of the past malfeasances. Moreover, these patent

misappropriations, including the continued fraud of the USPTO, pertaining to the Company's inventions, by Dick, Becker, and Boehm have caused the Company the loss of enormous funds in the reassignment of the stolen inventions of which we are aware, and, perhaps, entire inventions of which we are not aware. Estimates to correct many of the flaws in the current filings and file the missing and abandoned inventions have been projected to cost upwards of \$250,000 to \$500,000, after the Company has already spent over \$1 million to file, then fix, and then further recover the stolen and damaged patents. It also is of interest to note that the Company cannot get opinion from current counsel as to the ability to truly fix and recapture the lost and damaged patents and copyrights.

Lastly, reference is made to: (i) a flow chart attached herein as Exhibit B as a graphical portrayal of how the named attorneys all have relations to Rubenstein and Wheeler and worked together, in a coordinated conspiratorial way and for their self serving purposes, in a civil as well as criminal conspiracy to deprive the Company and their inventors of their intellectual property rights; and (ii) a Counterclaim filed in the State of Florida pertaining to many of the allegations ascribed to herein, attached as Exhibit C.

Finally, Mr. Moatz, by highly respected firms and engineers alike, the value of these patents has been estimated to be several billion dollars annually, thus providing the motive for these events and the Company assesses further motive in the ability of these inventions, when combined with other proprietary technologies, to not only provide a competitive threat to, but to effectually trump, the MPEG patent pools overseen by Rubenstein and Proskauer Rose.

SUMMARY ALLEGATIONS



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Furthermore, the Company summarily describes the allegations contained in the enclosed bar complaints as follows and asserts these same claims to the USPTO for purposes of separate investigation on each of the following registered patent attorneys:

Raymond A. Joao

1. Failed to take reasonable steps to ensure that the intellectual property of the Company was protected;
2. Failed to and/or inadequately completed work regarding patents;
3. Failed to list proper inventors of the technologies based on improper legal analysis that foreign inventors could not be listed until their immigration status was adjusted, resulted in the failure of the patents to include their

rightful and lawful inventors and represents a direct fraud on the USPTO and the Companies investors and inventors;
4. Failed to ensure that the patent applications for the technologies, contained all necessary and pertinent information relevant to the technologies and as disclosed by the inventors and required by law thereby perpetrating a fraud on the USPTO and the Companies investors and inventors;
5. Falsified billing statements;
6. Falsified patent documents and changed the contents of provisional and non-provisional patent applications prior to filing so to effectively bury the Company's inventions and limit their scope should they be issued notwithstanding, thereby constituting a fraud on the USPTO and the Company's investors and inventors;
7. Filed patent applications in his name based upon proprietary and confidential information as disclosed by the inventors. That Joao who was contracted to prosecute patents for the Company has now applied for more than ninety patents in his own name, many of which appear to be ideas learned while representing the Company, thereby constituting a fraud on the USPTO and the Companies investors and inventors; and,
8. The negligent actions of Joao resulted in and were the proximate cause of loss to the Company; today, the Company's processes are believed to be on digital cameras, DVD discs, and virtually all terrestrial broadcast, digital cable, satellite, and Internet streams of video.
9. Finally, Joao has misrepresented to a tribunal, the New York State Bar Association, with regard to his knowledge of the Company inventions and inventors, all conduct unbecoming of a member of the U.S. Patent Bar.



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Kenneth Rubenstein

1. Failed to take reasonable steps to ensure that the intellectual property of the Company was protected;
2. Failed to and/or inadequately completed work regarding patents;
3. Failed to list proper inventors of the technologies based on improper legal analysis that foreign inventors could not be listed until their immigration status was adjusted; this resulted in the failure of the patents to include their rightful and lawful inventors, thereby constituting a fraud on the USPTO and the Company's investors and inventors;
4. Failed to ensure that the provisional and non-provisional patent applications for the technologies, contained all necessary and pertinent information relevant to the technologies as disclosed by the inventors and as required by law, thereby constituting a fraud on the USPTO and the Company's investors and inventors;
5. By redacting information from billing statements regarding services provided so to as to give the appearance that the services provided by Rubenstein were limited in nature, when in fact they involved various aspects of intellectual property protection;
6. By knowingly and willfully representing and agreeing to accept representation of clients in conflict with the interests of the Company, without either consent or waiver by the Company;
7. Allowed the unauthorized use of intellectual property of the Company by other clients of Proskauer Rose LLP and Rubenstein, including uses by patent pools overseen by Rubenstein (i.e., MPEG 2, MPEG 4, and DVD);
8. Instructed a one Raymond A. Joao to file provisional and non-provisional patents for the Company that knowingly and willfully withheld critical elements of the inventions and further filing provisional and non-provisional patents in an untimely manner, thereby constituting a fraud on the USPTO and the Company's investors and inventors;
9. The negligent actions of Rubenstein resulted in and were the proximate cause of loss to the Company; today, the Company's processes are believed to be on digital cameras, DVD discs, and virtually all terrestrial broadcast, digital cable, satellite, and Internet streams of video.
10. Failing to report crimes and fraud committed against the Company and the USPTO after becoming knowledgeable of said crimes
11. Knowing and willful misrepresentations to the Company's investors, including Wachovia Securities, a unit of Wachovia Corp., a registered



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bank holding company in Charlotte, N.C., by Rubenstein and Wheeler of patent applications filed and inventions covered.

12. Finally, Rubenstein has perjured himself in deposition with regard to knowledge of the Company inventions and inventors, all conduct unbecoming of a member of the U.S. Patent Bar.

William J. Dick, Steven Becker, and Douglas Boehm

1. Knowing and willful misrepresentations to the Company with regard to his past involvement in patent malfeasances with Brian G. Utley at Utley's past employer, Diamond Turf Lawnmower.
 - a. Utley was a past President of the Company and formerly a President of Diamond Turf Lawnmower and had referred Dick without reference to their past patent disputes at Utley's prior employer, which led to the termination of Utley and the closing of Diamond Turf Lawnmower.
 - b. These misrepresentations and frauds have led to similar damage to the Company, as a result of the stolen inventions by Utley, aided and abetted by Dick, Boehm and Becker. Moreover, the Company found patents written into Utley's name, not disclosed or assigned to the Company, and that Dick was fully aware that inventors Bernstein, Schirajee, Rosario, and Friedstein had developed the inventions. Blakely Sokoloff Taylor and Zafman LLP discovered these patents, and then attempted to re-assign said falsely filed and stolen patent applications to the Company.
2. Perpetrating a fraud on the USPTO, by submitting applications with false information and wrong inventors.
3. Knowing and willful misrepresentations to the Company's investors, including Wachovia Securities, a unit of Wachovia Corp., a registered bank holding company in Charlotte, N.C., by Dick and Utley of patent applications filed and inventions covered.
4. Knowingly committing fraud of USPTO, Company shareholders, and potential investors by switching inventors and invention disclosures.
5. Participation in a civil and criminal conspiracy to bury patent applications and inventions.
6. Not reporting information to proper tribunals regarding Rubenstein and Joao malfeasances.
7. Furthering work of Rubenstein and Joao to not capture inventions and identify inventors;
8. Knowing and willful destruction of Company records



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9. Aiding and abetting Utley in filing patents in Utley's name disclosed to Dick under attorney-client privilege.

Alan M. Weisberg

- 1. Failed to file foreign filings on two PCT applications without proper time for Company to arrange other counsel to complete**
- 2. Failed to maintain records properly**
- 3. Loss of two patents in the PCT**

Not previously mentioned, Weisberg is the retained patent attorney of Schiffrin & Barroway LLP, the Company's latest counsel and investor, the subjects of which are described in more detail in the enclosed CD-ROM.

Furthermore, in light of the above referenced allegations, and in the Company's estimation, the above named attorneys have violated one or more of the following sections of the USPTO Code of Professional Responsibility, the list of which is not meant as exhaustive:

§ 10.21 Canon 1.

A practitioner should assist in maintaining the integrity and competence of the legal profession.

§ 10.23 Misconduct.

- (a) A practitioner shall not engage in disreputable or gross misconduct.
- (b) A practitioner shall not:
 - (1) Violate a Disciplinary Rule.
 - (2) Circumvent a Disciplinary Rule through actions of another.
 - (3) Engage in illegal conduct involving moral turpitude.
 - (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
 - (5) Engage in conduct that is prejudicial to the administration of justice.
 - (6) Engage in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office.

(c) Conduct which constitutes a violation of paragraphs (a) and (b) of this section includes, but is not limited to:



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2) Knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information, to:

(i) A client in connection with any immediate, prospective, or pending business before the Office.

(ii) The Office or any employee of the Office...

7) Knowingly withholding from the Office information identifying a patent or patent application of another from which one or more claims have been copied...

9) Knowingly misusing a "Certificate of Mailing or Transmission" under § 1.8 of this chapter.

(10) Knowingly violating or causing to be violated the requirements of § 1.56 or § 1.555 of this subchapter.

(11) Except as permitted by § 1.52(c) of this chapter, knowingly filing or causing to be filed an application containing any material alteration made in the application papers after the signing of the accompanying oath or declaration without identifying the alteration at the time of filing the application papers...

15) Signing a paper filed in the Office in violation of the provisions of § 10.18 or making a scandalous or indecent statement in a paper filed in the Office.

(16) Willfully refusing to reveal or report knowledge or evidence to the Director contrary to § 10.24 or paragraph (b) of § 10.131...

18) In the absence of information sufficient to establish a reasonable belief that fraud or inequitable conduct has occurred, alleging before a tribunal that anyone has committed a fraud on the Office or engaged in inequitable conduct in a proceeding before the Office.

d) A practitioner who acts with reckless indifference to whether a representation is true or false is chargeable with knowledge of its falsity. Deceitful statements of half-truths or concealment of material facts shall be deemed actual fraud within the meaning of this part...

§ 10.24 Disclosure of information to authorities.

(a) A practitioner possessing unprivileged knowledge of a violation of a Disciplinary Rule shall report such knowledge to the Director.

(b) A practitioner possessing unprivileged knowledge or evidence concerning another practitioner, employee of the Office, or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of practitioners, employees of the Office, or judges.



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§ 10.31 Communications concerning a practitioner's services.

(a) No practitioner shall with respect to any prospective business before the Office, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any prospective applicant or other person having immediate or prospective business before the Office.

§ 10.56 Canon 4.

A practitioner should preserve the confidences and secrets of a client.

§ 10.57 Preservation of confidences and secrets of a client.

(a) "Confidence" refers to information protected by the attorney-client or agent-client privilege under applicable law. "Secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(b) Except when permitted under paragraph (c) of this section, a practitioner shall not:

- 1) Reveal a confidence or secret of a client.
- (2) Use a confidence or secret of a client to the disadvantage of the client.

(3) Use a confidence or secret of a client for the advantage of the practitioner or of a third person, unless the client consents after full disclosure.

§ 10.61 Canon 5.

A practitioner should exercise independent professional judgment on behalf of a client.

§ 10.65 Limiting business relations with a client.



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A practitioner shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the practitioner to exercise professional judgment therein for the protection of the client, unless the client has consented after full disclosure.

§ 10.76 Canon 6.

A practitioner should represent a client competently.

§ 10.77 Failing to act competently.

A practitioner shall not:

- (a) Handle a legal matter which the practitioner knows or should know that the practitioner is not competent to handle, without associating with the practitioner another practitioner who is competent to handle it.
- (b) Handle a legal matter without preparation adequate in the circumstances.
- (c) Neglect a legal matter entrusted to the practitioner.

§ 10.78 Limiting liability to client.

A practitioner shall not attempt to exonerate him-self or herself from, or limit his or her liability to, a client for his or her personal malpractice.

§ 10.83 Canon 7.

A practitioner should represent a client zealously within the bounds of the law.

§ 10.84 Representing a client zealously.

- (a) A practitioner shall not intentionally:



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(1) Fail to seek the lawful objectives of a client through reasonable available means permitted by law and the Disciplinary Rules, except as provided by paragraph (b) of this section. A practitioner does not violate the provisions of this section, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but a practitioner may withdraw as permitted under §§ 10.40, 10.63, and 10.66.

(3) Prejudice or damage a client during the course of a professional relationship, except as required under this part.

(b) In representation of a client, a practitioner may:

(1) Where permissible, exercise professional judgment to waive or fail to assert a right or position of the client.

(2) Refuse to aid or participate in conduct that the practitioner believes to be unlawful, even

2) Refuse to aid or participate in conduct that the practitioner believes to be unlawful, even though there is some support for an argument that the conduct is legal.

§ 10.85 Representing a client within the bounds of the law.

(a) In representation of a client, a practitioner shall not:

(1) Initiate or defend any proceeding before the Office, assert a position, conduct a defense, delay a trial or proceeding before the Office, or take other action on behalf of the practitioner's client when the practitioner knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that a practitioner may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which the practitioner is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when the practitioner knows or it is obvious that the evidence is false.

(7) Counsel or assist a client in conduct that the practitioner knows to be illegal or fraudulent.



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(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

(b) A practitioner who receives information clearly establishing that:

(1) A client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so the practitioner shall reveal the fraud to the affected person or tribunal.

(2) A person other than a client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

§ 10.87 Communicating with one of adverse interest.

During the course of representation of a client, a practitioner shall not...:

(b) Give advice to a person who is not represented by a practitioner other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of the practitioner's client.

§ 10.110 Canon 9.

A practitioner should avoid even the appearance of professional impropriety.

§ 10.112 Preserving identity of funds and property of client.

3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the practitioner and render appropriate accounts to the client regarding the funds, securities, or other properties.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the practitioner which the client is entitled to receive.

Furthermore, Mr. Moatz, on behalf of the Company, I request copies of all original documents filed on the Company's behalf and all communications and records thereto as a means for the Company to amend, if necessary, this Written Statement with subsequent allegations and the respective patent applications relating thereto. Moreover, I would request, if possible, that your Office also conduct a search into any and all patents filed relating to Messrs. Kenneth Rubenstein, Raymond Joao, Steven Becker, Douglas Boehm,



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William Dick, Brian Utley, and Real3D filed after August 1998, whether as inventors, attorney(s) of record, assignor, or any and all involvement whatsoever in any patent applications or patents issued as the Company is in need of knowing, as a result of the above allegations, that there are no further unpublished patent applications or patents issued that utilize the disclosed proprietary Company techniques described herein.

Finally, the Company requests expedited review of the above referenced allegations and further requests that your office work in conjunction with the Bar Association of the State of New York pertaining to Rubenstein and Joao, and later with the Bar Association of the Commonwealth of Virginia with respect to Dick (soon to be filed), with the Bar Association of the State of Wisconsin with respect to Becker (soon to be filed), and, finally, with the Bar Association of the State of Illinois with respect to Boehm (soon to be filed).

Very truly yours,

IVIEWIT HOLDINGS, INC.

By:  **P. Stephen Lamont**
Signature Valid

P. Stephen Lamont
Chief Executive Officer

Digitally signed by P. Stephen Lamont
DN: cn=P. Stephen Lamont, o=iViewit
Holdings, Inc., ou=Corporate, c=US
Date: 2003.09.23 21:25:49 -04'00'



Exhibit A

Contained on the enclosed CD-ROM are the following items, most items are in Adobe PDF format. Media files are in Microsoft Media Player.

- ❖ New York Bar Complaint, Raymond Joao, Esq.
First Judicial Department Departmental Disciplinary Committee
Thomas J. Cahill
Chief Counsel
61 Broadway, 2nd Floor
New York, New York 10006
- ❖ New York Bar Complaint, Kenneth Rubenstein, Esq.
First Judicial Department Departmental Disciplinary Committee
Thomas J. Cahill
Chief Counsel
61 Broadway, 2nd Floor
New York, New York 10006
- ❖ The Florida Bar Complaint, Christopher C. Wheeler, Esq. (not a registered patent attorney)
Lorraine Christine Hoffman, Esq.
Cypress Financial Center, Suite 835
5900 North Andrews Avenue
Fort Lauderdale, Florida 33309
- ❖ Police Reports – Boca Raton PD
Stolen Patents
Stolen Cash and Investment Funds
- ❖ Taped conversations as evidence and statements (Windows Media Player files or WAV)
- ❖ Shareholder Letters
- ❖ Evidence and Exhibits used in Bar Complaints
- ❖ Documents Pertaining to Schiffrein & Barroway LLP legal engagement and investment



Exhibit B

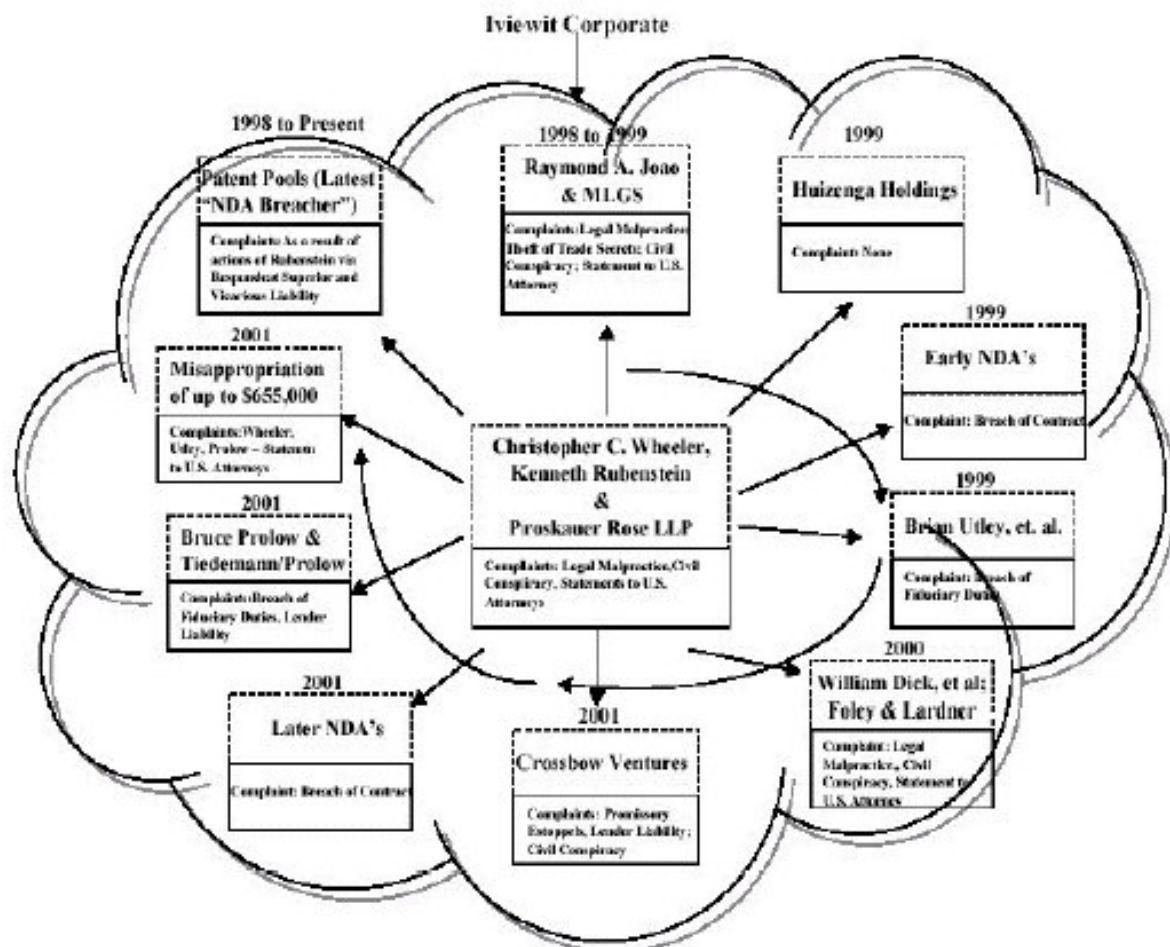




Exhibit C

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

PROSKAUER ROSE L.L.P.,
a New York limited partnership,

CA 01-04671 AB

Plaintiff,

v.

IVIEWIT.COM, INC., a Delaware
corporation, IVIEWIT HOLDINGS,
INC., a Delaware corporation, and
IVIEWIT TECHNOLOGIES, INC.,
a Delaware corporation.

Defendants.

COPY / ORIGINAL
RECEIVED FOR FILING

JAN 28 2003

DOROTHY H. WILKEN
CLERK OF CIRCUIT COURT
CIRCUIT CIVIL DIVISION

**DEFENDANTS MOTION FOR LEAVE TO AMEND TO ASSERT
COUNTERCLAIM FOR DAMAGES**

Defendants, IVIEWIT.COM, INC., IVIEWIT HOLDINGS,
INC. and IVIEWIT TECHNOLOGIES, INC., by and through their undersigned
counsel, hereby move this Court for Leave to Amend their Answer so as to assert a
counterclaim in this matter pursuant to Rule 1.170(f) of the Florida Rules of Civil
Procedure and as grounds therefore would state as follows:

1. That the Defendants move to amend their answer in this matter so as to
include a counterclaim in this matter, which by its nature appears to be a compulsory
counterclaim to the extent that the issues arise out of the same nexus of events, as

justice requires that the counterclaim be tried at the same time as the complaint and answer so that all pending issues between the parties may be adjudicated in this action.

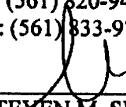
2. That as a result of fact that additional evidence in support of the Defendants' counterclaims is found in the Plaintiff's own files and records, the Plaintiff will not be prejudiced by the amendment of the Defendants' answer in this matter, nor will this matter be delayed as to the trial of same.

3. Defendants have attached hereto a copy of the proposed counterclaim.

WHEREFORE the Defendants, move this Honorable Court for the entry of an order permitting the Defendants to amend their answer in this matter.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail and fax transmission this 20th day of January, 2003 to: Christopher W. Prusaski, Esq., Proskauer Rose, LLP, 2255 Glades Road, Suite 340 W, Boca Raton, FL 33431.

SELZ & MUVDI SELZ, P.A.
214 Brazilian Avenue, Suite 220
Palm Beach, FL 33480
Tel: (561) 820-9409
Fax: (561) 833-9715

By: 
STEVEN M. SELZ
FBN: 777420

IN THE CIRCUIT COURT OF THE
15th JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

PROSKAUER ROSE, LLP, a New York
limited partnership,

Plaintiff,

CASE NO.: CA 01-04671 AB

vs.

IVIEWIT.COM, INC., a Delaware
corporation, IVIEWIT HOLDINGS,
INC., a Delaware corporation and,
IVIEWIT TECHNOLOGIES, INC.,
a Delaware corporation,

Defendants,

COUNTERCLAIM FOR DAMAGES

COME NOW the Counter Plaintiffs, IVIEWIT.COM, INC., IVIEWIT
HOLDINGS, INC., IVIEWIT TECHNOLOGIES, INC. and IVIEWIT LLC,
hereinafter collectively referred to as "IVIEWIT" or Counter Plaintiffs, and hereby
sues Counter Defendant, PROSKAUER ROSE, LLP, hereinafter "PROSKAUER",
a New York limited partnership, and alleges as follows:

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages in a sum greater than \$15,000.00, exclusive

of interest, taxable costs and attorneys fees.

2. Counter Plaintiff, IVIEWIT.COM, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and the State of California.

3. Counter Plaintiff, IVIEWIT HOLDINGS, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and California.

4. Counter Plaintiff, IVIEWIT TECHNOLOGIES, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and the State of California.

5. IVIEWIT LLC, is a Florida limited liability company, formed by PROSKAUER, which, at all times relevant hereto, was authorized to conduct and conducted business in the Palm Beach County Florida and the State of California.

6. Counter Defendant PROSKAUER ROSE, LLP, (hereinafter "PROSKAUER") is a New York limited partnership, operating a law office in Boca Raton, Palm Beach County, Florida.

Boca Raton, Palm Beach County, Florida.

7. BRIAN G. UTLEY, (hereinafter "UTLEY") was at all times relevant hereto a sui juris resident of the State of Florida and who on or about September of 1999 was the president of Counter Plaintiff, IVIEWIT LLC.

8. CHRISTOPHER WHEELER, (hereinafter "WHEELER") is a sui juris individual and resident of Palm Beach County, Florida, who at all times relevant hereto was a partner of PROSKAUER and who provided legal services to the Counter Plaintiffs.

9. KENNETH RUBENSTEIN, (hereinafter "RUBENSTEIN") is a sui juris individual believed to be a resident of the State of New York and who various times relevant hereto was initially misrepresented by WHEELER as a partner of PROSKAUER and later became a partner of PROSKAUER, and who provided legal services to the Counter Plaintiffs both while at Meltzer, Lippie, et al., and PROSKAUER.

10. RAYMOND JOAO, (hereinafter "JOAO") is a sui juris individual believed to be a resident of the State of New York and who at all times relevant hereto was represented to be RUBENSTEIN's associate at PROSKAUER, when in fact JOAO has never been an employee of PROSKAUER but in fact was an employee of Meltzer, Lippie, et al.

11. That beginning on or about November of 1998, the Counter Plaintiff, IVIEWIT, through it's agent and principal, Eliot I. Bernstein ("Bernstein"), held discussions with WHEELER with regard to PROSKAUER providing legal services to the company involving specific technologies developed by Bernstein and two others, which technologies allowed for:

i) Zooming of digital images and video without degradation to the quality of the digital image due to what is commonly refereed to as "pixilation"; and,

ii) The delivery of digital video using proprietary scaling techniques; and,

iii) A combination of the image zoom techniques and video scaling techniques described above; and,

iv) The remote control of video cameras through communications networks.

12. That Bernstein engaged the services of PROSKAUER to provide legal services to the company to be formed, including corporate formation and governance for a single entity and to obtain multiple patents and oversee US and foreign filings for such technologies including the provisional filings for the technologies as described in Paragraph 11 above, the "Technology", and such

other activities as were necessary to protect the intellectual property represented by the Technology.

13. That at the time of the engagement of PROSKAUER, Bernstein was advised and otherwise led to believe that WHEELER was the PROSKAUER partner in charge of the account.

14. Upon information and belief, WHEELER, RUBENSTEIN and JOAO upon viewing the technologies developed by Bernstein, and held by IVIEWIT, realized the significance of the technologies, its various applications to communication networks for distributing video data and images and for existing digital processes, including, but not limited to digital cameras, digital video disks (DVD), digital imaging technologies for medical purposes and digital video, and that WHEELER, RUBENSTEIN and JOAO conspired to undertake and in fact undertook a deliberate course of conduct to deprive Bernstein and IVIEWIT of the beneficial use of such technologies for either the use of third parties, who were other clients of PROSKAUER and WHEELER, or for WHEELER, RUBENSTEIN and JOAO's own financial gain, to the detriment and damage of the Counter Plaintiffs.

15. That WHEELER, who was a close personal friend of UTLEY, recommended to Bernstein and other members of the board of directors of

IVIEWIT that the IVIEWIT engage the services of UTLEY to act as President of the Iviewit.com, LLC based on his knowledge and ability as to technology issues.

16. That at the time that WHEELER made the recommendation of UTLEY to the board of directors, that WHEELER knew that UTLEY was in a dispute with his former employer, Diamond Turf Products and the fact that UTLEY had misappropriated certain patents on hydro-mechanical systems to the detriment of Diamond Turf Products.

17. Additionally, WHEELER was fully aware of the fact that UTLEY was not the highly qualified "engineer" that UTLEY represented himself to be, and that in fact UTLEY lacked real engineering expertise or even an engineering degree and that UTLEY had been fired from Diamond Turf Products due to his misappropriation of patents.

18. That despite such knowledge, WHEELER never mentioned such facts concerning UTLEY to any representative of IVIEWIT and in fact undertook to "sell" UTLEY as a highly qualified candidate who would be the ideal person to undertake day to day operations of IVIEWIT and work on the patents, acting as a qualified engineer.

19. Additionally, WHEELER continued to assist UTLEY in perpetrating such fraud on both the Board of Directors of IVIEWIT and to third parties,

including Wachovia Bank, by approving a false resume for UTLEY to be included in seeking approval of a private placement for IVIEWIT.

20. That based on the recommendations of WHEELER, as partner of PROSKAUER, the board of directors agreed to engage the services of UTLEY as president.

21. That almost immediately after UTLEY's employment and almost one year after initially providing of services, WHEELER provided a retainer agreement for the providing of services by PROSKAUER to IVIEWIT LLC, addressed to UTLEY, a true and correct copy of such retainer agreement (the "Retainer") being attached hereto and made a part hereof as Exhibit "A". That the services provided were in fact to be paid out of the royalties recovered from the use of the Technology, which was to be included in patent pools overseen by RUBENSTEIN.

22. That the Retainer by its terms contemplated the providing of corporate and general legal services to IVIEWIT LLC by PROSKAUER and was endorsed by UTLEY on behalf of IVIEWIT LLC, the Board of Directors of IVIEWIT LLC would not have UTLEY authorized to endorse same as it did not include the intellectual property work which PROSKAUER had already undertaken.

23. That prior to the Retainer, PROSKAUER and WHEELER had provided

legal services to IVIEWIT, including services regarding patent procurement and acted to coordinate such services both internally and with outside counsel, including RUBENSTEIN and JOAO, including times when they were misrepresented as PROSKAUER attorneys.

24. That PROSKAUER billed IVIEWIT for legal services related to corporate, patent, trademark and other work in a sum of approximately \$800,000.00.

25. That PROSKAUER billed IVIEWIT for legal service never performed, double-billed by the use of multiple counsel on the same issue, and systematically overcharged for services provided.

26. That summaries of the billing statements provided by PROSKAUER to IVIEWIT are attached hereto and made a part hereof as Exhibit "B".

27. That based on the over-billing by PROSKAUER, IVIEWIT paid a sum in of approximately \$500,000.00 plus together with a 2.5% interest in IVIEWIT, which sums and interest in IVIEWIT was received and accepted by PROSKAUER.

28. That WHEELER, UTLEY, RUBENSTEIN, JOAO and PROSKAUER, conspired to deprive IVIEWIT of its rights to the technologies developed by Bernstein by:

a) Transferring patents using Foley & Lardner so as to name UTLEY as the sole holder of multiple patents in his individual name and capacity when in fact they were and arose from the technologies developed by Bernstein and others and held by IVIEWIT prior to UTLEY's employment with IVIEWIT, and;

b) Upon discovery of the "lapses" by JOAO, that WHEELER and PROSKAUER referred the patent matters to WILLIAM DICK, of Foley & Lardner, who was also a close personal friend of UTLEY and who had been involved in the diversion of patents to UTLEY at Diamond Turf Products; and,

c) Failing to list proper inventors of the technologies based on improper legal advice that foreign inventors could not be listed until their immigration status was adjusted, resulting in the failure of the patents to include their rightful and lawful inventors and the payment by IVIEWIT for unnecessary immigration work; and,

d) Failing to ensure that the patent applications for the technologies, contained all necessary and pertinent information relevant to the technologies and as required by law; and,

e) Failing to secure trademarks and copyrights and failing to complete trademark and copyright work for the use of proprietary names of IVIEWIT and source code for the Technologies of IVIEWIT as intellectual property, and;

f) Allowing the infringement of patent rights of IVEIWIT and the intellectual property of IVIEWIT by other clients of PROSKAUER and WHEELER, and;

g) Aiding JOAO in filing patents for IVIEWIT intellectual property by intentionally withholding pertinent information from such patents and not filing same timely, so as to allow JOAO to apply for similar patents in his own name, both while acting as counsel for IVIEWIT and subsequently.

29. As a direct and proximate result of the actions of the Counter Defendant, Counter Plaintiffs have been damaged in a sum estimated to be greater than \$10,000,000,000.00, based on projections by Gerald Stanley, CEO of Real 3-D (a consortium of Lockheed, Silicone Graphics and Intel) as to the value of the technologies and their applications to current and future uses together with the loss of funding from Crossbow Ventures as a result of such conduct.

30. All conditions precedent to the bringing of this action have occurred or have been waived or excused.

COUNT I- LEGAL MALPRACTICE

31. This is an action for legal malpractice within the jurisdiction of this court.

32. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

33. PROSKAUER employed by IVIEWIT for purposes of representing IVIEWIT to obtain multiple patents and oversee foreign filings for such technologies including the provisional filings for the technologies as described in Paragraph 11 above.

34. That pursuant to such employment, PROSKAUER owed a duty to ensure that the rights and interests of IVIEWIT were protected.

35. WHEELER, RUBENSTEIN, JOAO and PROSKAUER neglected that reasonable duty of care in the performance of legal services in that they:

a) Failed to take reasonable steps to ensure that the intellectual property of IVIEWIT was protected; and,

b) Failed to complete work regarding copyrights and trademarks; and,

c) Engaged in unnecessary and duplicate corporate and other work resulting in billing for unnecessary legal services believed to be in excess of \$400,000.00; and,

d) By redacting information from the billing statements regarding services provided so as to give the appearance that the services provided by PROSKAUER were limited in nature, when in fact they involved various aspects of intellectual property protection; and,

e) By knowingly representing and agreeing to accept representation of

clients in conflict with the interests of IVIEWIT, without either consent or waiver by IVIEWIT.

36. That the negligent actions of PROSKAUER and its partners, WHEELER and RUBENSTEIN, resulted in and was the proximate cause of loss to IVIEWIT.

WHEREFORE, Counter Plaintiff demands judgement for damages against Defendant together with reasonable attorneys fees, court costs, interest and such other and further relief as this Court deems just and equitable.

COUNT II- CIVIL CONSPIRACY

37. This is an action for civil conspiracy within the jurisdiction of this court.

38. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

39. Defendant, PROSKAUER and UTLEY, WHEELER, RUBENSTEIN and JOAO, jointly conspired to deprive the Counter Plaintiffs of their rights and interest in the Technology.

40. That UTLEY, WHEELER, RUBENSTEIN, JOAO and PROSKAUER with such intent, directed that certain patent rights be put in the name of UTLEY and/or that such patent rights were modified or negligently pursued so as to fail to provide protection of the intellectual property, resulting in the ability of other clients of WHEELER, RUBENSTEIN, JOAO and PROSKAUER to make use of such

technologies without being liable to IVIEWIT for royalties normally arising from such use.

41. That PROSKAUER, without either consent of the Board of Directors or proper documentation, transferred securities to Tiedemann/Prolow Investment Group, which entity was also referred by WHEELER, who acted as counsel for such unauthorized transaction.

42. That upon the discovery of the above-described events and conspiracy, IVIEWIT's lead investor, Crossbow Ventures, ceased its funding of IVIEWIT.

43. That Crossbow Ventures, which was a referral of WHEELER, took a security interest in the Technology under the guise of protecting IVIEWIT and its shareholders from the actions of UTLEY, based on the filing of an involuntary bankruptcy (which was later withdrawn), and as to WHEELER and PROSKAUER based on the instant law suit, when in fact such conduct was motivated by Crossbow's attempts to wrongfully detain the interests of IVIEWIT in the Technology. Such conduct, upon information and belief, was undertaken with the knowledge and assistance of WHEELER and PROSKAUER.

44. As a direct and proximate result of the conspiracy and acts of PROSKAUER, UTLEY, WHEELER, JOAO and RUBENSTEIN, the Counter Plaintiffs have been damaged.

WHEREFORE, Counter Plaintiffs demand judgement for damages against Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.

COUNT III- BREACH OF CONTRACT

45. This is an action for breach of contract within the jurisdiction of this Court.

46. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

47. Defendant, PROSKAUER, breached the contract with Counter Plaintiff, IVIEWIT LLC by failing to provide services billed for pursuant to the billing statements presented to the Counter Plaintiffs and over-billing for services provided.

48. That such actions on the part of PROSKAUER constitute beaches of the contract by and between IVIEWIT LLC and PROSKAUER.

49. That as a direct and proximate result of such conduct on the part of PROSKAUER, IVIEWIT LLC has been damaged by overpayment to PROSKAUER and the failure of PROSKAUER to perform the contracted for legal services.

WHEREFORE, IVIEWIT demands judgement for damages against Counter Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.

**COUNT IV- TORTIOUS INTERFERENCE WITH AN ADVANTAGEOUS
BUSINESS RELATIONSHIP**

50. This is an action for tortious interference with an advantageous business relationship within the jurisdiction of this Court.

51. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

52. Counter Plaintiff was engaged in negotiations of technology agreements with both Warner Bros. and AOL/Time Warner as to the possible use of the Technologies of the Counter Plaintiffs and investment in Counter Plaintiffs as a strategic partner.

53. That despite the prior representations of RUBENSTEIN, at a meeting held on or about November 1, 2000, by and between UTLEY, RUBENSTEIN and representatives of Warner Bros. as to the Technology of IVIEWIT and the efficacy, novelty and unique methodology of the Technology, RUBENSTEIN refused to subsequently make the same statements to representatives of AOL and Warner Bros., taking the position that since Warner Bros./AOL is "now a big client of Proskauer, I can't comment on the technologies of Iviewit." or words to that effect in response to inquiry from Warner Brother/AOL's counsel as to the status and condition of the pending patents on the intellectual property.

54. That RUBENSTEIN, having served as an advisor to the Board of Directors for IVIEWIT, was aware of the fact that at the time of the making of the statements set forth in Paragraph 50, above, IVIEWIT was in the midst of negotiations with AOL/Warner Bros. as to the possible funding of the operations of IVIEWIT in and sum of between \$10,000,000.00 and \$20,000,000.00.

55. Further, RUBENSTEIN as a partner of PROSKAUER, and despite his clear prior actions in representing the interests of IVIEWIT, refused to answer questions as to the enforcement of the Technology of IVIEWIT, with the intent and knowledge that such refusal would lead to the cessation of the business relationship by and between IVIEWIT and Warner Bros./AOL and other clients familiar with the Warner Bros./AOL technology group then in negotiations with IVIEWIT, including, but not limited to Sony Corporation, Paramount, MGM and Fox.

56. That the actions of RUBENSTEIN were and constituted an intentional and unjustified interference with the relationship by and between IVIEWIT and Warner Bros./AOL designed to harm such relationship and further motivated by the attempts to "cover-up" the conflict of interest in PROSKAUER's representation of both IVIEWIT and Warner Bros./AOL.

57. That indeed, as a direct and proximate result of the conduct of RUBENSTEIN, Warner Bros./AOL ceased business relations with IVIEWIT to the

damage and detriment of Counter Plaintiffs.

WHEREFORE, Counter Plaintiffs demand judgement for damages against Counter Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail and fax transmission this 19th day of January, 2003 to: Christopher W. Prusaski, Esq., Proskauer Rose, LLP, 2255 Glades Road, Suite 340 W, Boca Raton, FL 33431.

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