

EXHIBIT C

For Opinion See [2010 WL 429236](#)

Board of Patent Appeals and Interferences.
In re NTP, INC.
Application Nos. 95/000,020, 90/006,495.
August 7, 2007.

Appeal Brief

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Mail Box Appeal Brief--Patents

Commissioner for Patents

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In response to the Right of Appeal dated December 8, 2006, rejecting claims 1-764 appellants respectfully request that the Board of Patent Appeals and Interferences reconsider and withdraw the rejections of record, and allow the pending claims, which are attached hereto as an Appendix A.

I. REAL PARTY IN INTEREST

The real party in interest is NTP, Inc., the assignee of the above-referenced application.

II. RELATED APPEALS AND INTERFERENCES

This appeal is related to the co-pending appeal of the final rejection in the following reexamination proceedings:

- 1) [U.S. Patent No. 6,067,451](#), which has been assigned Control Nos. 90/006,494; 90/006,680; and 90/007,726.
- 2) Reexamination proceeding for [U.S. Patent No. 5,436,960](#) assigned Control Nos. 90/006,533; 90/006,675 and 90/007,731.
- 3) Reexamination proceeding for [U.S. Patent No. 5,438,611](#) assigned Control No. 90/006,676.

as the invention. Patent Owner thanks the Examiner for noting the above informalities. Patent Owner will correct these informalities with the next available opportunity.

I. The Office's Rejection of Claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 Under [35 U.S.C. § 305](#) is Improper.

The ACP on pages 9-10, rejects claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 under [35 U.S.C. § 305](#) as enlarging the scope of the claims of the patent being reexamined. The ACP asserts that the presentation of the new limitation toward the "varying" of the information of the electronic mail improperly broadens the scope of the claims. ACP at 9. Patent Owner respectfully traverses this rejection for at least the following reasons.

Claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 as originally presented do not enlarge the scope of the patented claims because claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 as originally presented simply recite features already recited in the patented claims. Further, claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 are dependent claims and as such it is impossible for these claims to enlarge the scope of the claims. Since claims 686-687, 705-706, 724-725, 745-746, 748-749, 751-752, and 754-755 depend from the patented claims, they are in effect narrower in scope relative to the patented claims.

In view of the above, reversal of this rejection under 35 U.S.G. [§ 305](#) is respectfully requested.

VIII. RESERVATION OF RIGHT TO FILE SUPPLEMENTAL APPEAL BRIEF AND SUPPLEMENT THE RECORD

Patent Owner filed a petition in the above-referenced reexamination proceeding asserting that the Patent Office rejections were being made without a complete record and as a result of improper communications with third parties based on documents produced responsive to the FOIA request in a section entitled "The PTO Engaged In Improper Communications with Third Parties That Are Not Reflected In The Record Of Decision for the Reexamination."

The Office responded on September 13, 2006 with a letter entitled "Decision Dismissing Petition And, *Sua Sponte*, Returning Improper Papers" ("the Decision"). The Decision states, *inter alia*, that the papers were being returned because many are not proper for submission in an *inter partes* reexamination proceedings.

Patent Owner strongly disagreed with the Office's position in the Decision and filed additional petitions seeking entry of the evidence relating to the authenticity of the Telenor documents and to reconsider the Office's Decision to return the allegedly improper papers. These petitions have since been denied. Patent Owner may also take other actions to ensure that the record for review by the Board is complete. As such, Patent Owner reserves the right to supplement the record for appeal with evidence, argument and other information in the future.

IX. CONCLUSION

Patent Owner contends that the Right of Appeal should be reversed on each and every ground of rejection and objection. The Board is respectfully requested to direct the Office to issue a Notice of Intent to Issue a Reexamination Certificate and to terminate the above-identified merged reexamination proceedings.

Patent Owner also authorizes the Director to credit any fees required to the undersigned's Deposit Account No. XXXXXXXX.

Dated: *August 7, 2007*

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