

# Exhibit 10



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,965	04/28/2010	5455854	2607.272REX0/RGS/RDC	8066

26111            7590            12/21/2010

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

ART UNIT            PAPER NUMBER

DATE MAILED: 12/21/2010

Please find below and/or attached an Office communication concerning this application or proceeding.



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](http://www.uspto.gov)

**DO NOT USE IN PALM PRINTER**

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

Scott E. Brient  
Brient Intellectual Property Law, LLC  
2300 Lakeview Parkway, Suite 700  
Alpharetta, GA 30009

**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/010,965.

PATENT NO. 5455854.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).



PO's Representatives were David A. Wilson, PhD (Technical Expert), Michael R. Dilts (Inventor), R. "Chip" Lutton (Reg. No. 39,756), Robert G. Sterne (Reg. No. 28,912), Glenn J. Perry (Reg. No. 28,458), Richard D. Coller III, (Reg. No. 60,390), Salvador M. Bezos (Reg. No. 60,889).

The following is a brief summary of PO's arguments which the Examiner indicated were likely to obviate the rejections of the non-final office action mailed Oct. 28, 2010.

- (1) NeXTSTEP does not disclose or make obvious an "object-oriented operating system" because NeXTSTEP is object-oriented software operated on a procedural operating system.
- (2) NeXTSTEP does not disclose or make obvious "storing status information in the data of the telephony object" because NeXTSTEP II at 13-16, 13-22, and 13-32 discloses that there are no instance variables for the telephony objects NXPhone, NXPhoneChannel, and NXPhoneCall.
- (3) NeXTSTEP does not fairly suggest to one of ordinary skill in the art the claimed "object-oriented operating system" because NeXTSTEP does not inform a person of ordinary skill in the art how to make and use its Phone Server.

Further, PO noted that in the application (08/108,877), which became the '854 patent, PO agreed to further amend the claims to distinguish between the claimed 'object oriented operating system' and object-oriented programming. (Interview summary of June 27, 1995) As such, it was agreed that PO would reference the Jun. 27, 1995 interview in his remarks on the Non-Final Office Action of this Reexamination proceeding.

/Deandra M Hughes/  
Primary Examiner, Art Unit 3992