

Exhibit 4
To Third Declaration of
Joseph N. Hosteny

901.06 Nonpatent Publications [R-3]

All printed publications may be used as references, the date to be cited being the publication date. See MPEP § 2128 - § 2128.02.

**>The Scientific and Technical Information Center (STIC) maintains an Electronic Information Center (EIC) or Library in each Technology Center. Copies of non-patent literature can be requested from these facilities.< See MPEP § 707.05(e) for information on how to cite such publications.

901.06(a) Scientific and Technical Information Center (STIC) [R-5]

The Scientific and Technical Information Center (STIC) is located at Room 1C35, Madison West >Building, 600 Dulany Street, Alexandria, VA 22314<. STIC maintains satellite information centers in each Technology Center (TC).

35 U.S.C. 7. Library.

The Director shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Patent and Trademark Office to aid the officers in the discharge of their duties.

Technical literature, foreign patent documents, and reference and online search services available in STIC are all important resources for the patent examiner to utilize. These resources provide material which must be known or searched to determine whether claims of applications are directly anticipated and, therefore, unpatentable under the provisions of 35 U.S.C. 102. STIC handbooks, textbooks, periodicals, reports, and other materials assist examiners in deciding the question of patentable invention in cases in which the primary search indicates that there is some novelty as compared to any single reference in the art (35 U.S.C. 103). These resources enable the examiner to determine whether the features novel in the particular combination searched would be obvious to a person skilled in the art from the general state of knowledge as reflected in the technical literature.

I. STIC COLLECTIONS

A. Books

STIC carefully selects and purchases primarily English-language publications in all fields of applied technology. Collections of books and trade catalogs

are also purchased by STIC for permanent location in specific TCs. For instance, the Design Patent Art Units have a great many manufacturers' catalogs. Books may be ordered by examiners for location in the TCs by contacting the STIC EIC or Library in each TC. The request for purchase form is available on the STIC Intranet site. The locations of all acquired publications are recorded in the STIC Online Catalog so that users will know where to look for a particular publication, be it in the Information Center or in a TC. All publications, regardless of location, are processed in STIC's Information Access and Management Branch.

Reference works including encyclopedias, dictionaries, handbooks, and abstracting and indexing services are also available in print and at the desktop from the Information Center to assist examiners in finding information pertinent to the subject matter of a patent application. STIC does not circulate reference materials. Books in the reference collection are so labeled.

The staff of STIC makes every effort to obtain current, useful publications. However, all suggestions for additional purchases that come in from the Examining Corps are welcomed.

B. Periodicals

Over >17,000 scientific, technical, business and general< periodical titles >that< are in print and electronic format are available to examiners through STIC. Incorporated into the collection are a number of titles pertinent to the examination of design patent applications and titles of interest to nonexamining areas of the U.S. Patent and Trademark Office (USPTO).

Requests for the purchase of new subscription titles are accepted at any time throughout the year, with subsequent purchase dependent on demonstrated need and availability of funds. STIC staff is alert to new periodical titles and often acquires sample copies which are sent to appropriate TCs for review and recommendation.

>Most periodicals are available electronically on the examiner's desktop.< Current issues of periodicals in print are arranged alphabetically and located on shelves near the reference collection. Bound periodicals are interfiled with the book collection. Periodi-

icals on microfilm and CD-ROM are housed in cabinets.

C. Foreign Patent Documents

The USPTO receives foreign patent documents through exchange agreements with almost all countries that print or otherwise publish their patent documents. This makes STIC's collection of foreign patent documents the most comprehensive in the United States.

The collection is located in the Main Branch of the STIC. The most current part of the collection is made available to examiners and the public through the USPTO's automated search tools which allow users to look up, view, and print documents. The earliest patent documents, as far back as 1617, and documents from smaller countries are found in the paper collection in the stacks or at remote sites.

Most foreign countries issue official patent and trademark journals corresponding to the *Official Gazette of the United States Patent and Trademark Office*. These journals are shelved under country name. Most countries issue name indexes; some also issue classified indexes. Indexes are shelved with the journals. Much of the index information is also available on FPAS.

The official journals of a few countries include abstracts of the disclosures of the patents announced or applications published.

D. Special Collections

Although STIC still houses substantial print collections, the majority of the collections are now in the form of electronic books, journals, and foreign patents. The electronic books and journals are accessible at the examiner's desktop. To locate the NPL Services for Examiners on the Intranet site, go to the Patent Examiner's Toolkit and click on Non-Patent Literature. Collections are arranged by TC and are also accessible by title via the STIC Online Catalog.

Biotechnology/Chemical

The Biotechnology/Chemical Library is located on the first floor of the Remsen Building. This facility offers a specialized collection of print, electronic, and microfilm resources in the biological and chemical fields. The Library is open to the public as well as to patent examiners.

The Lutrelle F. Parker, Sr., Memorial Law Library contains a legal collection focusing on intellectual property. The Law Library is located in the Main STIC.

Each Electronic Information Center has a small print collection tailored to the art areas covered by the TC.

II. HOW TO LOCATE MATERIALS IN STIC

The STIC Online Catalog

The primary vehicle for locating books and other materials is the STIC online catalog. The online catalog contains a record of all materials held by the STIC collections, including location, call number, and availability. Examiners can access the online catalog from their desktops via the Patent Examiner's Toolkit.

Materials acquired by the STIC are classified according to the Library of Congress classification system. Books and bound periodicals are intershelved in the stacks according to this classification system. New unbound periodical issues are shelved in a separate area of each branch, in alphabetical order by title.

III. LOAN POLICY

All STIC materials except noncirculating items may be charged out at the *>Service< Desk. (Noncirculating material includes reference publications, print journals, foreign patent documents, and microfilm.) Examiners may use the Department of Commerce Libraries as well as other Federal Government libraries in the area. STIC's staff can answer questions regarding the accessibility and lending practices of other libraries. If books are needed from another library for official use, the request should go through the Scientific and Technical Information Center by means of an interlibrary loan request. (See "Interlibrary Loans" under STIC SERVICES.)

IV. STIC SERVICES

A. Reference Services

STIC staff assist examiners in the use of the STIC and its resources. Upon request, they provide guidance on finding information in the electronic and print collections. If any problems are encountered in locating materials or finding answers to informational needs, please check with the staff. They are ready and

willing to assist. Queries may be made in person or by telephone.

B. Online Searching

Online computer database searching is provided by the STIC facility located in each TC. All STIC branches have access to a number of vendors' commercial database search systems. These vendors' databases extensively cover the field of knowledge and make it possible for online searchers to retrieve bibliographic information with abstracts, chemical structures, DNA sequences, and sometimes the full text of the articles, depending on the database. This online search service provides a valuable screen of the nonpatent literature for the examiner intending to make a search of the secondary sources of his/her area of interest.

Vendors accessed by STIC staff include DIALOG, Scientific and Technical Network (STN), Questel-Orbit, and others. When they are identified as meeting the needs and requirements of the Office, new database vendors are added. A list of the databases offered by each vendor is available in the vendors' manuals located in each STIC branch. Examiners may request a computer search by submitting a request form >electronically via the NPL Intranet website or on paper< to the appropriate branch. Searches are usually completed in two working days or less. Completed searches are delivered to the examiners.

Examiners can conduct searches of online commercial databases independently of STIC staff. **>Once approval from the supervisory patent examiner (SPE) has been obtained, training is provided through STIC's Digital Resources Division. Individual assistance in searching these databases< is available from the STIC and ITRP staffs, especially for searching chemical structures and DNA sequences.

Online searching of nucleic and amino acid sequences is conducted by the staff of the Biotechnology/Chemical Information Branch through the use of an in-house computer system developed for this purpose. On an as needed basis, introductory classes are conducted by STIC staff to assist examiners in understanding the sequence search results.

C. Foreign Patent Services

The staff of the Foreign Patent and Scientific Literature Branch of the STIC is available to assist with

any problem or informational need regarding foreign patent searching or foreign patent documents. These services are also available to examiners in the Electronic Information Centers.

Online patent family search services are performed for patent examiners by the Foreign Patent and Scientific Literature Branch. The services provided include: identification of English-language or preferred-language equivalents; determination of priority dates and publication dates; searches by inventor name or abstract number; other patent family and bibliographic searches; and foreign classification information.

Examiners who choose to perform their own foreign patent searches after receiving appropriate training through the Office of Patent Training can consult foreign patent experts for difficult searches.

The staff of the Foreign Patent and Scientific Literature Branch can supplement the online searching effort with manual searches of foreign patent journals, including *Official Gazette(s)*, patent concordances, and/or indexes. The staff also provides training in the use of the Foreign Patents Access System (FPAS) and information of use of the foreign patent collections.

SPECIAL NOTE: Members of the public can order copies of foreign patent documents from the Foreign Patent and Scientific Literature Branch of the Information Center.

D. Translations

Examiners may consult the translators in the Translations Branch of STIC for oral assistance in translating foreign language patents and other literature sources that are possible references for applications being examined. Oral translations are performed for the major European languages and for Japanese. Examiners may also request written translations of pertinent portions of references being considered for citation or already cited in applications. Full translations are also made upon request. Written translations can be made from virtually all foreign languages into English. See also MPEP § 901.05(d).

There is a computerized database located in the Translations Branch listing all translations which have been made by the Branch, and a few others gathered from miscellaneous sources. This database lists over 30,000 translations of foreign patents and articles, all of which are located in the Translations Branch.

Patent translations are indexed by country and patent number; articles are indexed by language and author or title. Any copies of translations coming to examiners from outside the Office should be furnished to the Translations Branch so that it may make copies for its files.

E. Interlibrary Loans

When needed for official business purposes, STIC will borrow from other libraries materials not available in-house. Requests can be submitted to the STIC facility in an examiner's TC >or via the electronic form on the STIC Intranet website<. Those that can be filled by libraries in the metropolitan area are handled by the staff of the Reference Delivery Branch of the STIC who go out on a daily basis to retrieve requested materials. Those that must be filled by libraries elsewhere in the country are requested electronically via numerous networks and commercial vendors. Law books cannot be borrowed by STIC for use by examiners in connection with law courses.

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F. On-Site Photocopying

For the convenience of the Examining Corps, photocopy machines are available for employee use in STIC. These are to be used for photocopying STIC materials which do not circulate, or for materials which examiners do not wish to checkout.

G. Obtaining Publication Dates

Requests pertaining to the earliest date of publication or first distribution to the public of publications should be made to the STIC facility in the examiner's TC. For U.S. publications, the staff can obtain the day and month of publication claimed by the copyright owner. The same information can be obtained for foreign publications through correspondence although it will take a little longer.

H. Tours

Special tours of the STIC and its branches can be arranged for examiners or for outside groups by contacting the STIC facility in the examiner's TC.

901.06(b) Borrowed Publications

See MPEP § 901.06(a), STIC Services - Interlibrary Loans.

901.06(c) Alien Property Custodian Publications

Applications vested in the Alien Property Custodian during World War II were published in 1943 even though they had not become patents.

Care must be taken not to refer to these publications as patents; they should be designated as A.P.C. published applications.

An A.P.C. published application may be used by the examiner as a basis for rejection only as a printed publication effective from the date of publication, which is printed on each copy.

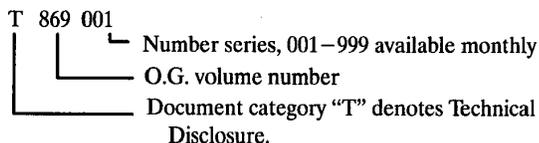
The manner of citing one of these publications is as follows: A.P.C. Application of, Ser. No., Published

The Patent Search Room contains a complete set of A.P.C. published applications arranged numerically in bound volumes.

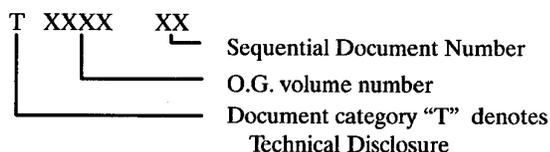
901.06(d) Abstracts, Abbreviations, and Defensive Publications

Abstracts and Abbreviations are U.S. Patent and Trademark Office publications of abandoned applications. Defensive Publications (the O.G. defensive publication and search copy) are U.S. Patent and Trademark Office publications of provisionally abandoned applications wherein the applicant retains his or her rights to an interference for a limited time period of 5 years from the earliest effective U.S. filing date. On May 8, 1985, the U.S. Patent and Trademark Office stopped accepting Defensive Publication requests and began accepting applications for Statutory Invention Registrations (SIRs), although there was an overlap period where both Defensive Publications and Statutory Invention Registrations were processed; see MPEP § 711.06 and § 711.06(a). Statutory Invention Registrations have now replaced the Defensive Publication program. Statutory Invention Registrations are numbered with document category "H," beginning with "H1." Defensive Publications and Statutory Invention Registrations are included in subclass lists and subscription orders.

Distinct numbers are assigned to all Defensive Publications published December 16, 1969 through October 1980.



For Defensive Publications published on and after November 4, 1980, a different numbering system is used.



A conversion table from the application serial number to the distinct number for all Defensive Publications published before December 16, 1969 appears at 869 O.G. 687. The distinct numbers are used for all official reference and document copy requirements.

901.07 Arrangement of Art in Technology Centers [R-5]

In the Technology Centers (TCs) **, the only documents that are maintained in the paper form are patents from the plant class, foreign patent documents, and non-patent literature. The patent documents are arranged in shoes bearing appropriate labels, each showing the class, subclass, and usually the lowest and highest numbered patents put in the respective shoe. The patents are arranged in numerical order. White labels denote U.S. patents, pink labels denote foreign patents filed according to U.S. classifications, blue labels denote non-patent literature, and yellow labels denote foreign patents filed according to the classifications of the International Patent Classification system.

One copy of a U.S. patent is designated as “original” and is classified in a specific subclass, based on the controlling claim. Other copies may be placed in other subclasses as cross-references, based on addi-

tional claimed inventions and/or pertinent unclaimed disclosure. Cross-reference copies are filed in numerical order along with the copies of original patents to simplify the tasks of searching and filing.

Copies of foreign patents are * kept in shoes **>in designated locations<.

All foreign patent documents (patents and published applications) involved in a reclassification project issued between January 1, 1974 and October 1, 1995 are filed by a computer-generated sequence number within each subclass. Each such foreign patent document has the year of publication indicated in the upper right-hand corner of the front page.

Nonpatent publications or photocopies thereof containing disclosures for particular subclasses, if numerous, should be filed in shoes following the foreign patents; otherwise, they should be filed at the bottom of the last shoe of foreign patents.

In most reclassification projects undertaken after October 1, 1995, foreign patents associated with the reclassified art have not been reclassified into the new classification schedule created for the U.S. patents. Foreign patents in this category are available for searching in a “foreign patent art collection,” which appears at the end of the class which includes the newly created classification schedule. The first subgrouping of art within the “foreign patent art collection” following a given class is identified as “FOR 000” and is titled “CLASS-RELATED FOREIGN DOCUMENTS.” The “FOR 000” subclass is a “class-level” collection of foreign patents that concord to the class but not to any particular subclass within the class. The “FOR 000” subclass does not have a definition.

Other subclasses appearing in the “foreign patent art collection” for a given class are characterized by the prefix “FOR” followed immediately by a three-digit number. These “FOR” subclasses maintain the foreign patents classified in the former classification schedule, i.e., the schedule that was the subject of the reclassification project. In certain instances, one or more unnumbered titles precede these “FOR” subclasses to show the proper hierarchical relationship for the indented foreign art collections. At the end of each “FOR” subclass in the “foreign patent art collection,” there appears in parentheses the subclass number under which the foreign patents had been classified prior to the reclassification