

# **EXHIBIT 11**

DECLARATION OF J. CHRISTOPHER CARRAWAY IN SUPPORT  
OF DEFENDANT MICROSOFT'S MOTION TO STAY PROCEEDINGS PENDING  
COMPLETION OF THE REEXAMINATION OF THE PATENTS-IN-SUIT

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**USPTO IMPROVES PROCESS FOR REVIEWING PATENTS**

The U.S. Department of Commerce's United States Patent and Trademark Office (USPTO) has implemented new processes for handling reexamination proceedings to improve timeliness and quality. Patent reexamination is a valuable, low-cost alternative to litigation for determining the patentability of the claims in an issued patent. Requests for the USPTO to reexamine a patent can be made as long as written evidence is presented that raises a substantial new question of patentability.

"Timeliness and correctness of decisions in reexamination proceedings are important to providing certainty for all users of the patent system," noted Under Secretary of Commerce for Intellectual Property and Director of the USPTO Jon Dudas. "We have a duty to the American public to get reexaminations right and to conduct them with dispatch so they remain an effective tool."

The USPTO's goal is that reexaminations that have been pending with an examiner more than two years now will be resolved by October 1, 2005. In addition, all future reexamination proceedings will be completed within a specific timeframe, which is expected to be less than two years. In March 2005 there were over 420 reexaminations that had been pending more than two years and that number would have grown to over 600 by the end of September 2005. Today, fewer than 360 cases remain, with nearly half in the final stages. To ensure the quality of these proceedings, all reexamination decisions now require a thorough review by a panel of supervisors and senior patent examiners. Reexaminations where an initial decision has been made will remain with the examiner originally assigned to the reexamination. All other reexaminations will be reassigned to a newly formed central reexamination unit.

Prior to the new initiative, reexamination cases were assigned to examiners according to technology. Under the new initiative, 20 highly skilled primary examiners who have a full understanding of reexamination practice and relevant case law will concentrate solely on reexamination. The 20-examiner unit began operation earlier this week and all new requests for reexamination will be assigned to them. Using skilled examiners assigned to a single unit will enhance the quality and reduce the time of reexaminations by allowing the USPTO to monitor more effectively the reexamination operations.

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