

PATENTQUARTERSTM

The Newsletter of O'CONNOR & COMPANY • Third Quarter, 2007

Good Times

We had an extremely busy second quarter here at O'Connor & Company. We have recently conducted interesting client work in both patent prosecution as well as in strategic issues involving intellectual property. Page 2 summarizes a big "win" we experienced in June, when we were able to secure a patent for a client under the new Accelerated Examination program in the Patent Office. The patent (U.S. Patent No. 7,251,621) was the first-ever allowed via Accelerated Examination in the business-methods art, where patent applications normally remain pending for a very long time. In other great news, we have begun significant work for a new client, Range Fuels (see below).

There is currently a lot of buzz in the IP community surrounding patent-reform legislation. Some of the proposed changes to patent laws could be very important, such as the proposed move to a first-to-file (rather than first-to-invent) patent system in the U.S. Next time, we will review the status of pending new rules and laws, and what they might mean for both small and large companies as well as independent inventors.

Enjoy the current issue of *PatentQuarters*, and call or e-mail us anytime! **PQ**

O'Connor & Company Announces New Client, Range Fuels

We are pleased to announce a new and exciting significant client—Range Fuels, Inc. Range Fuels (Palo Alto, CA and Broomfield, CO) is a privately held company funded by Khosla Ventures, LLC, arguably the top venture firm in the U.S. focusing on alternative-energy systems. Range Fuels converts cellulosic biomass (rather than corn) into fuel-grade ethanol using a non-fermentative technology that combines biomass gasification with chemical catalysis to convert syngas into alcohols. The technology can produce more ethanol for a given amount of energy expended than is possible with other competing processes.

In early July, Range Fuels announced that the company was awarded a construction permit from the state of Georgia to build the first commercial-scale cellulosic ethanol plant in the United States. Groundbreaking will take place this summer in Treutlen County, Georgia for a 100 million gal/yr cellulosic ethanol plant that will use wood waste from Georgia's forests as its feedstock.

The web site for Range Fuels is www.rangefuels.com. **PQ**

O'Connor & Company invites you to check out our web site:

www.OConnorCompanyPLLC.com

Download past and current editions of this newsletter, and learn more about us.

Success with Accelerated Patent Examination!

A year ago, in this newsletter we described the new Accelerated Examination program at the USPTO [www.oconnorcompanypllc.com/pasteditions.htm]. In March 2007, the first patent using this option was issued. The patent, for a printer ink gauge, was filed with the USPTO on September 29, 2006, and was awarded to Brother International, Ltd. on March 13, 2007. Average review time for applications in the ink-cartridge technology area is 25.4 months. This patent issued in 6 months, a time savings of 18 months for the patent holder.

O'Connor & Company has successfully navigated the Accelerated Examination maze on behalf of our client, Vertour (see Client Profile on page 3). On December 29, 2006, a patent application was filed for a new business method. The process lived up to its name—truly “accelerated” examination. Due to the current backlog at the Patent Office, business-methods cases can take 5 or more *years* just to receive a first Office Action. This process was more like 5 *months*: after a series of Examiner interviews to argue the case, on June 6, 2007 a Notice of Allowance was received. This patent was the **first business-methods case allowed via Accelerated Examination** in the Patent Office!

United States Patent No. 7,251,621 was granted to Kevin Weng (President of Vertour) for “METHOD AND APPARATUS FOR THE HOME DELIVERY OF LOCAL RETAIL E-COMMERCE ORDERS” (patent in force as of July 31, 2007).

To be eligible for Accelerated Examination, applicants are required to provide specific information, known as an examiner support document, so that review of the application can be completed rapidly and accurately. In return, the USPTO issues a final decision by the Examiner within 12 months on whether their application for a patent will be granted or denied. Under Accelerated Examination, applicants are required to conduct a search of the prior art, submit all prior art that is closest to their invention, and explain what the prior art teaches and how their invention is different. In addition to providing and explaining any prior-art references, applicants must explicitly state how their invention is useful and enabled by their written description.

One way to view this process is that the patent practitioner is basically doing the job of the Examiner. In many ways, that is indeed the case, as we are expected to find the relevant art and explain why the claims are not anticipated by those references. Amendments can be made before submission to avoid certain references, to make later argumentation easier.

Many patent attorneys and agents will not touch Accelerated Examination. They worry about litigation down the road, when someone might say that they withheld a reference or otherwise knew of its significance but did not fully disclose it. Another challenge with the deal is that it requires a lot of time up front, increasing the cost to the client.

However, the upside can make a real difference to a start-up company. Patent protection can be achieved many years earlier than possible otherwise. With some fast-moving technologies, by the time a patent application is examined, the technology is dated. Absent speeding up examination in some fashion, retaining the invention as a trade secret can be the better choice. Accelerated Examination certainly offers an alternative to inventors and companies that desire rapid patent protection of their developments and discoveries.

Contact us today if you would like to discuss how this process might work for you! **PQ**



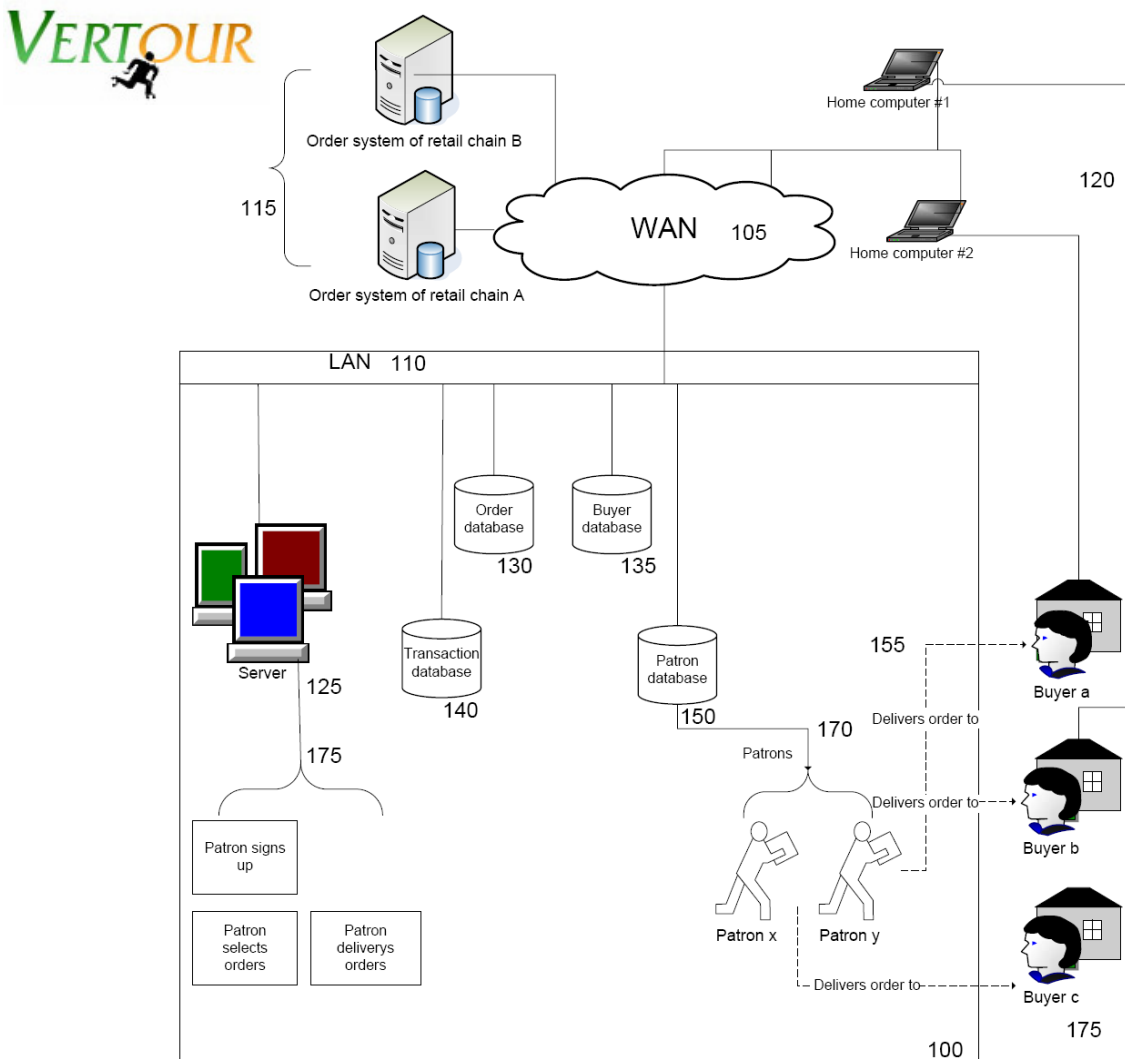
Client Profile: Vertour

A play on the French word Vert meaning “green” and Courier, *Vertour* means green courier. Through a network of ordinary consumers who are willing to deliver to others, Vertour provides local delivery at the lowest possible cost to the consumer and the environment. In this model, a patron is defined as a shopper who agrees to be a courier.

Connecting online buyers and patrons, Vertour provides stay-at-home buyers merchandise delivered to their door, at low cost, by a trusted community member. Through Vertour’s time and money-saving platform, buyers, patrons, and retailers are united in a win-win-win scenario—buyers get their products with minimal cost and delay, patrons get to make additional income with minimal detour, and participating retailers will be equipped with a lower-cost delivery alternative to enhance customer service and increase operational efficiency.

Every delivery successfully completed on the Vertour platform allows the buyers and patrons to connect with each other and reinforce a trusted physical network. By fostering local connections and cultivating local communities, Vertour is positioned to bring tremendous social benefit to the public. Moreover, with Vertour’s peer-to-peer delivery service, people no longer need to drive in separate trips to the retail stores; there can be less cars on the road and less air pollution. Aimed at promoting a greener environment, Vertour is the “green way to deliver.” [Source: Kevin Weng]

Vertour technology is protected by U.S. Patent No. 7,251,621 (see page 2). **PQ**



Want to Try Examining a Patent?

In June 2007 the USPTO started a pilot project that could help improve the examination process in computer technologies. The **Peer Review Pilot** gives members of the public the opportunity to submit annotated technical references relevant to the claims of a published patent application before an Examiner reviews it.

"Studies have shown that when our patent examiners have the best data in front of them, they make the correct decision," said Jon Dudas, director of the USPTO. "Examiners, however, have a limited amount of time to find and properly consider the most relevant information." Existing law allows USPTO to accept prior art from the public, but it doesn't allow the public to submit any commentary related to the art without the approval of the applicant. Thus, consent will be obtained from all applicants whose applications are volunteered and selected for this pilot.

This pilot is just one facet of USPTO's broader efforts to find new ways to get the best information in front of Examiners before they make a final decision on a patent application. To ensure a vibrant, modern patent system, USPTO also supports implementation of "applicant quality submissions" which would include search and support documents from applicants, similar to what is done under Accelerated Examination. Generally, USPTO supports expanding the ability of third parties to submit to the USPTO information they believe is pertinent to a pending application, a concept included in patent-modernization legislation now under consideration in the U.S. Congress.

More information: www.uspto.gov/web/offices/pac/dapp/opla/preognotice/peerreviewpilot.pdf. **PQ**

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