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October 3, 2007

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

To the attention of: Mr. David H. Stine
Trademark Attorney
Law Office 114

Re: Serial No. 77/077588. MARK: 21st Century Patent Practice

Dear Mr. Stine:

In response to your Office Action sent April 26, 2007, applicants choose to respond to the refusal to register by submitting evidence as provided in this letter and as attachments submitted in TEAS. In addition, applicants are responding to the informalities disclaiming the generic wording "patent practice" and amending the application in view of a recent classification revision; these responses being further submitted in TEAS.

Registration was refused because applicants' mark, when used on or in connection with the identified goods/services, so resembles the mark in U.S. Registration No. 3,011,824 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* Applicants note the referenced word mark being "21st Century Patent Research".

Applicants further note that their mark "21st Century Patent Practice" contains a very specific term that is not present or alluded to in the referenced mark. In Title 37 of the Code of Federal Regulations (Patents, Trademarks, and Copyrights) the term "practice", when used in combination with the word "patent", has a very specific meaning, as indicated in 37 C.F.R. §10.1 (r.). Patent Practice specifically refers to a "*Practitioner*", which, as defined in 37 C.F.R. §10.1 (r.) "*means (1) an attorney or agent registered to practice before the Office in patent cases...*" Thus, it is extremely unlikely that a registered patent practice and registered patent practitioners would be confused with a search business that does not hold itself out as being a registered patent practice or having registered patent practitioners in its employment. To further eliminate even the remote possibility of confusion or mistake (deception of course being a violation of the Patent and Trademark Office Code of Professional Responsibility), 37 C.F.R. §10.32 addresses advertising by practitioners. Specifically, 37 C.F.R. §10.32 (c) states that "*Any*

communication made pursuant to this section shall include the name of at least one practitioner responsible for its content.” Thus, when the mark “21st Century Patent Practice” is used, it will always be accompanied by the name of at least one registered patent practitioner, as required by 37 C.F.R. §10.32. This will further differentiate the marks, avoiding even the remote possibility of confusion or mistake.

Applicants submit 37 C.F.R. §10.1 (r.) and 37 C.F.R. §10.32 as evidence that the marks are separate and distinct, and will not cause confusion, mistake or deception. The applicants thank Mr. Stine for his consideration of this submittal, and request registration of the mark “21st Century Patent Practice.” Should a telephone conversation be helpful, please contact the undersigned at 585-624-3714.

Sincerely,

A handwritten signature in black ink, appearing to read "RD Gunderman, Jr.", written in a cursive style.

Robert D. Gunderman, Jr.
Registered U.S. and Canadian Patent Agent
(applicant)

A handwritten signature in black ink, appearing to read "John M. Hammond", written in a cursive style.

John M. Hammond
Registered Patent Agent
(applicant)