

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Comments on Development of a Plan to Remove
the Patent and Trademark Classified Paper Files
From the Public Search Facilities

ATTENTION: Ronald Hack, Acting Chief Information Officer

Dear Sirs/Madams,

I am an independent patent attorney and an independent patent searcher. My direct clients include IBM Corp. and Whirlpool Corp., and my indirect clients include Toyota Motor Co. and Honda Giken KK (whom I work for through the patent firm NGB Corp. in Tokyo, Japan).

I strongly oppose any elimination of the current classified paper files, since they provide a unique function which is unduplicated by any electronic database available at the USPTO or elsewhere.

The classified paper files are our most reliable and comprehensive source of both U.S. and foreign patent data. Even though classification of foreign patents was stopped in 1994 (due to a rash, unjustifiable decision by Commissioner Lehman), yet the paper collection of foreign patents at the USPTO has no equivalent in the electronic world. The paper collection at the USPTO goes back to the early days of patented technology. The current electronic databases at the USPTO do not cover ANY foreign technology prior to October 1976.

For example, it is impossible to perform a proper search on current automotive steering systems or suspensions without considering pre-1976 European art.

On November 19, 1999, the Washington Post ran an article (beginning on page E1) describing the new computerized search system at the USPTO which, according to USPTO officials, was a more-modern replacement for the older APS system that was unilaterally dismantled by USPTO officials earlier in that year. The Post article began with a single, tell-all sentence:

"This is the computer system from hell."

Not only did we learn that the modern "WEST" system was orders of magnitude slower than the older APS system, we also learned it couldn't perform any of the more complex tasks performed by APS (such as "expanding" search terms or "focusing" search results, nor can it still).

Certainly, the USPTO officials knew of the deficiencies of WEST when they pulled the plug on APS. Yet they pulled the plug on APS without a back-up plan and with total disregard for the substantial disruption in U.S. Patent searching that their action would cause in the industrial sector. We were told that APS wasn't Y2K compliant since it was based on the ChemAbs "Messenger" software. But ChemAbs had both put a fix in place and made that fix available to the USPTO. And today, the USPTO chemical examiners are still using

Messenger through commercially available ChemAbs databases! [It is now well-known that it is impossible to correctly perform chemical searches with the vintage-1980 BRS search engine that is at the heart of WEST. Let me know if you need to know the technicalities.]

The cripplingly slow speed of WEST was, in part, remedied by the introduction of EAST (which shares the BRS search engine and the consequential limits of WEST described above) in 2000, yet both WEST and EAST have, to date, been plagued with high levels of instability. "SYSTEM DOWN" signs appear with disheartening regularity for those of us who have to daily perform patent searching, and the signs almost always follow each attempted enhancement to the EAST/WEST system. Indeed, enhancements almost always produce new problems or are incorrectly executed in the first try. Recently, an enhancement made U.S. Patent images from the period 1959-1961 and half of 1993 completely unavailable! And the "technical people" who are in charge of EAST/WEST were fully unaware of the problem for four days until a member of the public brought it to their attention. This does not inspire our confidence in the people (e.g. SIRA and their contractors) who are in charge of the electronic database implementations at the USPTO.

And during those regular times when EAST/WEST is "SYSTEM DOWN", everyone pours into the classified paper files, or puts off their work.

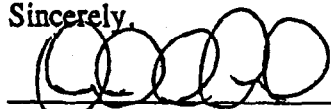
I hope that at least some of the people who read this letter were part of the U.S. patent system prior to the tenure of Bruce Lehman. I was an examiner from 1985 to 1989, and I remember being SO impressed with APS, and later with CSIR. We truly had the most impressive information search and retrieval systems in the world! And everyone knew it. But that changed when Patent Office appointments became a tool for political paybacks.

I'm sure you already know that Mr. Lehman wasn't appointed for reasons of patent merit. But, unfortunately, during his tenure, he displayed that "merit" which he was appointed for, and in the process, the U.S. Patent System suffered greatly. We've been set back a full decade in the capabilities of the electronic search systems in place at the USPTO.

Therefore, now is no time to eliminate the classified paper files, when we already have a second rate electronic search system. First improve the electronic search system to include the pre-1976 foreign art AND to have at least the capabilities that APS and CSIR had in the pre-Lehman era, and then, after some time of overlap it may be prudent to eliminate the classified paper files.

But let's do first things first, and have the backup classified paper files in place while the computer systems are undergoing enhancements and improvements.

Sincerely,



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