

sea turtles in the waters of Palm Beach County, FL. The purpose of this project is to support hawksbill recovery efforts by surveying the local population to document the distribution and movement of individuals in these waters. Larger turtles will be hand captured and smaller individuals will be captured using a 24 inch (60 cm) diameter dip-net. Turtles will be retained on a vessel for the collection of morphometric data, tagging, numbering, photographs, and tissue sampling, and then released. Seventy-five turtles of all sizes will be captured annually, and the requested duration of this permit is 5 years.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Dated: May 14, 2003.

Stephen L. Leathery,
Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 03-12650 Filed 5-19-03; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051203B]

Marine Mammals; File No. 1004-1656

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Funtime, Inc. d/b/a Six Flags Worlds of Adventure, 1060 North Aurora Road, Aurora, OH 44202, has been issued an amendment to public display Permit No. 1004-1656-00 to extend the expiration date through May 16, 2004.

ADDRESSES: The amendment and related documents are available for review

upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9200; fax (978)281-9371.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301)713-2289.

SUPPLEMENTARY INFORMATION: On May 22, 2002, notice was published in the **Federal Register** (67 FR 35965) that Permit No. 1004-1656-00 had been issued to Funtime, Inc. d/b/a Six Flags Worlds of Adventure to import two killer whales, one adult female from Marineland S.A., Antibes, France and one adult male from Mundo Marino, Buenos Aires, Argentina, for the purposes of public display. This permit amendment extends the duration of the permit from May 16, 2003, to May 16, 2004. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: May 13, 2003.

Stephen L. Leathery,
Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 03-12649 Filed 5-19-03; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: 2003-P-018]

Request for Comments on the Study of the Changes Needed To Implement a Unity of Invention Standard in the United States

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice; request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) has established a 21st Century Strategic Plan to transform the USPTO into a quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system. As part of this plan, the USPTO will conduct a study of the changes needed to implement a Patent Cooperation Treaty (PCT) style Unity of Invention standard

in the United States. Prior to starting a detailed study, the USPTO is seeking public comment on a number of issues to help guide the scope and content of a study on the adoption of a Unity of Invention standard in the United States.

COMMENT DEADLINE DATE: To be ensured of consideration, written comments must be received on or before July 21, 2003. No public hearing will be held at this stage of the study.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: unity.comments@uspto.gov. Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450; or by facsimile to (703) 872-9411, marked to the attention of Robert Clarke. Although comments may be submitted by mail or facsimile, the USPTO prefers to receive comments via the Internet. If comments are submitted by mail, the USPTO would prefer that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, located at Room 3D65 of Crystal Plaza 3/4, 2201 South Clark Place, Arlington, Virginia, 22202, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: <http://www.uspto.gov>). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Robert A. Clarke directly by phone at (703) 305-9177, by e-mail at robert.clarke@uspto.gov, by facsimile to (703) 305-1013, marked to the attention of Robert A. Clarke, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

SUPPLEMENTARY INFORMATION: The Unity of Invention standard (in PCT applications) and United States restriction practice (in United States applications) are mechanisms by which the USPTO determines whether patent applicants are entitled to examination of all of the claims in an application by determining whether the claims are directed to a single invention, or to

multiple inventions that are capable of supporting separate patents.

The Unity of Invention standard is a component of many foreign patent laws and is also used in international search and preliminary examination proceedings conducted pursuant to the PCT.

United States restriction practice is based on 35 U.S.C. 121, which provides that: “[i]f two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions.” This allows examiners to limit applicants to one set of patentably indistinct inventions per application. The USPTO may “restrict” the application to one set of patentably indistinct inventions: (1) If the application includes multiple independent and patentably distinct sets of inventions, and (2) if there is an undue burden to examine more than one invention in the same application. Restriction practice was designed to balance the interest of granting an applicant reasonable breadth of protection in a single patent against the burden on the USPTO of examining multiple inventions in a single application.

Current USPTO policy allows for restriction between related inventions as well as between independent inventions. However, if the USPTO adopts a Unity of Invention standard, restriction would, as a general rule, no longer be permitted between certain related inventions that currently may be restricted under United States restriction practice. Some examples of related inventions that are often filed together and typically can be restricted under current United States practice before a prior art search is conducted, but do not lack unity under the Unity of Invention standard, include: (1) A process, and the apparatus for carrying out the process; (2) a process for making a product, and the product made; (3) an apparatus, and the product made by the apparatus; (4) a product, and the process of using the product.

A lack of Unity of Invention is different from restriction practice in some major aspects. Unity of Invention is practiced, with slight variations, in PCT applications and in applications examined by the European Patent Office (EPO) and the Japan Patent Office (JPO). The primary consideration for establishing Unity of Invention is that the claims are entitled to be examined in a single application if the claims are so linked together as to form a single general inventive concept, premised on the concept of a common feature (referred to as a “special technical

feature” in the context of PCT Rule 13) that can be present in multiple inventions within a single application. As long as the same or corresponding common feature is found in each claim and that common feature makes a contribution over the prior art, the claims comply with the requirement for Unity of Invention. If the inventions lack a common feature that makes a contribution over the prior art, then a holding of lack of Unity of Invention would be proper. The determination of whether an invention makes a contribution over the prior art can effectively be done only after a prior art search for the common feature has been performed.

Adoption of any of the various styles of Unity of Invention practice will likely have significant impacts on current USPTO examination practices and organization. The degree of the impacts will depend upon the particulars of how the Unity of Invention standard is implemented. A complete study will need to consider, at a minimum, the impacts and changes to: quality, pendency, workload, revenue, fees, patent term adjustment, examination resources, organizational structure of the Patent Examining Corps, and the United States patent classification system.

Issues for Comment

Issue 1: Unity of Invention as practiced in the EPO is interlinked to EPC-style claim drafting and EPO claim treatment practice, including certain limitations on claiming that are not present in current United States patent practice. For example, the EPO (under EPC rule 29(2)) usually allows only one independent claim per category of invention (category of invention is that of product, process or apparatus of use), and emphasizes the search and examination of independent claims. In contrast, the USPTO searches and examines every claim, independent and dependent, and every limitation of every claim. In addition, EPC-style claim drafting is generally termed “central claiming”. In central claiming, the inventive concept is essentially claimed in the independent claim. If the independent claim is found allowable, the EPO examination will not be unduly concerned with respect to the dependent claims, according to EPO Guidelines, C-III, 3.6.

Should the USPTO study ways to adopt EPO claim treatment practice, including normally allowing only one independent claim per category of invention, when considering ways to adopt a Unity of Invention standard, and why?

Should the USPTO emphasize the examination of independent claims and modifying the examination of dependent claims in the same fashion as the EPO?

If so, would there be any reason to consider changes to the presumption of validity under 35 U.S.C. 282 of those dependent claims?

Issue 2: In United States restriction practice, the applicant can file a subsequent application that is directed to an invention that was divided out of the parent application. These are called Divisional applications. Divisional applications are typically subsequently filed and are not normally examined concurrently with the parent application. Divisional applications retain the benefit of the filing date of the original application if the conditions set forth in 35 U.S.C. 120 are met. This allows an applicant to continue to pursue protection for the inventions subject to restriction that were in the original application without being affected by double patenting. All member states of the Paris Convention for the Protection of Industrial Property (1967) (including Japan and all EPC member states), as well as the EPO, also provide for the filing of Divisional applications. However, the PCT does not yet provide for the filing of Divisional international applications. Consequently, the PCT rules provide for applicant to pay for the search and examination of additional inventions that “lack unity” in a single international application. Adoption of a Unity of Invention standard could, in some instances, require examining more inventions during the examination of a single application than occurs presently, thereby possibly causing delay in the examination of other applications if examination resources are limited. This could increase the USPTO’s average patent pendency time.

If the USPTO adopts a Unity of Invention standard, should the USPTO provide applicants the option of a PCT-style Unity of Invention practice to pay for additional inventions that lack Unity of Invention in the same application?

If so, should the USPTO consider any changes to patent term adjustment under 35 U.S.C. 154(b) for applications which have more inventions examined in a single application under a Unity of Invention standard than are permitted under current practice?

In view of the fact that examining multiple inventions in a single application could cause examination delay in other applications, what other revisions to patent term adjustment provisions under 35 U.S.C. 154(b) should be considered by the USPTO, or

should the USPTO also consider revising the order that cases are taken up for examination?

Issue 3: Under the PCT, examination proceeds on the basis of the first claimed invention if applicant does not pay for additional inventions that lack unity.

Should the USPTO adopt, for national applications, the practice currently used under the PCT of examining the first claimed invention where there is a holding of lack of Unity of Invention?

Optionally, where Unity of Invention is lacking: (1) Should the USPTO examine the first claimed product, or the first claimed invention if there are no product claims; or (2) should applicant be given the opportunity to elect an invention to be examined?

Issue 4: A determination of lack of Unity of Invention is predicated on assessing whether a common feature (referred to as a "special technical feature" in the context of PCT Rule 13) defines a contribution over the prior art. Certain PCT member states assess this requirement only with respect to patentable advances over prior art. However, issues of lack of support, enablement, clarity, or conciseness, generally resulting from excessive breadth of claims or excessive numbers of claims, may occur that render examination unduly burdensome. In such circumstances, some International Authorities will make a "partial search" declaration to limit the extent of search and examination. The USPTO does not follow this practice. On the other hand, it may be viewed that if the common feature or "special technical feature" is not adequately supported by the disclosure or lacks utility ("industrial applicability" in the PCT context), the special technical feature does not make a contribution over the prior art.

When adopting the Unity of Invention standard, should the USPTO follow the practice of performing only a "partial search" if the examination of the entire scope of the claims is unduly burdensome due to non-prior art issues?

Alternatively, should the USPTO assess adequacy of the disclosure and industrial applicability in addition to the prior art when determining whether the claims' common feature makes a contribution over the prior art?

Issue 5: The USPTO's 21st Century Strategic Plan is predicated on a certain level of revenue to provide the resources needed to meet quality and timeliness goals. The Plan currently does not account for any additional resource requirements, and any corresponding revenue shortfalls, that may result from adopting a Unity of Invention standard. Statutory fees under 35 U.S.C. 41(a) and

(b), in the aggregate, are set to cover USPTO operating costs. If the average cost of processing patent applications goes up, the USPTO will need to increase fees. Assuming that there will be extra costs of examination under Unity of Invention, possible increases would be: (1) All filing fees; (2) all filing fees and an additional fee for examination of claims that lack Unity of Invention with an elected invention; (3) increased issue and/or maintenance fees of all applications; (4) increased issue and/or maintenance fees for applications paying the additional invention fee; or (5) a combination of two or more of (1) through (4) above.

Which of the above approaches should the USPTO propose in regard to any fee increases?

Issue 6: Adopting a Unity of Invention standard would impact the number of inventions that would be examined in a single application, and require examining multiple inventions that cross multiple disciplines in a single application. Due to the current level of technical specialization in the Patent Examination Corps, the USPTO will have to consider the impact any change would have on the ability of the USPTO to maintain high quality examination.

How should work be assigned to ensure that examination quality would not suffer if examiners have to examine multiple inventions from different disciplines in a single application?

Should the USPTO consider: (1) Using team examination, similar to the EPO where applications are examined using three-person teams called "examination divisions" (2) extending the use of patentability report procedures provided for in section 705 of the Manual of Patent Examining Procedure (8th ed. 2001) (Rev. 1, Feb. 2003); (3) maintaining the current process of a single examiner on an application; or (4) using some other option of how work is performed by examiners?

Issue 7: One way of adopting aspects of Unity of Invention without making any statutory changes would be for the USPTO to use its authority under the continued examination provisions of 35 U.S.C. 132(b) (authorizes request for continued examination or RCE practice) to permit applicants to pay an RCE fee and submit or rejoin claims to additional inventions after prosecution has been closed on a first invention, so long as the claims presented with the RCE fee either depend from or otherwise include the features of the allowed claims which make a contribution over the prior art. In this option, most applications will continue to be examined under the USPTO's current

restriction practice. Under any new provisions to implement this option, when a claim is determined to be allowable, the applicant would be entitled to request continued examination under the Unity of Invention standard. The required submission would be additional claims that either depend from or otherwise include the features of the earlier-examined claims that are in condition for allowance (if such additional claims were not previously pending in the application).

Should the USPTO consider this option?

Should this option be available only to applicants whose applications are published?

If so, how should the new RCE fee be set relative to the current fee structure?

Issue 8: As a second example of adopting aspects of Unity of Invention without making any statutory changes, the USPTO could use its authority under continued examination to permit requests that the USPTO continue examination of claims which were withdrawn from consideration. This option would require applicants to make a decision to request continued examination rather than file a divisional application, to pay a fee for the treatment of one additional invention, and to present claims drawn only to that additional invention. This option would be available in addition to the continuing option of filing a divisional application.

Should the USPTO consider this option?

If so, how should the loss in issue and maintenance fee collections be offset relative to the current structure?

Issue 9: In view of the previous questions and the range of issues and options, should the USPTO consider: (1) Seeking a change to 35 U.S.C. 121 to adopt a Unity of Invention standard (and if so, what would such statutory change be, including whether such a statute would provide for applicants to pay for additional inventions that lack Unity of Invention to be examined in the same application); (2) maintaining the current restriction practice in the USPTO; and/or (3) modifying the USPTO rules and procedures to adopt aspects of Unity of Invention practice without making any statutory changes (if so, in what manner should rule changes be made)?

Issue 10: Do you have other solutions to offer which are not addressed in this notice?

Dated: May 9, 2003.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and, Director of the United States Patent and Trademark Office.

[FR Doc. 03-12500 Filed 5-19-03; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense will submit to the Office of Management and Budget for emergency processing, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 35).

DATES: An approval date by May 23, 2003, has been requested.

Title and OMB Number: Foreign Sourcing for Defense Applications; OMB Number 0704-0419.

Type of Request: Reinstatement.

Number of Respondents: 500

Responses per Response: 1.

Annual Responses: 500.

Average Burden per Response: 5 hours.

Annual Burden Hours: 2,500.

Needs and Uses: This information collection is required for the Department of Defense to assess the impact of potential supply disruption of key components provided by non-US suppliers. The information to be analyzed under the study shall be collected from prime contractors and first and second tier subcontractors. Specifically, DoD will determine the: (1) Extent of foreign sourcing within the specified defense products; (2) impact such foreign sourcing has on military readiness; and, (3) extent to which DoD or contractor policies, procedures, practices, or actions encourage or discourage consideration of foreign sources for defense products.

Affected Public: Business or Other For-Profit.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jackie Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written request for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: May 13, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03-12505 Filed 5-19-03; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Missile Defense, Phase III (Modeling and Simulation) will meet in closed session on June 4, 2003, at the Institute for Defense Analyses, 1801 N. Beauregard Street, Alexandria, VA. The Task Force will assess: the scope of the modeling and simulation effort; the appropriateness of the level of fidelity of classes of simulations; the impact of communications in the end-to-end models; the approaches to ensuring the validity of simulations for all uses, including exercises and wargaming done for training and operations concept development; and additional opportunities for modeling and simulation contribution to Ballistic Missile Defense Systems development and evaluation.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will address the above mentioned issues in a system of systems context with particular emphasis on battle management systems, command and control systems, and the global sensor system. The Task Force will provide advice on the state of modeling and simulation for use in assessing overall performance of segments of the Ballistic Missile Defense Systems; e.g., ground-based midcourse intercept system, space-based interceptor system.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5

U.S.C. 552b(c)(1) and that, accordingly, the meeting will be closed to the public.

Dated: May 13, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 03-12506 Filed 5-19-03; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Correct a System of Records.

SUMMARY: The Department of the Army altered the system of records notice A0635-200 TAPC, entitled 'Separations: Administrative Board Proceedings' on December 8, 2000, at 65 FR 77002. The alteration consisted of adding a new routine use. Although the change was listed as part of the publication, the notice, as amended, did not contain the new routine use. This publication corrects this administrative oversight.

DATES: This proposed action will be effective without further notice on June 19, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/ Privacy Act Office, U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-FP, 7798 Cissna Road, Suite 205, Springfield, VA 22153-3166.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806-7137 / DSN 656-7137.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.