

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANKLIN SERVAN-SCHREIBER
and
SALVATORE CATAUDELLA

Appeal No. 2002-0013
Application No. 08/839,883

ORDER REMANDING TO EXAMINER

Appellants filed the following amendments to claim 1 on appeal:

- November 12, 1998 (Paper No. 5)
- August 9, 1999 (Paper No. 10)
- November 26, 1999 (Paper No. 12).

Subsequently, appellants filed an Appeal Brief on December 28, 2000 (Paper No. 17). According to the Examiner's Answer entered February 13, 2001 (Paper No. 18), the examiner states on page 3, section (8) that "[t]he copy of the appealed claims contained in the Appendix to the brief is correct."

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However, a review of the Appendix to the Brief reveals that claim 1 is not the correct copy according to the amendments filed on August 8, 1999 (Paper No. 10) and November 26, 1999 (Paper No. 12). Claim, lines 7 and 8, contains substantial errors as follows:

Line 7: After data, enter "--which has already been transmitted, after--."

Line 7: Delete "--when--."

Line 7: Delete "different" and replace with "--requested--."

Line 7: After "information" add "--, which is different from said advertising data--."

Line 8: After "out" add "--during a time when the requested information is being transmitted, this time being different from said communication idle time and--."

Accordingly, it is

ORDERED that the application is remanded to the examiner for notifying appellants to submit a corrected Appendix to the Brief, or for the examiner to submit a correct copy of claim 1 on appeal, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

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BOARD OF PATENT APPEALS
AND INTERFERENCES

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