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Reno, NV 89521-7430
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Mr. John Dudas
Director of the USPTO
Fax: 571-273-0464

Dear Mr. Dudas,

This concerns Patent Application 09/947,801 which is currently before the Court of Appeals For the Federal Circuit as CAFC 2007-1056.

In the evening of January 3, 2007 I discovered that one of the documents in the Image File Wrapper had been altered.

This is the *Examiner Summary of the Telephone Interview of August 5, 2005*.

An explanation of why this particular document is important follows shortly.

My efforts to find out when this document was altered and who altered it have been unsuccessful. The story of my efforts also follows. In short, I started at the Bottom, worked my way up to the Middle, and got pushed down to the Bottom again.

The document was filed after the case had been to BPAI and after I filed the Notice of Appeal which means it was filed solely for the benefit of the Court. Therefore, this alteration constitutes tampering with evidence.

Tampering with evidence is a felony. It also destroys the credibility of the USPTO.

Because you are listed as the Appellee in this case, this tampering was done in your name and you ultimately bear responsibility for it. It is very poor management practice to allow your employees to commit felonies in your name.

I am giving you this opportunity to do damage control by finding the culprit and taking appropriate action. If you fail to do so I will take my own appropriate actions which includes notifying the Court and DOJ.

Mr. Dudas, your first thought might be to turn this matter over to the Office of the Solicitor and you are certainly free to do so.

However, I believe the tampering occurred after I sent them the copies of my Appeal Brief and you should consider the possibility that they are involved. As a result, you may want to retain personal Counsel.

The Document

The document is ***Examiner Interview Summary*** dated and mailed 10/12/2006.

There are now what appears to be initials added to the first page of the document (upper right corner).

They are not in the document that was mailed to me. There were not in the document originally posted in the Image File Wrapper.

I pointed out in my Appeal Brief that:

1. The Examiner's Summary was dated and mailed on October 12, 2006, more than 14 months after the telephone interview. This was after BPAI issued its ruling and after I filed my Notice of Appeal.
2. The Examiner's Summary was signed only by SPE Rupal Dharia. Since his is the only signature on the Summary it must be assumed that he wrote it. However, Dharia was not present during the telephone interview.
3. The Summary contains errors ranging from distortions to outright fabrications.

Are these new markings the Examiner's initials?

Will the Solicitor argue that, while the Summary was not written by the Examiner, he approved it?

I don't know. It doesn't matter. The document has been altered.

The Patent Office has tampered with evidence in a Court case.

Tampering with evidence is a felony.

My Efforts

I expected that the Image File Wrapper database is important enough that every document would leave an audit trail showing when the document was uploaded and who uploaded it. Unfortunately, this does not appear to be the case.

Lacking an audit trail, the file containing the document will have a date stamp, just like the files on your PC. In addition the server logs will show the date, time, and IP address of the computer which uploaded the document. Presumably, you have a list of the location of each computer according to its IP address as well as the person the computer is assigned to. Another method is to take a backup of the database made between October 12, 2006 and the end of that month, restore it to an unused, isolated server, and look at the document. There will be no initials in the corner, proving that the current document has been tampered with.

On January 4 I called the Electronic Business Center and spoke to Amy. Amy said she did not have the information I was asking for and did not have access to obtain the information I was asking for. She suggested I call OIPE and the Inventor's Assistance Center.

I called IAC and, as I expected, they also do not have access to get the information.

On January 5, 2006 I called Mr. John Leguyader, not knowing that he is now the Director of Technology Center 1600 and no longer works in the Office of the Commissioner.

I was told to call Mr. John Love who does work in the Office of the Commissioner. Since he was unavailable I spoke to his assistant, Ms. Pam Kim, who promised me that Mr. Love would call me back. He didn't.

On January 8, 2007 I called Mr. Love again who was still unavailable.

I called the Commissioner's Office and asked to speak to Ms. Margaret Focarino, the Deputy Commissioner. She was not available and I was given to Mr. Steve Griffin. Mr. Griffin promised to look into it.

In the meantime, Mr. Griffin suggested I call Mr. David Freeland your Chief Information Officer. The reason for this is because he, supposedly, has access to the server information.

I will note that ICANN regulations require that each domain registrant supply valid contact information for the web site's System Administrator. Yours does not.

Your domain registration for **uspto.gov** lists David Przech at 703-305-9208 as the contact person. You have no such person listed in your telephone directory and the telephone number is not a valid telephone number. Under ICANN rules, failure to provide valid contact information is grounds for removing the domain name from the DNS system. That means when people type **www.uspto.gov** they will receive a message that the domain does not exist.

When I called Mr. Freeland I spoke to Anne. Naturally, Mr. Freeland was not available. I was eventually connected to Mr. Scott Williams.

Mr. Williams suggested I call the Inventor's Assistance Center. I told him his suggestion was not helpful and, besides, I had already called the IAC. Frankly, Mr. Williams did not seem to take this matter seriously. In fact, he seemed to find it amusing.

Eventually Mr. Williams promised to have Catherine Kirik in the Search and Information Resources Administration call me. Instead, I was called by Mr. Jeff Wong in that department. Mr. Wong is a good man but he does not have access to the resources needed to deal with this problem.

By the time I got back to Mr. Williams he stated he had already talked to people in the Office of the General Counsel and that they did not consider the addition of the initials to the documents important. During my last conversation with Mr. Williams on January 10, someone in the background said, "Don't talk to him." Mr. Williams refused to identify the individual who made that statement.

The security of your system has been breached, allowing people to tamper with documents without leaving a trace, and no one is interested in plugging the leak, not to mention finding the culprit(s).

Frankly, I am out of patience.

Please respond within five business days. After that I will follow Mr. Williams' suggestion to take the matter up with CAFC.

Sincerely yours,

Jed Margolin