

PATENT OWNER
EXHIBIT 2019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	11/112,990	Confirmation No.:	7098
Applicant(s):	McNally, et al.	Group Art Unit:	2191
Filed:	April 22, 2005	Examiner:	Brophy, Matthew
		Customer No.:	27123

For: INFORMATION MANAGEMENT AND SYNCHRONOUS COMMUNICATIONS
SYSTEM WITH MENU GENERATION, AND HANDWRITING AND VOICE
MODIFICATION OF ORDERS

DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, the undersigned, Keith R. McNally, declare and state that:

1. I am an inventor of the subject matter claimed in the above-identified patent application. I have first hand knowledge as to all of the facts, all of the referenced exhibits and all of the information contained herein.

2. I make this Declaration to establish conception of the invention claimed in this application in the United States at least as early as August 1998, well prior to June 17, 1999, the filing date of U.S. Patent Publication No. 20020059405 to Angwin et al. ("Angwin publication") and June 29, 1999, the apparent priority date of U.S. Patent No. 6,973,437 to Olewicz et al. ("Olewicz patent") – both of which were cited by the Examiner against the pending claims of the present application—coupled with actual reduction to

practice of the claimed invention from September 1998 and subsequent constructive reduction to practice of the claimed invention as a filed U.S. patent application on September 21, 1999.

3. Prior to June 17, 1999, my co-inventors and I conceived of the subject matter of the invention claimed in this application. In short, the November 1998 21st Century Restaurant System Diagram and brochures, the offers for sale, the actual product demonstrations at the November 1998 FSTEC show and the numerous additional contemporaneous references discussed and detailed below, as well as our continual efforts to commercialize a product encompassed by the present claims illustrated the invention in sufficiently clear terms to demonstrate conception in the United States prior to June 17, 1999.

4. The invention claimed in the above-identified patent application was actually reduced to practice in or about November 1998 as detailed below. To the extent the November 1998 activities could possibly be deemed insufficient to establish reduction to practice of the claimed invention (notwithstanding the clear evidence demonstrating that the invention was actually reduced to practice in November 1998), additional evidence submitted herein regarding our activities subsequent to November 1998 shows clearly that the claimed invention was actually reduced to practice prior to June 17, 1999. The invention was thereafter constructively reduced to practice on September 21, 1999.

5. From a period from September 1998 to September 1999, my co-inventors and I were diligent in working to reduce the invention to practice, both actually and constructively. During this period, both the actual and constructive reduction to practice of the claimed invention was active and reasonably continuous.

6. After conceiving the core inventive ideas encompassed in the pending claims of the present application in late summer 1998 (as part of preparations for a new generation of products to be introduced at the upcoming November 1998 FSTEC show), my co-inventors and I initiated and then continued the development effort and worked diligently at designing and developing an initial prototype of the claimed invention during the period from September 1998 to November 1998. We then introduced the invention and showed this first prototype and offered the product for sale to the public and to customers and partners at the Food Service Technology Show (FSTEC) in Atlanta, Georgia from November 14-16, 1998. Thereafter, we continued to make further refinements of a commercial embodiment of the claimed invention throughout the remainder of 1998 and well into 1999. Copies of actual photographs of us introducing, demonstrating, and offering for sale this invention and product, the "wizard" (our company's only software product at the time), in our large booth at the November 1998 show and numerous additional confirming documents substantiating our continual inventive activities based upon the "wizard" - up to and including our constructive reduction to practice are attached as exhibits. Our company's "wizard" products were the only software products under development at Ameranth from September 1998 thru at least September 21, 1999, and thus all of our software development activities, de facto, involved development of a commercial embodiment of the claimed invention. A detailed chronology of our invention activities as evidenced by contemporaneous documentation is provided in the following paragraphs.

7. Exhibit 1 is a copy of a photograph taken during November 1998 which shows the assignee of the present application (Ameranth, Inc.) actually demonstrating and offering for the first time to the public an embodiment of the claimed menu generation

and wireless/web data synchronization inventions. This embodying product was part of Ameranth's 21st Century Restaurant™ system. This product introduction and demonstration occurred in Atlanta, Georgia at the Food Service Technology (FSTEC) Show during November 14-16, 1998. Exhibit 1 is copy of a photograph of Ameranth's 20X20 foot booth within the show. All three inventors attended the show, however co-inventor William Roof left and returned to San Diego - after assisting with the set up of the system in Ameranth's booth. In the photograph (taken by co-inventor Richard Bergfeld), seated at the front table with his back to the camera is Dave Miller, founder of JTECH, Ameranth's paging system partner. Clockwise after Mr. Miller is Jeff Graham, CEO of JTECH, Keith McNally of Ameranth (co-inventor), Dan Drummond of Ameranth and then Jeff Tobin, the President of JTECH at the time. Looking toward the camera from one of Ameranth's system demonstration stations is Kathie Sanders, then Ameranth's Director of Marketing. In front of Ms. Sanders is a customer. Standing immediately to the right of Ameranth's booth, with his arms folded, is Ed Lyznick (now deceased) who was then Ameranth's Sales Director. Immediately to the right of Ms. Sanders and just above her head is the Systems Diagram of Exhibit 3 (which can be seen more clearly in Exhibit 2). Exhibit 3 was shown to and discussed with potential customers and partners at this show and Ameranth provided demonstrations of the initial prototype which embodied the claimed invention. The prototype demonstrated at the show was a working device which included aspects recited by the claims of the present application and, in concert with, inter alia, the Systems Diagram, included all aspects of the present claims. Ameranth demonstrated the capabilities of the invention at the show by live demonstrations of the prototype along with passing out copies of the system

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