

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Ewing et al.
U.S. Patent No.: 7,043,543 B2
Issue Date: May 9, 2006
Serial No.: 09/930,780
Filing Date: August 15, 2001
Examiner: Jeffrey Pwu
Real Party in Interest: American Power Conversion Corporation
Title: VERTICAL-MOUNT ELECTRICAL POWER DISTRIBUTION PLUGS TRIP

Mail Stop "Inter Partes Reexam"
Attn: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF ALEX NORTH

Sir:

I, Alex North, declare the following:

1. I submit this declaration in connection with Reexamination Control No. 95/001,485, pertaining to U.S. Patent No. 7,043,543 ("the '543 patent"). I understand that APC submitted the Request for *Inter Partes* Reexamination of the '543 patent to the USPTO on November 12, 2010.
2. I was asked to prepare this declaration in order to state facts that corroborate APC's assertion in its Request that the related materials describing the BayTech RPC products on BayTech's website were all available to the public and linked together on BayTech's website prior to December 8, 2000, the filing date of the '543 patent. I have personal knowledge of and can testify to the topics addressed in this declaration.
3. I am the current Operations Manager at Bay Technical Associates ("BayTech") in Mississippi. In this role, I oversee virtually all of the day to day operations of BayTech including its 110 employees. I have worked at BayTech since about 1986. Around 1999-2000, I

worked at BayTech as a Product Manager, and at that time, my responsibilities included sales of BayTech PDU products, including through its website at www.BayTech.net.

4. I have reviewed the following documents, which I understand were submitted to the USPTO by APC as Exhibits E-G in support of APC's Request for *Inter Partes*

Reexamination of the '543 patent:

- Download of www.BayTech.net from web.archive.org (the "BayTech Website"), Exhibit E.
- Owner's Manual for BayTech Remote Power Control Unit (the "BayTech Manual"), Exhibit F.
- M2 Communications Ltd., "BayTech," M2 Presswire, Bay St. Louis, Mississippi, U.S.A., November 19, 1999 (the "BayTech Article"), Exhibit G.

I confirm that these documents accurately describe the technical features and use and operation of the Baytech RPC 7, RPC 21, and RPC 22 products.

5. More specifically, I confirm that the BayTech Website, previously submitted by APC to the UPSTO as Exhibit E, is a collection of related materials available to the public and linked together on the BayTech website in 1999-2000. I also understand that, for clarity, APC has re-submitted this same collection of materials as three separate reexam Exhibits E1-E3:

- Exhibit E1 – a Press Release announcing the BayTech RPC 7 and 21 products dated October 13, 1999 (page 1 from original Exhibit E).
- Exhibit E2 – a section of the BayTech website describing generally the RPC line of products dated October 6, 2000 (pages 2-7 from original Exhibit E).
- Exhibit E3 - a section of the BayTech website describing specifically the RPC 22 product dated November 1, 2000 (pages 8-9 from original Exhibit E).

6. Exhibit E1 describes the release of the BayTech RPC 7 and 21 vertical mount products from the RPC line of products by BayTech on October 13, 1999. It also shows links to several other sections of the BayTech website with more specific information about these

products such as data sheets and user manuals. I remember personally writing this press release and releasing it on BayTech's website in 1999-2000. I confirm that Exhibit E1 is a true and accurate representation of this press release that I wrote in 1999.

7. Exhibit E2 describes generally the BayTech RPC line of products as of October 6, 2000. It shows a section of the BayTech website from this time that gave a general overview of the remote power monitoring capabilities of the RPC line of products and also listed some important features of each product including the RPC 7, RPC 21, and RPC-22 products. Each product name was also an electronic link to another section of the BayTech website with additional specific information about that particular product (*e.g.*, "RPC-7" "RPC-21" and "RPC-22" links). I confirm that Exhibit E2 is a true and accurate representation of this section of the BayTech Website as of October 6, 2000.

8. Exhibit E3 describes specifically the BayTech RPC 22 product as of November 1, 2000. This section is directly linked from the section of the BayTech website describing generally the RPC line of products. It said "(Click Here) for the RPC Main Page." By clicking on this link, a visitor to the BayTech website could seamlessly and easily navigate back and forth to the general RPC section from the specific RPC 22 section and vice-versa. For example, a visitor could move back and forth between the sections of BayTech's website represented in Exhibits E2 and E3. I confirm that Exhibit E3 is a true and accurate representation of this section of the BayTech Website as of November 1, 2000.

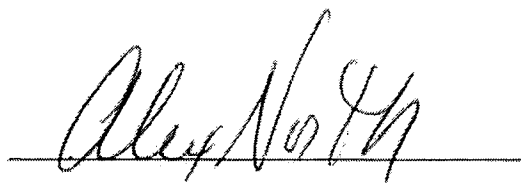
9. Although each of Exhibits E1-E3 were available on separate sections of the BayTech website, these materials were all very closely related. These materials, reflected in Exhibits E1-E3, all relate to the same BayTech RPC line of PDU products and describe features of the same products, such as the RPC 7, RPC 21, and RPC-22 products. Moreover, as Product

Manager at BayTech in the relevant time 1999-2000, I am personally aware that Exhibits E1-E3 were publically available and linked together on the BayTech website at www.BayTech.net by at least as early as November 1, 2000. Further, at this time, the BayTech website was meant to be a single, integrated vehicle for selling the RPC line of products. The concept was to link electronically all of the information in the BayTech Website exhibit, for example, so that a visitor to the BayTech website could seamlessly and easily find all information about the RPC line of products. The BayTech website, as reflected in the BayTech Website Exhibit E, and Exhibits E1-E3, was meant to be a one stop shop for all information about the RPC line of products.

10. In addition, I also confirm that the Owner's Manual for BayTech Remote Power Control Unit (the "BayTech Manual"), Exhibit F, was distributed by BayTech and publically available as of the publication date on the face of the document, January 2000. This fact is also confirmed by the publication number #U140E125-05 and copyright 2000 date on the document.

I further state that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under section 1001 of title 18 of the United States code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.

Dated this 13 day of May, 2011

A handwritten signature in cursive script, reading "Alex North", is written over a horizontal line.

Alex North