

EXHIBIT 5



**UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 09/164,777 | 10/01/98 | MULLOR | M REINC4237.01 |
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WASHINGTON DC 20005-3955

TM01/0622

EXAMINER

HEWITT II, C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2161

DATE MAILED: 06/22/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| | | | |
|------------------------------|--------------------------------|-------------------------------|--|
| Office Action Summary | Application No. 09/164,777 | Applicant(s) MULLOR ET AL. | |
| | Examiner Calvin L Hewitt II | Art Unit 2161 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 May 2001.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 and 16-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) Interview Summary (PTO-413) Paper No(s). _____
- 19) Notice of Informal Patent Application (PTO-152)
- 20) Other:

Status of Claims

1. Claims 1-13 and 16-20 have been examined.

Response to Arguments and Amendment

2. The Applicants are of the opinion that the Ginter et al. reference is insufficient as it is believed that it does not teach, "... setting up a verification structure and verifying the program using the verification structure". The Examiner will focus his comments to this matter as other comments regarding the intended use of the claimed invention (e.g. "stationary object" vs. "travelling object") do not result in a structural difference between the claimed invention and the prior art. And, if the prior art structure is capable of performing the intended use, then it meets the claim- See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). To this end, the Examiner would like to reiterate that Ginter et al. the system of Ginter et al. supports, "launchable content" (column/line 24/54-25/27) and maintains, and allows for evolving, content and content control as it passes through a "chain of handling" (column/line 28/42-32/60).

Regarding verification structure, Ginter et al. create for each VDE object a permission record (PERC) (column/line 93/5-94/4; column/line 155/38-159/12) that "...

controls how access and/or manipulation permissions are distributed and/or how content and/or other information may otherwise be used (column 155, lines 46-51). Ginter et al teach that electronic appliances may include one or more SPUs (column 64, lines 1-4) and may be a standardized feature on microprocessors (column 65, lines 17-55). As previously stated, the SPU contains, volatile and non-volatile memories (column/line 70/11-71/15; column/line 71/51-72/67). The SPU Internal ROM contains, "...kernel programs, load modules and encryption key information [that] enable the control of certain basic functions of the SPU" and "... components that are at least in part dependent on [device configuration] may be loaded in [ROM] along with additional load modules that have been determined to be required for specific installations or applications (column 70, lines 48-53). Further, Ginter et al. teach that SPU hardware, provides at least enough processing capabilities to support the secure parts of processing such as events that generate a usage permission (figure 3; column 58, lines 22-49; column 60, lines 45-55). Therefore, the Examiner regards the generation of usage permissions as basic to a SPU, hence, the appropriate load modules would be present in the ROM or EEPROM (column 70, lines 54-65) to allow for such minimum processing. Also, Ginter et al. teach that content control information follows the content (e.g. PERC) therefore, it is inherent that PERC-relevant data would be stored in non-volatile memory (relying on the standard definition of "non-volatile" memory as memory that is maintained even when the power is removed from the storage system). Finally, the Examiner takes issue with the Applicant using EEPROM to store a license record including author name, program name

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