

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASKELADDEN, L.L.C.,

Petitioner,

v.

OHVA, INC.,

Patent Owner.

Case No. IPR2023-00921
U.S. Patent No. 9,679,286

DECLARATION OF DONALD R. BOYS

I, Donald R. Boys, US Patent Practitioner, registration number 35,074, do hereby declare as follows:

1. In a prior declaration in this IPR in my name, I stated on my best knowledge and belief, that my firm, Central Coast Patent Agency, LLC, filed on 3.29.2017 a response to a Final office action issued 1/20/2017 in application 14636674. The response document was a Word file with filename 1987.02oar5.

2. This document 1987.02oar5 does *not* show as having been filed in the transaction record for this application in the USPTO database. On further investigation, I noticed that the Remarks section of that document is not completed, and there are no arguments presented in the document. On further investigation, I discovered a Word document “fax.docs” in the database of Central Coast Patent Agency, LLC, referring to a just completed telephonic conference on 3/29/2017 with the Examiner and the Examiner’s supervisor in the case. This document has a cover letter to the examiner referring to the conference, and appends a set of proposed claim amendments, and rationale as arguments regarding the issues of Priority and New Matter.

3. It thus appears that the document 1987.02oar5 was actually never filed in the case. Instead a telephonic conference was held on aspects of the case on 3/29/2017, with attendees Donald. R. Boys, reg. no. 35074, Cynthia Lamon, reg. no. 73334, Examiner Mohammad Z. Shaikh, phone 571-270-3444, and Supervisor Kambiz Abdi, phone 571-272-6702. All outstanding issues were discussed in that conference and as a result the Examiner and Supervisor Abdi agreed that the issues and rejections were overcome, and the case was allowable. I asked if I should file the formal response, and the Examiner indicated it was not necessary, as she would do an Examiner’s amendment from proposed claim amendments I was to provide, which were provided in the fax document “fax.docs”, and issue a Notice of Allowance.

4. It may be seen that the Examiner’s amendment in the Notice of Allowability accompanying the subsequent Notice of Allowance are the proposed amendments in the document “fax.docs”.

5. I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I understand that willful false statements are punishable by fine or imprisonment or both. See 18 U.S.C. § 1001.

Date: October 26, 2023

Respectfully Submitted,

/s/ Donald R. Boys
Donald R. Boys