

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPOTIFY USA INC.,
Petitioner,

v.

MANUEL TIJERINO,
Patent Owner.

IPR2025-01280
Patent No. 9,146,925

PATENT OWNER SUR-REPLY TO PETITIONER REPLY TO POPR

I. INTRODUCTION

The Board’s October 6, 2025 email expressly **limited further briefing “solely to the issue of a priority claim of the ’925 patent”** [EX1027] and capped each filing at five pages.

Petitioner’s twelve-page Reply exceeds both the permitted length and scope. Large portions advance new enablement, written-description, and PCT-priority arguments that were **never authorized** and should be disregarded.

Within the narrow question actually before the Board—the domestic-benefit claim to U.S. Application No. 11/744,228—the **official USPTO record** squarely refutes Petitioner’s assertion that Patent Owner “revoked” priority.

II. SCOPE OF AUTHORIZATION

The Board’s authorization governs. See 37 C.F.R. § 42.108(c).

Arguments concerning support, enablement, or entitlement under the PCT are **outside the permitted issue** and should not be considered.

Only whether the ’925 patent validly claims domestic benefit to Application No. 11/744,228 under **35 U.S.C. § 120** and **37 C.F.R. § 1.78** is properly before the Board.

III. OFFICIAL USPTO RECORDS CONTROL

The face page of U.S. Patent Application Publication No. 2011/0029417 A1,

reproduced below as Appendix A, states:

“Continuation-in-part of application No. 11/744,228, filed May 4, 2007, now abandoned.”

That notation is generated automatically by the USPTO Publication Branch from the Application Data Sheet (ADS) then on file and accepted.

Under **MPEP § 211.02(b)** and **§ 201.11**, such continuity data on the publication’s front page constitutes **prima facie evidence** that the Office recognized and accepted the benefit claim under § 120.

Neither Petitioners nor the PTAB may rewrite the USPTO’s official continuity records through post-hoc attorney interpretation. See *In re Kleeman*, 451 F.2d 849 (CCPA 1971).

The USPTO’s **Patent Public Search** and **Patent Center** databases continue to display the same lineage:

Parent → 11/744,228 (2007) → Child → 12/804,665 (2010) → Issued Patent → 9,146,925 (2015). See **[EX 1028]** (Patent Center record confirming same chain).

These records confirm the domestic-benefit chain remains intact and accepted.

IV. THE 2014 CORRESPONDENCE WAS A CLERICAL CORRECTION, NOT A REVOCATION

Petitioner relies on excerpts at **Ex. 1002, pp. 306–316** to claim that Patent Owner

“deleted” the priority claim. Those pages show only a **2014 request for a Corrected Filing Receipt**—the same routine form letter used whenever the USPTO’s receipt misstates application data. The phrase “Applicant has deleted the claim of priority...” merely reflects a correction to the ADS label “CIP” for receipt accuracy; it was **never a statutory disclaimer** of domestic benefit.

The record contains **no written revocation under § 1.78(a)(2)(iii)**, no petition acknowledging such revocation, and no examiner notation that the claim to § 120 benefit was rescinded. Indeed, the Office’s **official publication (US 2011/0029417 A1)** and the **issued ’925 patent** both maintain the accepted chain. Under **MPEP §§ 201.11 and 211.02(b)**, a priority claim can be revoked only by an **express disclaimer** of an accepted benefit claim. **No such disclaimer exists.**

The 2014 “Corrected Filing Receipt” therefore **did not and could not retroactively nullify** a published, accepted continuity claim.

V. OFFICIAL ACCEPTANCE OVERRIDES ATTORNEY INTERPRETATION

Even if Petitioner’s reading of Ex. 1002 were credited, the USPTO’s own accepted publication record controls.

Once the Office publicly issues an application as a continuation-in-part, **the Board must treat that acceptance as conclusive for purposes of § 120 entitlement**

absent a formal disclaimer. See **MPEP § 211.02(b)** (“The benefit claim in an issued patent or published application is controlling unless corrected by the Office.”).

The PTAB is not empowered to override that record based on counsel’s speculation about applicant intent.

VI. CONCLUSION

The evidence establishes that:

1. The ’925 patent was filed and published as a **continuation-in-part** of 11/744,228.
2. The USPTO never accepted any revocation of that relationship.
3. Petitioner’s arguments about enablement and disclosure exceed the Board’s limited authorization.

Accordingly, the Board should (1) disregard the extraneous portions of Petitioner’s Reply, (2) confirm that the ’925 patent retains valid domestic-benefit priority to Application No. 11/744,228, and (3) proceed with the institution analysis on the record already before it.

Respectfully submitted,

/s/ Manuel Tijerino
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that a true and correct copy of the foregoing **Patent Owner's Sur-Reply to Petitioner's Reply to Patent Owner's Preliminary Response in IPR2025-01280**, together with all supporting Appendix A, was served on Petitioner's counsel of record by electronic mail on **October 15, 2025**, at the following addresses:

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Dated: October 15, 2025

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APPENDIX A – OFFICIAL USPTO RECORD

The face page of U.S. Patent Application Publication No. 2011/0029417 A1, reproduced below, states:

“Continuation-in-part of application No. 11/744,228, filed May 4, 2007, now abandoned.”

(Official USPTO publication generated by the Publication Branch.)



US 20110029417A1

(19) **United States**

(12) **Patent Application Publication**

Tijerino

(10) **Pub. No.: US 2011/0029417 A1**

(43) **Pub. Date: Feb. 3, 2011**

(54) **USER DEFINED INTERNET JUKEBOX
KIOSKS SET TOP BOX**

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(21) Appl. No.: **12/804,665**

(22) Filed: **Jul. 27, 2010**

Related U.S. Application Data

(63) Continuation-in-part of application No. 11/744,228,
filed on May 4, 2007, now abandoned.

Publication Classification

(51) **Int. Cl.**
G06Q 30/00 (2006.01)

(52) **U.S. Cl.** **705/30**

(57) **ABSTRACT**

A computer readable storage method and system allowing any artist to upload media, including images, video and music, to a server, have that media uploaded in a system of internet jukeboxes placed in establishments for instant playback of media by paying customers. The system of internet jukeboxes programmed to maintain an account for the artist allowing the artist to earn fees and royalties from playback of the media and to provide for automated payment of rent, and other fees due the establishment and the service provider.

Source: U.S. Patent Application Publication No. 2011/0029417 A1 (User Defined Internet Jukebox Kiosks Set Top Box), published Feb. 3, 2011.