

25 February 2016

**The Registry of Patents
Intellectual Property Office of Singapore**

Spruson & Ferguson (Asia) Pte Ltd
Reg. No. 200100515C

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Dear Sirs,

Singapore Patent Application No. 11201504899X

Invention : Comfort Noise Addition For Modeling Background Noise At Low Bit-Rates

Applicant : Fraunhofer-Gesellschaft Zur Förderung Der Angewandten Forschung E.V.

We refer to your letter of 28 December 2015.

Patents rule 91 provides the basis for our filing of our Form CM4 on 21 December 2015. Rule 91(1) clearly states that "a correction of ... a mistake ... in any document filed in connection with ... an application shall be made on Form CM4." Such language is also mirrored in section 107 of our patents act. Point 2 of your letter respectfully appears to run contrary to the language of rule 91 and section 107, and therefore does not appear to be reasonable justification to reject our Form CM4.

On this basis, we respectfully request acceptance of our filed Form CM4. Moreover, a mistake in the filing of documents would still lead to an incorrect document being on file, to which section 107 clearly provides a correction mechanism means.

Our letter of 21 December 2015 explains that the correct figures 1-6 were omitted during the filing of the underlying PCT application. This was to establish good faith on the applicant's part. Accordingly, replacement of the figures 1-3 published under WO 2014/096280 was sought by way of correction (with the payment of its official fee), rather than voluntary amendment (which is free). Paragraph 117.10 of the "UK Manual of Patent Practice" provides further basis for our use of the correction mechanism provided under section 107 of our patents act. Paragraph 117.10 states that "if all of the requirements of s.117 and r.105 have been met (see 117.03-09), it is possible for the comptroller to allow a missing part to be filed as a correction under s.117(1) without redating". Section 107 of Singapore's patents act is based on s.117 of the UK's patents act, while our rule 91 finds equivalent provisions in r.105 of the UK's patents rules.

Paragraph 117.07, cited by paragraph 117.10, stipulates a two-fold test to establish that an error is obvious, namely:

- (a) is it clear that there is an error, and
- (b) if so, is it clear what is now offered is what was originally intended?

The submissions provided in our letter of 21 December 2015 that accompanied our Form CM4 establishes the meeting of this two-fold test. In more detail, test a) is met because while pages

14 and 15 of the publication WO 2014/096280 provide a brief description of six figures, the publication contains only three figures, so that there is clearly an error in the publication containing only three figures. Test b) is met because the support tabulated in our submissions of 21 December 2015 evidences that the replacement six figures are the figures meant to be used when the underlying PCT application was filed.

Paragraph 117.10 also draws reference to the use of "missing parts" provisions to correct errors in relation to omitted drawings. These provisions, namely sections 26(7) to 26(9) of our patents act, apply when using incorporation by reference to the priority application. However, such incorporation by reference is not sought in the present instance, given that the above submissions evidence that section 107 of our patents act clearly provides a means to have new figures 1 to 6 replace figures 1 to 3 on file.

Should the Registrar still maintain that Form CM4 is not the appropriate form to use, he is respectfully requested to provide guidance on the procedure the applicant should undertake to rectify the matter of the present application having incorrect figures on file.

We look forward to hearing from you.

Yours faithfully,



SPRUSON & FERGUSON (ASIA) PTE LTD

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