

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte LEWIS K. CIRNE,  
JEFFREY R. COBB and  
ERIC C. SCHLEGEL

---

Appeal No. 2001-1478  
Application 08/853,539

---

ORDER REMANDING TO EXAMINER

---

On December 7, 2000, applicants concurrently submitted an Appeal Brief (Paper No. 20) and an Amendment (Paper No. 21). There is no indication in the record that this amendment has been considered.

Applicants filed a Reply Brief (Paper No. 23) and a Request for Oral Hearing (Paper No. 23) concurrently on February 22, 2001. The record does not contain a response from the examiner stating whether the Reply Brief has been entered, and if entered,

Appeal No. 2001-1478  
Application No. 08/853,539

what effect the Reply Brief has on the pending rejections. See  
Section 1208.03 of the Manual of Patent Examining Procedure  
(MPEP) (8th Ed., Aug. 2001), which states:

The primary examiner must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

Compliance is required.

Accordingly, it is

ORDERED that the application is remanded to the examiner for resolution of the following issues:

- consideration of the Amendment (Paper No. 21, filed December 7, 2000);
- notification to applicants in writing indicating the status of the Amendment (Paper No. 21);
- proper response to the Reply Brief (Paper No. 23); and
- for such further action as may be appropriate.

Appeal No. 2001-1478  
Application No. 08/853,539

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

DALE M. SHAW  
Program and Resource Administrator  
(703) 308-9797

DMS:svt

Appeal No. 2001-1478  
Application No. 08/853,539

APPLE COMPUTER INC.  
1 Infinite Loop  
MS 38-PAT  
Cupertino, CA 95014