Hall Supplemental Declaration
Exhibit A
(Part 3 of 3)
Appendix D
A system which operates a digitally controlled model railroad transmitting a first command from a first client program to a resident external controlling interface through a first communications transport. A second command is transmitted from a second client program to the resident external controlling interface through a second communications transport. The first command and the second command are received by the resident external controlling interface which queues the first and second commands. The resident external controlling interface sends third and fourth commands representative of the first and second commands, respectively, to a digital command station for execution on the digitally controlled model railroad.
MODEL TRAIN CONTROL SYSTEM

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to a system for controlling a model railroad.

2. Description of the Related Art

Model railroads have traditionally been constructed with a set of interconnected sections of track, electric switches, and other electrical devices, such as transformers, to operate the model railroad. The train engine is controlled by the operator, who uses a hand controller to move the train along the track.

A digital command control (DCC) system has been developed to provide additional controlability of individual train engines and other electrical devices. Each device has a unique addressable digital decoder. A digital command station (DCS) is connected to the track or locomotive and provides the capability for multiple operators to control the railroad devices, even if the operators are located at different remote locations.

Incorporating a communications transport between the multiple client programs and the resident external controlling interface permits multiple operators of the model railroad at locations distant from the physical model railroad and each other. In the environment of a model railroad club, where the members want to simultaneously control devices of the same model railroad layout, which preferably includes multiple trains operating therein, the operators each provide commands to the resident external controlling interface, and hence the model railroad. In addition, by having a command queue of a single resident external controlling interface permits controlled execution of the commands by the digitally controlled model railroad, would many otherwise conflict with one another.

In another aspect, the present invention the first command is selectively processed and sent to one of a plurality of digital command stations for execution on the digitally controlled model railroad based upon information contained therein. Preferably, the second command is also selectively processed and sent to one of the plurality of digital command stations for execution on the digitally controlled model railroad based upon information contained therein. The resident external controlling interface also preferably includes a command queue to maintain the order of the commands.

The command queue also allows the sharing of multiple devices, multiple clients to communicate with the same device (locally or remotely) in a controlled manner, and multiple clients to communicate with different devices. In other words, the command queue permits the proper execution in the case of: (1) one client to many devices, and (2) many clients to one device, and (3) many clients to many devices.

In yet another aspect, the present invention the first command is transmitted from a first client program to a first processor through a first communications transport. The first processor provides an acknowledgement to the first client program through the first communications transport indicating that the first command has properly executed. The communications transport is preferably a DCCM or DCOM interface.
Appendix E
<table>
<thead>
<tr>
<th><code>406</code></th>
<th>Comparison – strikethrough is text deleted from <code>406</code>, added text is in brackets.</th>
<th><code>329</code></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
<td><strong>1. A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
<td><strong>1. A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
</tr>
<tr>
<td>(a) transmitting a first command from a first client program to a resident external controlling interface through a first communications transport;</td>
<td>(a) transmitting a first command from a first client program to a resident external controlling interface through a first communications transport;</td>
<td>(a) transmitting a first command from a first program to an interface;</td>
</tr>
<tr>
<td>(b) transmitting a second command from a second client program to said resident external controlling interface through a second communications transport;</td>
<td>(b) transmitting a second command from a second client program to said resident external controlling interface through a second communications transport;</td>
<td>(b) transmitting a second command from a second program to said interface; and</td>
</tr>
<tr>
<td>(c) receiving said first command and said second command at said resident external controlling interface;</td>
<td>(c) receiving said first command and said second command at said resident external controlling interface;</td>
<td>N/A</td>
</tr>
<tr>
<td>(d) said resident external controlling interface queuing said first and second commands; and</td>
<td>(d) said resident external controlling interface queuing said first and second commands; and</td>
<td>N/A</td>
</tr>
<tr>
<td>(e) said resident external controlling interface sending third and fourth commands representative of said first and second commands, respectively, to a digital command station for execution on said digitally controlled model railroad.</td>
<td>(e) said resident external controlling interface sending third and fourth commands representative of said first and second commands, respectively, to a digital command station for execution on said digitally controlled model railroad.</td>
<td>(c) sending third and fourth commands from said interface representative of said first and second commands, respectively, to a digital command station.</td>
</tr>
<tr>
<td><strong>27. A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
<td><strong>27. [10.] A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
<td><strong>10. A method of operating a digitally controlled model railroad comprising the steps of:</strong></td>
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<tr>
<td>406</td>
<td>Comparison – strikethrough is text deleted from 406, added text is in brackets.</td>
<td></td>
</tr>
<tr>
<td>329</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) transmitting a first command from a first client program to a resident external controlling interface through a first communications transport;</td>
<td>(a) transmitting a first command from a first client program to a resident external controlling interface through a first communications transport; [and]</td>
<td></td>
</tr>
<tr>
<td>(b) receiving said first command at said resident external controlling interface; and</td>
<td>(b) receiving said first command at said resident external controlling interface; and</td>
<td></td>
</tr>
<tr>
<td>(c) said resident external controlling interface selectively sending a second command representative of said first command to one of a plurality of digital command stations for execution on said digitally controlled model railroad based upon information contained within at least one of said first and second commands.</td>
<td>(c) said resident external controlling interface selectively sending a second command representative of said first command to one of a plurality of digital command stations for execution on said digitally controlled model railroad based upon information contained within at least one of said first and second commands.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) said interface selectively sending a second command representative of said first command to one of a plurality of digital command stations based upon information contained within at least one of said first and second commands.</td>
<td></td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
<td>Details</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>WinLok 1.5 released</td>
<td>1993</td>
<td>WinLok 1.5 is released. It is offered for sale and sold in the U.S. and reviewed in magazines. Its Help manual can be used to set up control systems.</td>
</tr>
<tr>
<td>WinLok 2.0 released</td>
<td>1995</td>
<td>WinLok 2.0 is released. It is also offered for sale and sold in the U.S. and reviewed in magazines. Its Help manual can be used to set up control systems.</td>
</tr>
<tr>
<td>WinLok 2.1 released</td>
<td>Dec. 14, 1997</td>
<td>WinLok 2.1 is available for download on the DigiToys website. Its Help manual can also be downloaded, and used to set up control systems.</td>
</tr>
<tr>
<td>09/104,461 application filed</td>
<td>June 24, 1998</td>
<td>Katzer, through Kevin L. Russell, files '461 application. No WinLok references produced. DigiToys referred to as prior art in Background of the Invention section.</td>
</tr>
<tr>
<td>'461 application issues as</td>
<td>May 23, 2000</td>
<td>'461 application issues as U.S. Patent No. 6,065,406 patent</td>
</tr>
<tr>
<td>'406 patent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10/124,878 application filed</td>
<td>Apr. 17, 2002</td>
<td>Katzer, through Kevin L. Russell, files '878 application. This application is a great-grandchild application of the '461 application. No WinLok references produced. DigiToys referred to as prior art in Background of the Invention section.</td>
</tr>
<tr>
<td>Katzer v. Tanner</td>
<td>Sept. 18, 2002</td>
<td>Katzer, through Kevin L. Russell, sends cease and desist letter to DigiToys and files a patent infringement suit against DigiToys. Katzer/Russell state that WinLok 2.1 infringes the '406 and other Katzer patents.</td>
</tr>
<tr>
<td>(DigiToys) lawsuit filed;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C&amp;D letter sent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tanner responds to C&amp;D letter</td>
<td>Oct. 3, 2002</td>
<td>Dr. Tanner, owner of DigiToys, responds to Russell, stating that DigiToys reference in patent specification can only be WinLok. Tanner produces various evidence showing that WinLok is 102(b) art. Tanner files citation to art. Russell later responds to Tanner.</td>
</tr>
<tr>
<td>'878 application allowed</td>
<td>Nov. 3, 2002</td>
<td>Examiner Hernandez allows '878 application</td>
</tr>
<tr>
<td>Katzer v. Tanner lawsuit</td>
<td>Dec. 20, 2002</td>
<td>Russell dismisses lawsuit against Tanner</td>
</tr>
<tr>
<td>dismissed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>'329 patent issues</td>
<td>Mar. 11, 2003</td>
<td>'878 application issues as U.S. Patent No. 6,530,329</td>
</tr>
</tbody>
</table>
UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

MATTHEW A. KATZER, an individual, and
KAMIND ASSOCIATES, INC., d/b/a Kam
Industries, an Oregon corporation,

v.

MIREILLE S. TANNER,
an individual, doing business as
DigiToys Systems,

Plaintiffs,

Defendant.

Civil No. CV 02 1295

COMPLAINT
FOR PATENT INFRINGEMENT

PATENT CASE

Demand for Jury Trial

For their complaint against defendant, plaintiffs allege:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Matthew A. Katz is an Individual resident of the State of Oregon.

Plaintiff Kamind Associates, Inc., d/b/a Kam Industries, is an Oregon corporation with its
principal place of business in Hillsboro, Oregon. Plaintiffs design, manufacture and distribute
computer software for use with model railroads.

PAGE 1 - COMPLAINT FOR PATENT INFRINGEMENT
2. Upon information and belief, defendant Mireille S. Tanner, dba DigiToys Systems, is a resident of the State of Georgia.

3. This case arises under the patent laws of the United States, 35 USC §§ 1-376. The Court has jurisdiction of the subject matter herein pursuant to 28 USC §§ 1331 and 1338(a). Venue is proper in this District pursuant to 28 USC § 1391(b).

PLAINTIFFS' FACTUAL ALLEGATIONS

4. Plaintiffs own three United States patents directed toward the control of a model railroad, namely U.S. Patent No. 6,065,406 ("the '406 patent"), U.S. Patent No. 6,270,040 ("the '040 patent"), and U.S. Patent No. 6,267,061 ("the '061 patent"). Copies of these patents are attached hereto as Exhibit A.

5. Upon information and belief, defendant is manufacturing and/or distributing in Oregon and elsewhere in the United States computer software known as "WinLok" that infringes one or more claims of the '406, '040 and '061 patents.

6. Upon information and belief, the actions of defendant complained of herein have been willful, wanton and carried out with full knowledge and blatant disregard of plaintiffs' patent rights.

CLAIM FOR RELIEF

(Patent Infringement)

7. This claim arises under 35 USC § 281. Plaintiffs reallege and incorporate by reference paragraphs 1-6.

8. By manufacturing, using, selling and/or offering to sell its WinLok software, defendant is infringing, contributing to infringement, and inducing infringement of the '406, '040 and '061 patents owned by plaintiffs.
9. Plaintiffs have suffered and are continuing to suffer irreparable damage due to the infringing acts of defendant, and because the infringing acts of defendant are continuing, plaintiffs will suffer additional irreparable damage unless defendant is enjoined by this Court from those acts which infringe, contribute to infringement, and induce infringement of the '406, '040, and '061 patents.

10. Plaintiffs have suffered damages as a result of defendant's infringement of the '406, '040 and '061 patents.

11. Defendant's acts of infringement have been willful, making this an exceptional case within the meaning of 35 USC § 285. Plaintiffs are therefore entitled to an award of their reasonable attorney fees pursuant to that statutory provision.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment in their favor and against defendant as follows:

A. For an Order that U.S. Patent Nos. 6,065,406, 6,270,040 and 6,267,061 are each valid and infringed by defendant;

B. For an Order permanently enjoining defendant, her agents, officers, assigns and all others acting in concert with them from infringing, inducing infringement and contributing to infringement of the '406, '040 and '061 patents;

C. For damages, and an accounting for damages, based on the value of infringing products sold, to compensate plaintiff for the aforesaid infringement of plaintiffs' patents;

D. For an Order trebling any damages awarded, pursuant to 35 USC § 284;

E. For pre-judgment interest and post-judgment interest on all damages awarded;
F. For an Order that this is an exceptional case and an award to plaintiffs of their reasonable attorney fees, pursuant to 28 USC § 295;

G. For plaintiffs' costs and disbursements incurred herein; and

H. For such other relief as the Court may deem just and equitable.

DATED this 17 day of September 2002.

Respectfully submitted,

CHERNOFF, VILHAUER, McCLUNG & STENZEL, LLP

By: [Signature]
Kevin L. Russell, OSB No. 95483
Of Attorneys for Plaintiffs

Plaintiffs hereby demand a jury trial of all issues so triable.

By: [Signature]
Kevin L. Russell, OSB No. 95483
Appendix H
September 18, 2002

Mireille S. Tanner
DigiToys Systems
1545 Cheshire CL
Lawrenceville, GA 30043

Re: Kam Industries With Respect To Their Intellectual Property Matters

Dear Ms. Tanner:

We represent Kam Industries with respect to their intellectual property matters. Kam Industries, as you are aware, is in the business of developing software for operating digitally controlled model railroads (www.kamind.com).

It has come to our attention that DigiToys Systems has developed and is currently selling computer software for operating a digitally controlled model railroad. In particular, the software offered by DigiToys Systems includes WinLok 2.1 Rev. D. Our initial investigation of the WinLok software indicates that the WinLok software is capable of providing commands to one of a plurality of digital command stations for operating a model railroad.

Kam Industries currently has three issued United States Patents directed toward the control of a model railroad, namely, U.S. Patent No. 6,065,406 (53 claims); U.S. Patent No. 6,270,042 (235 claims); and U.S. Patent No. 6,257,061 (54 claims). Other patents directed to the control of a model railroad are currently pending worldwide. Copies of the issued United States patents are enclosed herewith for your convenience.

The WinLok software infringes claim 10 of the ’061 patent, namely, the capability of sending commands to one of a plurality of digital command stations.

The WinLok software infringes claim 27 of the ’406 patent, namely the capability of sending commands to one of a plurality of digital command stations.
Mireille S. Tanner
September 18, 2002
Page 2

We are currently investigating whether the WinLok software infringes claim 35 of the '061 patent by providing an acknowledgment prior to proper execution by the digitally controlled model railroad.

We are also currently investigating whether the WinLok software infringes claim 39 of the '406 patent by providing an acknowledgment prior to proper execution by the digitally controlled model railroad.

In addition, we are currently investigating whether the WinLok software infringes independent claims 10, 35, 37, 32, 104, 129, 151, 176, 198, 223 of the '040 patent related to a queue.

You will note that there are an extensive set of claims in these patents directed to other desirable features of a digitally controlled model railroad which we are not currently aware whether the WinLok software infringes.

We demand that you immediately cease and desist from all future sales and distribution of infringing software in the United States. In addition, we demand an accounting for all infringing software sold in the United States since May 23, 2000 so that past damages may be determined. Further sales of infringing software will be considered willful infringement, subjecting you to treble damages and attorney fees.

Although our client does not intend to seek court action without first attempting to negotiate an acceptable solution, your infringement of our client's patents must cease. Please contact me within the next two weeks so that we may discuss these issues and potential licensing.

Sincerely,

Kevin L. Russell

Enclosures

Case 3:06-cv-01905-JSW   Document 276-4   Filed 12/08/2008   Page 17 of 30
Appendix I
WinLok 1.5 Brings Your Computer into the Train Room

The command-control system like the new NMRA DECS, at present I only deal with DAC systems — Engine Commander from Kincaid or WinLok from Tannenbaum. First, let’s take a look at WinLok’s capabilities, then discuss the software and finally get into the crystal ball gazing at what enhancements the near future will bring. WinLok is designed to provide two basic functions: 1) layout control through Digital Command Control (DCC) stationary sensors and decoders, and 2) locomotive control through mobile decoders. First, I want to talk about using WinLok to control locomotives, then I’ll describe the layout-control functions and finally get to the crystal-ball gazing.

Setting WinLok up is really straightforward — it is self-installing. Data entry follows the usual Windows drop-down menu and point-and-click mouse entry. Connecting the computer to the Digitrax DB-100 booster LineNet connector was equally easy. I made up my own connector cable following the instructions provided and materials purchased from Radio Shack. If you’re unfamiliar with or don’t trust your electronic skills, pre-built cables are available for about what the parts would run you. I did run into trouble getting the decoder out of 14-speed-speed mode, but finally I went through the steps exactly as the manual says, and it worked. Next, I connected the LineNet to the Digitrax CT14 or DBX16. Since all configurations are stored on your hard disk, you never have to enter locomotive assignments.

Layout control is accomplished using stationary decoders to throw turnout from the computer and sensor modules that monitor block occupancy. All of the decoders (both stationary and mobile) addresses and information, along with locomotive information, are entered into their respective databases. The information in the databases is used to set up switchboards that look much like the old gangs of Atlas turnout controls. The advantage of this is that up to 10 switches can be controlled by clicking on its number on the switchboard. The switchboard display allows you to combine control of several switch machines simultaneously into preset routes that can be set in a manner similar to using a doo-doo-route control system.

Another neat feature of WinLok is the ability to build a schematic of the layout or sections of track to be controlled, along with switches, signals, and routes. In use, the mouse cursor can be used to activate the program is out. This is reflective of the European heritage of WinLok where everything is commoditised from a central control panel, much like was done in this country 20 years ago. It also effectively turns you to a single operator since the mouse cursor or keyboard is used for control. Another bonus from the European version is the German language headings in the help file. I’ve been assured that these will be changed in the version 2.0 release. With respect to decoder functions, the 28-speed-speed programmability is not supported. Otherwise, the program was easy to use, and although it could use some editing and grammatical polishing up, the manual was better than many I have seen. To make it easier to get an idea of how it all works, some versions of all the functions are provided along with a tutorial explanation.

Now let’s look into the future a bit. Version 2.0 of WinLok promises to alleviate the limitations I just mentioned. It will allow Digitrax users to communicate bidirectionally through the LineNet system with their locomotive and stationary decoders. Most importantly, it will allow us to use the DT200 or DBX "Bushy" booster with the computer giving us a complete walk-around system. The computer will be able to sense the position of movements and control them, and a new level of programming will allow us to automatie train roosts. Once version 2.0 and the new Digitrax LineNet decoder and stationary decoders are available, I’ll do a complete test of the combined system to maintain a portion of a layout. My anticipation of receiving letters from fans and manufacturers of other types of DCC equipment (Lant, Marklin, Arnold, TRIX, ZIMO, System One) I would like to say in that point, I realize that we have

MARCH 1995

50 MODEL RAILROADING
been giving Digitrax a lot of attention, not necessarily because it is the best or cheapest system available, but because they have been very cooperative in providing the materials necessary to do their tests. I would be more than willing to evaluate otherrow-drawn power systems and compatibility with programs like WinLok.

Several folks I have talked with about the capabilities of WinLok and DCC systems questioned the need or desirability of automating layout controls. My answer to that is, the flexibility of the system will allow us to automate as much or as little of your layout operations as we desire, while making it a lot easier and cheaper through standardization. For example, the simplest use of automation might be in keeping hidden staging yards, whereas it could get as complex as automating a display layout. For operations, the computer could run the passenger and freight trains, while you and your operator could run the locals or any combination you desire. No matter what, they'll still be in control — having the layout connected to the computer need not eliminate local control from a transit-oriented push-button switch, or automation could be limited to mainline turnouts.

Basic system requirements are a 386 or better PC running Windows 3.0 or 3.1, 2 MB of disk space, and 2 MB of RAM. WinLok retails for $119.95 and a demo disk is available for $30 which can be credited toward the purchase of the full version. A combination package including the full version of WinLok, a Digitrax DB100 booster, two decoders and instructions to build the Locosync-RS232 cable is priced at $329.90. For those of you on CompuServe the manual can be downloaded from the Traumer library — look for the WINLOK.ZIP file. For a complete price list with the most up-to-date price information contact Digitex RR Enterprises, 10395 Seminole Blvd., #11, Seminole, FL 33776 or you may call them at 813-397-5110.

Now for the rating (1-5, 5 is best):

Documentation 4
User Friendliness 4.5
Technical 4.5
Application 4
Value 4
Level 2.5

That's it for this session. Next time, stay on the right track and don't run out of steam. Send your comments, questions, and programs to: Larry Barrett, PO Box 588, Seminole, FL 33776. For more of you on CompuServe my address is "vrms422" — feel free to leave me a message. If you submit a public domain or shareware program for review in this column please indicate whether or not you are willing to provide copies for corrected readers and the conditions for that exchange.

MARCH 1995
Appendix J
Mr. Kevin Russell  
Chernoff, Villauer, McClung & Stenzel, LLP  
1600 CBS Tower  
601 S.W. Second Avenue  
Portland, Oregon 97204-3157  
USA

Re: KAM Industries Patents, your communication of September 18th, 2002

Dear Mr. Russell:

I have received your communication of September 18th, 2002 in regard to the matter of Intellectual Property of KAM Industries (Mr. Matt Kaiser).

Your concern is stated as software programs that have "...the capability of sending commands to one of a plurality of digital command stations...".

The software programs WinLok 1.5, released in 1993, and WinLok 2.0, released in 1995, have both been capable of being configured for the TannerSoft feature of "MultiDrive", by selectively sending commands, to operate a simultaneous plurality of digital command stations connected by different communication links from a plurality of graphical user interfaces within the software. Both of these products have been widely reviewed in model railroad publications in both Germany and the US in at least 1994 and 1995, and subsequently.

I include in Annex I a copy of two reviews performed by Larry Puckett in the magazine "Model Railroading" in March, and December 1995. Note that the MultiDrive capability of WinLok 1.5 is clearly mentioned in the March 1995 review and again, Puckett notes that the WinLok 2.0 features remain "...essentially the same..." with the added capabilities he then enumerates. Also included in Annex I is an article by Tobias Frydman published in MIBA Special Nr. 33 from 1997 that reviews WinLok 2.0 and demonstrates multiple keyboards, track control diagrams and even an emulation of the DigiTrix DT200 throttle that is implemented in a separate piece of software but is seamlessly integrated in the same graphical user interface.

For your convenience, in Annex II, I include a copy of relevant parts of the printed commercial WinLok 2.0 User Manual dated 1995, that provides explanation of this MultiDrive feature. Pages 95, 96 and 97 of the WinLok 2.0 User Manual provide unambiguous and definitive information that clearly estab-
issues that the WinLok software has "...the capability of sending commands to one of a plurality of digital command stations." Also enclosed is a copy of the box graphics used for international English language commercial sales of WinLok in the period 1995 onwards which clearly shows multiple user interfaces, which are all capable of sending commands via the MultiDrive technology to a plurality of digital command stations.

Annex III includes Sales Receipts and related VISA charge slips from DigiRR Enterprises, the US distributor of WinLok software prior to 1997, for sale of WinLok 2.0 to two US commercial customers, dated 1/4/96 and 8/22/96. There is a mass of similar evidentiary records to additionally establish the commercial sales of WinLok 1.5, 2.0 etc. Please take steps to guard the confidentiality of the Credit Card account numbers disclosed, since this information is being provided in good faith to establish evidence of US commercial sales of WinLok 2.0 software.

Note that the current 2002 sales version, WinLok 2.1 Rev. 0, only differs from the 1995 WinLok 2.0 version by bug fixes, and employs no new technologies relating to the MultiDrive capability. In fact, the MultiDrive driver shipped with the current release still carries the original 1994 copyright message and all menus and dialogs are identical with the version shipped with WinLok 1.5.

It is believed that Katzner is in possession of a copy of WinLok 1.5 or 2.0 and a current evaluation copy of WinLok 2.1 can be conveniently downloaded from the Internet. If necessary, I can provide floppy disk distribution versions of the software so your technical expert, arbitrator or whomever, can definitively verify the claimed presence and ability of the MultiDrive capability in all the cited versions of WinLok software.

With the foregoing clear and convincing evidence, I believe, it is not possible or reasonable to claim infringement of the claims of Katzner as you allege, since the accused WinLok software clearly and distinctly predates in commercial use, by greater than 12 months, the earliest filing and priority date of June 24th 1998, for US 6,065,406, and the other quoted Katzner patents.

The entire contents, techniques, methods and capability of these WinLok products are definitively established as publicly used prior art by, at latest, 1995, and accordingly, this subject matter cannot be claimed under statute 35 U.S.C. 102 (A) (b) by any US Patent with a filing date later than 12 months from the initial commercial shipment of the TannerSoft "MultiDrive" technology and software processes. These demonstrated dates clearly prevail over the earliest possible June 24th 1997 Katzner US interference window, in all cases.

I retain records of the software distribution disks dated back to at least 1995, along with material shown in Annex I, II and III and other corroborative and evidentiary materials that provide clear and convincing evidence that establishes the existence of the TannerSoft "MultiDrive" feature as prior art that predates your client’s claims by over 1 year. For PCT and International patents the 1 year window does not apply, which further degrades Katzner’s assertion of possible infringement by limiting his
earliest extant priority date to just June 24th 1988 anywhere else in the world except the Philippines. Documented prior art clearly prevails here and makes the claims unenforceable over this prior art.

Several other non-US software companies, for example Railroad & Co's "TrainController", have also introduced the capability to connect a plurality of digital command stations, that also were developed at least a year prior to June 24th 1988 and shipped commercially in Europe before this date. Some of these were spurred in part by the demonstrated capability of WinLok 1.5 and derivatives, and competitive pressures ensured these capabilities were emulated in the marketplace very much earlier than June 24th 1988.

The Soft-Lok program by W. Schapais of Germany also demonstrated multiple digital command station capability in the early 1990's. In 1985 the MES software by Henrich Maia of Spain, that also is capable of driving a plurality of digital command stations, was sold, and was also reviewed by the German railroad magazine MIB. Annex IV includes a recent statement from Mr. Maia and a copy of promotional material.

This body of software products with these capabilities is additional prior art that also clearly supercedes the Katzer art, and is simply quoted here to establish the fact that there clearly exists, in addition to WinLok, a well known and large body of public usage and knowledge for using computer software to control a plurality of digital command stations and that this is clearly prior art over Katzer.

The Katzer specification for US Patent 6,065,406 clearly admits knowledge of a "software program" from DigiToys Systems of Lawrenceville, Georgia, (column 1 lines 42-50) which can only be "WinLok", since this is the only software that was sold by DigiToys at that time. In view of the well-defined and widely known features of the WinLok software, this raises concerns of defective disclosure under duties mandated by 37 C.F.R. 1.56. The failure of Katzer to fully disclose the widely known and extant body of prior art software methods and processes that permit a plurality of user interfaces to communicate by multiple methods to a plurality of digital command stations makes it problematic for him to point out and distinctly claim the subject matter which he considers his invention.

These facts, I believe, clearly establish non-infringement under 35 U.S.C. 273 (b) (1), and naturally follows directly from 35 U.S.C. 102 (A) (a) and (b) statutory concerns of the Katzer application(s). If you have any basis to contradict these facts, please contact me forthwith with the information.

Upon review of the "current investigations" of other possible infringements as stated in your letter, namely "claim 35 of US Patent No. 6,267,061", "claim 39 of US patent No. 6,065,406" and "independent claims 10, 35, 57, 82, 104, 129, 151, 176, 198 and 223 of US patent No. 6,270,040", please note that it is almost certain that the Katzer art also is predated by demonstrated prior art from several software vendors in at least 1995, and earlier. The use of queues, synchronous and asynchronous communication mechanisms as well as message processing functions are standard programming
techniques within applications for the Windows operating system, therefore it is safe to assume that usage of these techniques was state of the art in Windows based Model Railroad software products prior to 1995, including WinLok 1.5.

It has been brought to my attention that a number of dealers who have sold my WinLok software as well as other Model Railroad software products claim to have been served with "cease and desist" letters by your firm as well. I therefore consider it as appropriate to present this factual and evidentiary information directly to affected parties, so they can make an informed decision on appropriate action. A decision about publishing this letter and supplementary documentation in part or entirely on our homepage and in selected, model railroad related Internet newsgroups is currently pending.

Yours sincerely,

[Signature]

DigiToys Systems
Dr. Henn R. Tannen, Developer of WinLok software

Cc: Model Railroad Software developers worldwide
American Model Railroad software dealers
File wrapper for US patents No. 6,065,046, No. 6,287,061, and No. 6,217,040

Annex I: Copies of 3 magazine reviews of WinLok 2.0
Annex II: WinLok 2.0 manual excerpts dated 1995, showing MultiDrive capability WinLok 2.0 cover showing multiple user interfaces
Annex III: Sales Receipts and Charge slips establishing US commercial sales
Annex IV: Statement of fact of origin of MES software (in German)
Appendix K
<table>
<thead>
<tr>
<th>DigiToys Competence area</th>
<th>TannerSoft WinLok™ Version 2.1</th>
<th>Last Update: 14-Dec-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>[x]</td>
<td>WinLok™ is a Windows 3.1 and Windows 95 based program to control digitally equipped Modelrailroad systems with the computer.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The following Digital Command Control systems can be controlled using WinLok:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Arnold digital</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Trix Selectrix</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Märklin digital</td>
<td></td>
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<tr>
<td></td>
<td>- Märklin digital</td>
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<tr>
<td></td>
<td>- DCC ab RS232</td>
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</tr>
<tr>
<td></td>
<td>- Fleischmann FMZ</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- DigitraxLocoNet</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Lenz Digital plus</td>
<td></td>
</tr>
</tbody>
</table>

The driver library is constantly updated and drives for new Digital Command Control Systems will be available for download on this page!

Please download available software and documentation!
Appendix L
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

MATTHEW A. KATZER, an individual, and KAMIND ASSOCIATES, INC., d/b/a Kam Industries, an Oregon corporation,

Plaintiffs,

v.

MIREILLE S. TANNER,
an individual, doing business as DigiToys Systems,

Defendant.

Civil No. 02-CV-1293-ST

PLAINTIFFS’ NOTICE OF DISMISSAL WITHOUT PREJUDICE

NOTICE

Pursuant to Fed. R. Civ. P. 41(a)(1), plaintiffs hereby voluntarily dismiss the above captioned action without prejudice. This dismissal is being filed prior to service of the Complaint upon the defendant.

PAGE 1 - PLAINTIFFS’ NOTICE OF DISMISSAL
CR 7.1 CERTIFICATION

Plaintiff has not served defendants with the Complaint, and defendant is therefore unaware of this action.

DATED this 20th day of December, 2002.

Respectfully submitted,

CHERNOFF, VILHAUER, MCCLUNG & STEINZEL, LLP

By: [Signature]

Kevin L. Russell, OSB No. 93485
Of Attorneys for Plaintiffs