

**CONFIDENTIAL**

NPIC/P&DS/D/6-1623  
12 October 1966

MEMORANDUM FOR: Assistant for Plans and Development, NPIC

THROUGH : Chief, Development Branch, P&DS

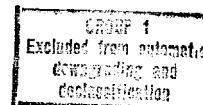
SUBJECT : Patent-Searching Procedures

1. There are over three million patents on record in the U.S. Patent Office. In industry, a search of these patents is a common part of R&D procedures. The extensive categorization and indexing techniques used by the Patent Office make it relatively simple for a trained person to locate the record of inventions pertaining to any particular function or process. The search would normally follow the establishment of a specific need, and precede any development work.

2. There is no equivalent step in the NPIC R&D cycle. In the one instance where a patent search was carried out (see my 30 September 1966 Memorandum for the Record (copy attached)), it was found that a) available Government patent-searching procedures are entirely inadequate, and b) there was on record an invention which could have saved the Center considerable R&D time and money if NPIC had known that it existed. It is even conceivable that in a case such as this the Government might decide to proceed without the inventor's permission. Whatever the decision, substantial advantages would be accrued by the Government's ability to act from a position of knowledge.

3. The instance cited above exemplifies the most obvious reason for including patent searching in any R&D program. Another less glaring, but very important reason is to prevent the complications arising from inadvertent patent infringement. A study carried out by the Hon. Donald L. Ne, Commissioner, United States Court of Claims, showed that between May 1932 and November 1964 there were 55 money awards by that court in patent cases against the U.S. Government (see attached list). The study did not consider the many more numerous cases which were heard in other courts or settled out of court. For the record, it should be noted that Title 28, Section 1498, of the United States Code clearly spells out the right of any inventor to take legal action against the Government when any patented invention is used by or for the United States, whether such use is intentional or not.

**CONFIDENTIAL**



**SUBJECT: Patent-Searching Procedures**

"(a) Whenever an invention described in and covered by a patent of the United States is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States...."

Although it is a simple matter to require indemnification from an infringing contractor, the Government has usually rejected this option and borne the cost of the award.

4. Some of the areas in which patent searches might most profitably be carried out in connection with the NPIC R&D program are:

a. Film Transport Systems. Many systems under development or anticipated for development utilize a film transport system and, although many systems have been employed in the past, the optimum system has not been found by NPIC. Among the devices, planned for development in FY-1967 using film transports are (1) Advanced Prototype Light Table, (2) Rear-Projection Viewer, (3) Variable Width Film Reader Prototype, (4) Twin-Stage On-Line P.I. Comparator, (5) Automatic Stereo Scanner, (6) Contact Chip Printer, and (7) High Precision Stereo Comparator.

b. Microscope Transport Systems. Devices such as the Advanced Light Tables, the Digitized Measuring Light Table, the Dual Viewing Microstereoscope and the Automatic Stereo Scanner use direct viewing systems which must be transported relative to the imagery being viewed. To date, no completely satisfactory system has been found. The patent-searching procedure might yield a solution.

c. Imagery Holddown Techniques. All direct viewing and projection systems must require flat imagery planes. Those items listed in a. above are examples, good examples. In addition, all chip viewing equipment requires the film to be held flat.

**SUBJECT:** Patent-Searching Procedures

d. Techniques such as the anticipated Automatic Focusing System.

e. Patented optical systems to correct distortions, such as anamorphic correctors. These should be explored for application to such systems as the Wide-Field, High-Power Anamorphic Stereoviewer Study, the Advanced Anamorphic Eyepieces, and the High Precision Stereo Comparator.

5. In view of the potential savings in time and money to be gained through patent searching, and in view of the possible serious pitfalls to be encountered by continuance of the present policy of not carrying out patent searches, the following suggestion is offered:

a. That a procedure be established in the Development Branch whereby any technical monitor who believes there may be existing patents related to one of his development projects will be able to forward a request through his Section Chief to the Chief, Development Branch.

b. That a member of the Development Branch be appointed by the Branch Chief to proceed to the Patent Office periodically and carry out requested searches.

c. That this procedure be used for an initial trial period of six months, after which the trial results will be analyzed and a decision made as to whether the procedure should be adapted for permanent use.

6. It is difficult to give a precise estimate of the costs and benefits of this procedure. Probably one day every two weeks will be sufficient to make the searches. There is a possibility that many months of research and many thousands of dollars in development and/or patent infringement costs can be saved.

[Redacted]  
Development Branch, P&DS

Attachment:

Chrono List of Money Judgments  
in Patent Cases

Distribution:

Orig + 1 - Addressee  
3 - DB/P&DS ✓

NPIC/P&DS/DB [Redacted] (12 Oct 66)