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1983-01-31/LK

ATTENTION: MR. MICHAEL BOUD

FROM: PETER VAN GOSSANEN

SUBJECT: PATENT APPLICATION FOR "AUSTRALIA 2"

OUR REFERENCE: P 44389

Van Gossanen

1. I HAVE JUST RECEIVED A LETTER FROM DOUGLAS HENDERSON (DATED 1983-01-13) ABOUT THE ABOVE OF WHICH YOU SHOULD ALSO HAVE RECEIVED A COPY.
2. IN MY OPINION ANY DISCUSSION RELATIVE TO THE INVENTORSHIP OF AUSTRALIA 2'S KEEL CONFIGURATION SHOULD BE IN THE LIGHT OF THE POSSIBILITY THAT ALAN BOND'S CHALLENGE FOR THE AMERICA'S CUP 1983 WOULD BE ENDANGERED IF BEN LEXCEN WERE NOT TO BE REGISTERED AS THE INVENTOR BECAUSE OF THE NEW YORK YACHT CLUBS (NYYC) REQUIREMENT THAT THE DESIGNER OF A CHALLENGING TWELVE BE A NATIONAL OR RESIDENT OF THE COUNTRY FROM WHICH THE CHALLENGE ORIGINATES.
3. BEN LEXCEN WAS THE LEADER OF THE RESEARCH TEAM AS IT OPERATED AT NSMB IN 1981. HE WAS RESPONSIBLE FOR, AND GAVE INSTRUCTIONS RELATIVE TO, THE WORK THAT WAS CARRIED OUT. THE KEEL CONFIGURATION WAS CONCEIVED, DESIGNED AND RESEARCHED MAINLY BY J. SLOOFF AND MYSELF.

4. IN HIS LETTER, DOUGLAS, DISTINGUISHES 3 POSSIBILITIES RELATIVE TO THE APPLICANT OF A U.S. PATENT WHEN THE INVENTION IS A RESULT OF WORK BY A RESEARCH TEAM. THE SECOND SITUATION DESCRIBED THEREIN, IN WHICH THE TEAM LEADER GIVES GENERAL INSTRUCTIONS WHILE THE TEAM MEMBERS ACTUALLY CONCEIVE THE SPECIFIC FEATURES CLAIMED IN THE PATENT APPLICATION, DESCRIBES THE ACTUAL SITUATION MOST ACCURATELY.
5. IN MY OPINION IT WOULD BE APPROPRIATE, THEREFORE, FOR BEN LEXCEN, J. SLOOFF AND MYSELF TO BE THE APPLICANTS FOR THE U.S. PATENT. IN THIS WAY U.S. LAW WOULD NOT BE VIOLATED WHILE THE 1983 CHALLENGE WOULD NOT BE ENDANGERED BECAUSE OF NOT FULFILLING THE REQUIREMENT MENTIONED UNDER ITEM 2.
6. PLEASE DISCUSS THE ABOVE WITH WARREN JONES AND JOHN LONGLEY AND LET ME KNOW OF THE DECISION TAKEN.
7. IN THE OPINION OF J. SLOOFF AND MYSELF THE NOVELTY SEARCHES CARRIED OUT SO FAR INDICATE A HIGH PROBABILITY THAT THE PATENT WILL BE GRANTED IN MOST, IF NOT ALL, COUNTRIES.
8. CAN YOU OR JOHN LONGLEY PROVIDE PHOTOGRAPHS, A MODEL AND DRAWINGS MENTIONED IN STEPHEN L. PETERSON'S TELEX DATED 22 NOVEMBER 1982. PLEASE LET ME KNOW IF I CAN BE OF ANY HELP (FOR EXAMPLE WITH THE MODEL?).
9. DOUGLAS HENDERSON NEEDS A COPY OF THE NYVC RULES COVERING THE 1983 CHALLENGE. I DO NOT HAVE COPY OF SAME. COULD YOU ACQUIRE THESE FROM JOHN LONGLEY. I WOULD APPRECIATE RECEIVING A COPY AS WELL.
10. HAS A DECISION BEEN TAKEN RELATIVE TO THE IDEA OF A "TRIAL HORSE" FOR THE COPYRIGHT APPLICATION?

BEST REGARDS,  
45148C NSMB NL  
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