

National Model Railroad Association, Inc.
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Office of the Legal Counsel

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FOR IMMEDIATE RELEASE:

Update on DCC-sound patent challenge

The NMRA recently filed a patent examination request with the U.S Patent and Trademark Office regarding a Digital Command Control-sound patent awarded to Real Rail Effects, Inc. It was the NMRA's belief that granting the Real Rail Effects patent was inappropriate because prior art, as well as other evidence, existed that negated the Real Rail Effects patent. Moreover, the NMRA believed the patent of Real Rail Effects posed a threat to modelers and manufacturers of DCC equipment because the patent would increase the costs to modelers and unfairly burden and restrict manufacturers who provide decoders with sound.

On February 11, 2008, the United States Patent and Trademark Office issued a ruling granting the NMRA's patent re-examination request. The examiner stated in the ruling that there was a substantial likelihood that a reasonable examiner would consider the prior art provided by the NMRA important in determining the patentability of the application of Real Rail Effects. In addition, the examiner judged that an affidavit submitted by Real Rail Effects could not overcome the date of some of the prior art provided by the NMRA. Therefore, the evidence submitted by the NMRA raised substantial questions about the patentability of Real Rail Effects' claims. These questions raised now were not considered at the time of the patent request.

The examiner determined that an article by Rutger Friberg, articles by Soundtraxx, and Stan Ames' DCC status report, as well as other evidence submitted, all raised substantial questions about the patent.

In short, the examiner at the United States Patent & Trademark Office determined the position of the NMRA was meritorious and compelled a new analysis of the patent. According to USP&TO practice, Real Rail Effects has two months to respond to the re-examination request. After their response is submitted, the NMRA will have the opportunity to submit any further comments it may have.

While it is not yet the final word, this ruling is a victory for the modeler and the model railroad industry. The NMRA is grateful to its many knowledgeable and concerned members who have contributed their expertise to this challenge, as well as to the manufacturers, organizations, and individuals who have funded our efforts.

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