OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION

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August 9, 2011

Re: LR 11-033 - Oklahoma Inventor Assistance Act

Dear

This is in response to your inquiry of February 22, 2011 wherein you requested a ruling concerning the Oklahoma Inventor Assistance Act. What follows is verbatim your facts and requested ruling and our response thereto.

FACTS:

1. is located in Oklahoma. and its sole shareholder are the owners of several patents related to optical disc technology. patents are used in products developed and manufactured by in Oklahoma. The products include computers and computer equipment hardware which incorporates the patented technology. The products are sold to optical disc manufacturers around the world. receives royalty income in connection with the sale of such products.

2. began receiving royalty income in connection with products incorporating its patented technology in 2001. Since then, has received additional patents covering additional disc applications (the "Additional Patents").

3. On , 2010, registered the Additional Patents with the Oklahoma Center for the Advancement of Science and Technology ("OCAST"). A copy of the letter confirming such registration is attached. Likewise, in 2010, entered into a new contract with an optical disc technology company calling for continuing royalty payments based on the use of additional Patents.

4. Pursuant to Section 5064.7 (B) of the Inventor Assistance Act, the Oklahoma Tax Commission ("OTC") and OCAST are to develop and promulgate rules regarding the implementation of the income tax exemption available under the Inventor Assistance

Act.

5. OTC Rule 710:50-15-60(d), details the requirements for qualification for the income tax exemption. Under that rule, OCAST is charged with various duties and certifications, including entering into a fee agreement with the inventor, certifying the terms of the contract, the product, and the inventor, and certifying the date of the first commercial product sale.

6. In a document provided by OCAST, to counsel (attached), OCAST disclaims any duty or responsibility under the Inventors Assistance Act, and specifically requests that the requirements under rule 710:50-15-60 be "waived for any inventor seeking the statutory tax benefits."

RULINGS REQUESTED:

1. Royalty income earned by in connection with the sale of its products which incorporate its registered patented technology is subject to the income tax exemption provided by the Inventor Assistance Act

OTC RESPONSE

Yes, to the extent royalty income was earned for patents that are registered with OCAST. This would mean those royalties earned for patents registered on or after 2010.

2. can either amend its tax return for the years beginning with the first year it received royalty, and claim the exemption for six years forward, or claim the exemption beginning with tax year 2010 and claim the exemption for six years forward.

OTC RESPONSE

cannot amend returns prior to tax year 2010 to claim the exemption. The excluded royalties are only those that are initially earned on or after 2010 (royalties must be based on patents registered with OCAST). Tax year 2010 is the first tax year eligible to claim the exclusion. The exclusion is further limited to a total of seven years from when the royalties are initially earned. Royalty income for patents prior to registration with OCAST is not eligible for the exemption.

3. I is not required to enter into a fee agreement with OCAST, or otherwise comply with the provisions of rule 710:50-15-60 (d) as it relates to OCAST.

OTC RESPONSE

The Oklahoma Tax Commission cannot require OCAST to charge the statutorily required fee.

This response applies only to the circumstances set out in your request of February 22, 2011. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Please be advised that the issuance of this ruling does not preclude the Oklahoma Tax Commission from conducting an audit or examination under 68 Okla. Stat. §206 of any report or return claiming a credit for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 Okla. Stat. §221.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
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