

# Jacobsen Declaration Exhibit H

**Bob Jacobsen**  
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Mr. Kevin Russell  
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1600 ODS Tower  
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January 31, 2006

Dear Mr. Russell:

I have received your January 3, 2006 letter.

First off, I would like to correct a misstatement you made. I did not fail to accept your letter of November 23, 2005. Rather, you didn't address it properly. Please note the correct spelling of my name and address above and update your files.

Let's talk about your client's patents. As I have stated before, I am committed to respecting valid intellectual property. However, my investigations have determined that any legal action, based on infringement of your client's claim 1 of patent 6,530,329, will be unsuccessful.

Multiple examples of relevant prior art that read on claim 1 are available, some dating back decades. Additional prior art is available for other claims of the patent. JMRI itself is prior art, in that the implementation you now complain of was available to the public before your patent application was filed. This includes its detailed source code. Further, an examination of that code would have shown the actual performance of the method in claim 1 was not done by code I or another JMRI author wrote, but by long-existing Java RMI software from Sun Microsystems.

More interesting is that you were aware of some of this art during the prosecution of the patent, but withheld it from the patent office.

I would very much like to reach a mutually satisfactory resolution. Your client could preserve, and perhaps even enhance, his reputation in the model-railroading community by putting his patent intellectual property into the public domain. This would not restrict in any way his ongoing software business, and would make any further legal action unnecessary. And it would be the best solution, for all parties.

I will look forward to your response.

Regards

Bob Jacobsen