

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Roman Chistyakov  
SERIAL NO.: 10/065,277                      GROUP NO.: 1753  
FILING DATE: September 30, 2002              EXAMINER: McDonald, Rodney G.  
TITLE: HIGH-POWER PULSED MAGNETRON SPUTTERING

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE**

Sir:

The following remarks are responsive to the Office Action mailed on July 18, 2006 in the above-identified patent application. Entry and consideration of the following amendments and remarks, and allowance of the claims, as presented, are respectfully requested.

Remarks are on page 2 of this paper.

## **REMARKS**

### **Pending Claims**

Claims 1-50 are currently pending.

### **Allowable Subject Matter**

The Applicant acknowledges with appreciation the statement made on page 4 in the Office Action dated July 18, 2006 that the Applicant's arguments filed on May 2, 2006 are deemed persuasive.

### **Information Disclosure Statements**

The Applicant requests that the Information Disclosure Statements filed on May 11, 2004, December 12, 2003, and June 12, 2003 be reviewed and acknowledged by the Examiner.

### **Provisional Non-Statutory Obviousness-Type Double Patenting Rejection**

The Applicant is submitting herewith a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending Second Application in compliance with 37 C.F.R. 1.321. The Terminal Disclaimer was signed by the President of Zond, Inc., who is also the sole inventor of the present application. The Applicant is also submitting a Statement Under 37 CFR 3.73(b) which states that Zond, Inc. is the assignee of the entire right, title, and interest of the pending second application. An Assignment assigning the entire right, title, and interest in the present application (Serial Number 10/065,277) to Zond, Inc. was recorded at Reel 013351, Frame 0573.

The Applicant believes that the submitted Terminal Disclaimer overcomes the Provisional Double Patenting Rejection and, therefore, claims 1-50 are allowable.

## **CONCLUSION**

Claims 1-50 are pending. A Terminal Disclaimer has been submitted to overcome the Provisional Double Patenting Rejection. The Applicant submits that claims 1-50 are allowable and respectfully request an allowance of all pending claims.

Amendment and Response  
Applicant: Chistyakov  
Serial No.: 10/065,277  
Page 3 of 3

If, in the Examiner's opinion, a telephonic interview would expedite prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

Date: August 28, 2006  
Reg. No. 40,137

Tel. No.: (781) 271-1503  
Fax No.: (781) 271-1527

Doc. 2246v1

/Kurt Rauschenbach/  
Kurt Rauschenbach, Ph.D.  
Attorney for Applicant  
Rauschenbach Patent Law Group, LLC  
Post Office Box 387  
Bedford, MA 01730

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)  
**ZON-001**

In re Application of: **Roman Chistyakov**  
Application No.: **10/065,277**  
Filed: **9/30/2002**  
For: **High-Power Pulsed Magnetron Sputtering**

The owner, Zond, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 11/183,463 filed on July 18, 2005, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record.

Roman Chistyakov 08/04/06  
Signature Date

Roman Chistyakov

Typed or printed name

(508) 261-8800

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: Zond, Inc.

Application No./Patent No.: 11/183,463 Filed/Issue Date: 7/18/2005

Entitled: High Deposition Rate Sputtering

Zond, Inc., a corporation

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

- 1.  the assignee of the entire right, title, and interest; or
- 2.  an assignee of less than the entire right, title and interest.  
The extent (by percentage) of its ownership interest is \_\_\_\_\_ %

In the patent application/patent identified above by virtue of either:

A.  An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013274, Frame 0544, or for which a copy thereof is attached.

OR

B.  A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

Copies of assignments or other documents in the chain of title are attached.  
[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

08/04/06  
Date  
508-261-8800  
Telephone number

Roman Chistyalov  
Typed or printed name  
Roman Chistyalov  
Signature

President  
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.