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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/984,273	12/30/2015	Howard C. Root	2005.86USREI7	5700
		•	EXAM	INER
PATTERSON THUENTE PEDERSEN, P.A. 80 SOUTH 8TH STREET 4800 IDS CENTER MINNEAPOLIS, MN 55402-2100	WILLIAMS, CATHERINE SERKE			
MINNEAPOLI	S, MN 55402-2100		ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			07/20/2017	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



	Application No. 14/984,273	Applicant(s) ROOT ET AL.	
Office Action Summary	Examiner CATHERINE S. WILLIAMS	Art Unit 3993	AIA (First Inventor to File) Status No
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with th	e corresponden	ce address
A SHORTENED STATUTORY PERIOD FOR REPLICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing	Use the apply and will expire SIX (6) MONTHS from the apply and will expire SIX (6) MONTHS from the application to become ABANDO	e timely filed rom the mailing date o NED (35 U.S.C. § 13	of this communication. 3).
earned patent term adjustment. See 37 CFR 1.704(b). Status			
1) Responsive to communication(s) filed on 6/12. A declaration(s)/affidavit(s) under 37 CFR 1.		<u>.</u>	
2a) This action is FINAL . 2b) ☐ This	s action is non-final.		
 3) An election was made by the applicant in resp ; the restriction requirement and election 4) Since this application is in condition for allowa closed in accordance with the practice under E 	n have been incorporated into t nce except for formal matters,	his action. prosecution as	to the merits is
Disposition of Claims*			
5) Claim(s) 25-45 is/are pending in the application 5a) Of the above claim(s) is/are withdrays 6) Claim(s) is/are allowed. 7) Claim(s) 25-45 is/are rejected. 8) Claim(s) is/are objected to. 9) Claim(s) are subject to restriction and/or if any claims have been determined allowable, you may be exparticipating intellectual property office for the corresponding antity://www.uspto.gov/patents/init_events/pph/index.jsp or send application Papers 10) The specification is objected to by the Examine 11) The drawing(s) filed on is/are: a) accomplication may not request that any objection to the Replacement drawing sheet(s) including the corrections.	wn from consideration. or election requirement. eligible to benefit from the Patent P application. For more information, p d an inquiry to <u>PPHfeedback@uspri</u> er. cepted or b) objected to by the drawing(s) be held in abeyance.	olease see to.gov. ne Examiner. See 37 CFR 1.85	5(a).
Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign Certified copies: a) All b) Some** c) None of the: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureaters See the attached detailed Office action for a list of the certification.	nts have been received. nts have been received in Applic ority documents have been rec u (PCT Rule 17.2(a)).	cation No	
Attachment(s) 1) ☑ Notice of References Cited (PTO-892)	o □ I=	om. (DTO 412)	
Notice of References Cited (PTO-092)	3) Interview Summ. Paper No(s)/Mai		



Application/Control Number: 14/984,273 Page 2

Art Unit: 3993

The present application is being examined under the pre-AIA first to invent provisions.¹

Reissue Applications

For reissue applications filed before September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the law and rules in effect on September 15, 2012. Where specifically designated, these are "pre-AIA" provisions.

For reissue applications filed on or after September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the current provisions.

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 8,292,850 ("the '850 patent") is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

¹ It is noted that while the examination of the current reissue application falls under the pre-AIA first to invent provisions due to the filing date of US Patent No. 8,292,850; the application for reissue filing date is after September 16, 2012 and therefore is subject to the reissue rule changes enacted under the Leahy-Smith American Invents Act (AIA), see Federal Register, Vol. 77, No. 157, pg. 48820, August 16, 2012.



Application/Control Number: 14/984,273 Page 3

Art Unit: 3993

Consent of Assignee

A proper Consent of Assignee is missing from the file. Applicant has filed a Declaration

by the Assignee to accompany the Declaration by the Inventor; however, a Declaration by the

Assignee does not fulfill the requirements of written consent of all the assignees currently

owning an undivided interest in the patent. It is highly recommended that applicant use form

PTO/AIA/53 or at a minimum include language such as:

The XYZ Corporation, assignee of US Pat No. 9,999,999, consents to the filing of

reissue application No. 99/999,999 for the reissue of US Pat. No. 9,999,999.

Jane Doe

Vice President

XYZ Corporation

See MPEP § 1410.02.

Application Data Sheet

The Application Data Sheet ('ADS') must be updated and corrected. The Domestic

Benefit section should reflect the issuance of 14/195,435 as RE46116 and the continuity type of

the instant reissue application to the 14/195,435 application should be denoted as a continuation.

Further, the instant application should be separately listed as a reissue of application #

13/359,059 (Patent # 8,292,850). Correction is required. See MPEP § 601.05(a).

Amendment to the Specification

The Amendment to the Specification filed 12/30/15 is objected to as not including all

current information for the priority applications listed. Specifically, the current issued Reissue

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Application/Control Number: 14/984,273 Page 4

Art Unit: 3993

Patent #s should be included in the Related Applications section of the amendment, i.e. 14/195,435 filed March 3, 2015 now Reissue RE 46116. All applications listed should be updated to reflect their current status.

Information Disclosure Statement

The Information Disclosure Statements ('IDS') filed 1/24/17 and 6/12/17 have been entered into the file and all document have been reviewed. Any court proceedings listed on the IDS forms have been reviewed; however, they are struck through on the IDS forms since they are not documents that will be printed on the front page of a Reissued Patent.

Recapture

Claims 25-45 are rejected under 35 U.S.C. 251 as being an impermissible recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Greenliant Systems, Inc. et al v. Xicor LLC*, 692 F.3d 1261, 103 USPQ2d 1951 (Fed. Cir. 2012); *In re Shahram Mostafazadeh and Joseph O. Smith*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011); *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 75 USPQ2d 1545 (Fed. Cir. 2005); *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement,* 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening



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