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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

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EXAMINER

WILLIAMS, CATHERINE SERKE

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
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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.

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.

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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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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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