

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85057577
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In the March 25, 2011 Office Action, the Examiner required Applicant to amend the identification of goods to clarify certain of the goods. Applicant has amended the identification of goods, in large part, adopting the Examiner's suggested language. Inasmuch as the Office Action is "final," Applicant is filing a precautionary Notice of Appeal.</p> <p>WHEREFORE, Applicant respectfully requests the Examiner to accept the amended identification of goods and pass this application to publication.</p>	
<b>GOODS AND/OR SERVICES SECTION (current)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
digital valve controllers; positioners; transmitters; transducers; computer software for use in operating automatic industrial process control systems	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 03/24/1994
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 03/24/1994
<b>GOODS AND/OR SERVICES SECTION (proposed)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>TRACKED TEXT DESCRIPTION</b>	
<p><u>digital valve controllers; electrical controlling devices, namely, digital valve controllers; positioners; valve positioners; transmitters; transmitters of electronic signals; transducers; electrical transducers;</u> computer software for use in operating automatic industrial process control systems</p>	
<b>FINAL DESCRIPTION</b>	

electrical controlling devices, namely, digital valve controllers; valve positioners; transmitters of electronic signals; electrical transducers; computer software for use in operating automatic industrial process control systems

<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 03/24/1994
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 03/24/1994
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/LMD/
<b>SIGNATORY'S NAME</b>	Lisa M. DuRoss
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	09/23/2011
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Sep 23 13:53:55 EDT 2011
<b>TEAS STAMP</b>	USPTO/RFR-66.238.170.98-2 0110923135355414210-85057 577-480184dd1d16b33cc9adf f56f7eb566f3f-N/A-N/A-201 10923135148588487

PTO Form (Rev 4/2000)

OMB No. 0651-.... (Exp. 08/31/2004)

### **Request for Reconsideration after Final Action**

#### **To the Commissioner for Trademarks:**

Application serial no. **85057577** has been amended as follows:

#### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

In the March 25, 2011 Office Action, the Examiner required Applicant to amend the identification of goods to clarify certain of the goods. Applicant has amended the identification of goods, in large part, adopting the Examiner's suggested language. Inasmuch

as the Office Action is "final," Applicant is filing a precautionary Notice of Appeal.

WHEREFORE, Applicant respectfully requests the Examiner to accept the amended identification of goods and pass this application to publication.

#### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 009 for digital valve controllers; positioners; transmitters; transducers; computer software for use in operating automatic industrial process control systems

Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/24/1994 and first used in commerce at least as early as 03/24/1994, and is now in use in such commerce.

#### **Proposed:**

**Tracked Text Description:** digital valve controllers; electrical controlling devices, namely, digital valve controllers; positioners; valve positioners; transmitters; transmitters of electronic signals; transducers; electrical transducers; computer software for use in operating automatic industrial process control systems

Class 009 for electrical controlling devices, namely, digital valve controllers; valve positioners; transmitters of electronic signals; electrical transducers; computer software for use in operating automatic industrial process control systems

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 03/24/1994 and first used in commerce at least as early as 03/24/1994, and is now in use in such commerce.

#### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /LMD/ Date: 09/23/2011

Signatory's Name: Lisa M. DuRoss

Signatory's Position: Attorney for Applicant

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85057577

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TEAS Stamp: USPTO/RFR-66.238.170.98-2011092313535541

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