

ESTTA Tracking number: **ESTTA418872**

Filing date: **07/11/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91196183
Party	Defendant Skytron energy GmbH
Correspondence Address	URSULA B. DAY 708 THIRD AVENUE, SUITE 1501 NEW YORK, NY 10017-4109 UNITED STATES patentlaw@ursuladay.net
Submission	Other Motions/Papers
Filer's Name	Ursula B. Day
Filer's e-mail	patentlaw@ursuladay.net
Signature	/ursula b. day/
Date	07/11/2011
Attachments	Amendment of Application with Consent and Conditional Withdrawal of Opposition.pdf (4 pages)(139153 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Oracle America, Inc., Opposer, v. Skytron Energy GmbH, Applicant.	Opposition No.: 91196183 Mark: SUNOPEN Serial No. 79/069,089
---	--

**AMENDMENT OF APPLICATION WITH CONSENT AND CONDITIONAL
WITHDRAWAL OF OPPOSITION**

Pursuant to 37 C.F.R. § 2.133 and T.B.M.P. § 514.02, Applicant, Skytron Energy GmbH, hereby amends the goods in International Class 09 as follows, by deleting the terms appearing in strikethrough type and replacing them with goods set forth in underlined type:

Electronic and electrical apparatus and instruments, for use in generating or distributing energy; ~~digital data buses with a specific physical topology and data exchange protocol, for the capture and processing of measurement data, all for use in photovoltaic energy generating installations;~~ apparatus and instruments for the supply, distribution, transformation, accumulation, regulation or control of electric current; generator connector boxes; ~~computer hardware, namely, computer peripheral devices; computer software for use in local area networks;~~ electronic device for monitoring and optimizing photovoltaic arrays; electrical and ~~electronic~~ circuits; apparatus for protection against surges or electrical interference in electricity supplies; apparatus for the supply, regulation, transmission, control, storage and distribution of electricity; battery boxes, electric batteries, cables, plugs and connectors, and battery installations for the accumulation of electrical energy, generated through renewable photo voltaic, wind and fuel cell installations; inverters for photovoltaic installations; inverters; electric wires and wire connection fittings therefore; electrical and electronic connectors, terminals, conductors, and adapters; junction sleeves for electric cables; solar modules, namely, apparatus for converting electronic radiation to electrical energy, namely, photovoltaic solar modules; transformers; transformer stations

The amended description of goods in International Class 09 should therefore read in its entirety as follows:

Electronic and electrical apparatus and instruments, for use in generating or distributing energy; apparatus and instruments for the supply, distribution, transformation, accumulation, regulation or control of electric current; generator connector boxes; electronic device for monitoring and optimizing photovoltaic arrays; electrical circuits; apparatus for protection against surges or electrical interference in electricity supplies; apparatus for the supply, regulation, transmission, control, storage and distribution of electricity; battery boxes, electric batteries, cables, plugs and connectors, and battery installations for the accumulation of electrical energy, generated through renewable photo voltaic, wind and fuel cell installations; inverters for photovoltaic installations; inverters; electric wires and wire connection fittings therefore; electrical and electronic connectors, terminals, conductors, and adapters; junction sleeves for electric cables; solar modules, namely, apparatus for converting electronic radiation to electrical energy, namely, photovoltaic solar modules; transformers; transformer stations

Applicant hereby amends the services in International Class 37 as follows:

Repair, installation and maintenance of equipment and apparatus for energy generating installations and parts therefore, for the energy generating sector, and for use in energy generating installations; repair, installation and maintenance of photovoltaic energy generating installations, solar modules and/or ~~apparatus and instruments for the capture, processing and forwarding of measurement data in connection with photovoltaic energy generating installations~~ electronic device for monitoring and optimizing photovoltaic arrays

The amended description of services in International Class 37 should therefore read in its entirety as follows:

Repair, installation and maintenance of equipment and apparatus for energy generating installations and parts therefore, for the energy generating sector, and for use in energy generating installations; repair, installation and maintenance of photovoltaic energy generating installations, solar modules and/or electronic device for monitoring and optimizing photovoltaic arrays

Applicant hereby abandons the application with respect to International Class 38

Applicant hereby amends the services in International Class 42 as follows:

Engineering; engineering services in the field of electrical power and natural gas production; engineering services ~~for applications on large and medium-sized computer systems, and~~ for energy generating installations; repair, installation and maintenance of software exclusively in, ~~in~~ the field of energy, ~~and in~~ energy generating installations; providing of scientific and technical analyses and expertise, namely, technical measuring and testing of energy products in the field of energy engineering, technical consultation in the field of power plant engineering, namely, testing and evaluation of power plant equipment to improve performance and efficiency of such equipment; technical measuring; ~~computer programming; capacity monitoring and analysis of network operations, in particular within energy generating installations~~

The amended description of services in International Class 42 should therefore read in its entirety as follows:

Engineering; engineering services in the field of electrical power and natural gas production; engineering services for energy generating installations; repair, installation and maintenance of software exclusively in the field of energy and energy generating installations; providing of scientific and technical analyses and expertise, namely, technical measuring and testing of energy products in the field of energy engineering, technical consultation in the field of power plant engineering, namely, testing and evaluation of power plant equipment to improve performance and efficiency of such equipment; technical measuring

As reflected by the signature of Opposer's counsel below, Opposer consents to this amendment.

Applicant submits that the foregoing amendment does not add goods or services to or broaden the scope of goods and services listed in the application, but instead narrows them. As such, neither republication of the mark nor further examination of the mark is required as a result of

this amendment. Accordingly, Applicant respectfully requests that the TTAB approve the amendment without republication of the mark.

As reflected by the signature of Opposer's counsel below, Opposer hereby withdraws its opposition to the subject application, conditioned, however, on the acceptance and entry of the foregoing amendment or an amendment with substantially similar wording which is required by and acceptable to the TTAB. As reflected by the signature of Applicant's counsel below, this conditional withdrawal is submitted with the consent of Applicant pursuant to 37 C.F.R. § 2.106(c).

WHEREFORE, Applicant and Opposer move that the subject application be amended as set forth above and that the opposition be dismissed.

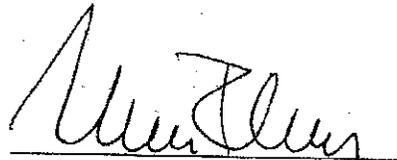
Respectfully submitted,



Andrea Anderson
Tyler J. Davis
Holland & Hart LLP
P.O. Box 8749
Denver, CO 80201
Phone: (303) 473-2861
Email: aanderson@hollandhart.com

Attorneys for Opposer
ORACLE AMERICA, INC.

Date: July 7, 2011



Ursula Day
708 Third Avenue
Suite 1501
New York, NY 10017
Phone: (212) 904-1815
Email: patentlaw@ursuladay.net

Attorneys for Applicant
SKYTRON ENERGY GMBH

Date: June 22, 2011