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Filing date: **06/04/2010**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Modular Devices, Inc.		
Entity	Corporation	Citizenship	New York
Address	One Roned Road Shirley, NY 11967 UNITED STATES		

Attorney information	Keith A. Weltsch Scully, Scott, Murphy & Presser, P.C. 400 Garden City Plaza Suite 300 Garden City, NY 11530 UNITED STATES intprop@ssmp.com Phone:516-742-4343		
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Registration Subject to Cancellation

Registration No	1086282	Registration date	02/28/1978
Registrant	MODULAR DEVICES, INC. 1111 Knox Street TORRANCE, CA 90502 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 1976/02/00 First Use In Commerce: 1976/02/00 All goods and services in the class are cancelled, namely: ELECTRICAL POWER SUPPLIES AND TRANSFORMERS

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Petition for Cancellation.pdf (15 pages)(782910 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Keith A. Weltsch/
Name	Keith A. Weltsch

Date	06/04/2010
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of U.S. Registration No. 1,086,282
Registered on February 28, 1978
For the Mark MDI

-----X	:	
Modular Devices, Inc.	:	
	:	
Petitioner,	:	
	:	Cancellation No.
v.	:	
	:	
Modular Devices, Inc.	:	
	:	
Respondent.	:	
-----X	:	

PETITION FOR CANCELLATION

Petitioner, Modular Devices, Inc. (“Petitioner”), a corporation organized under the laws of New York, having a place of business at One Roned Road, Shirley, NY, believes that it is, and will continue to be damaged by the above-identified registration, and hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. Respondent, Modular Devices, Inc., (“Respondent”) a corporation allegedly organized under the laws of California is listed as the owner of U.S. Registration No. 1,086,282 (“the MDI registration”) for use in connection with “electrical power supplies and transformers”.

2. Petitioner uses the stylized Logo “MDI” as demonstrated hereto as Exhibit “A” as its uniquely identifying logo for use in connection on power supplies and power electronics.

3. Shortly before commencing this action, Petitioner conducted an investigation in order to determine if Respondent was using the trademark MDI on or in connection with electrical power supplies and transformers and despite the investigator’s numerous efforts and attempts to obtain information regarding the use of the MDI brand name by Respondent, Petitioner’s investigator was unable to locate any current use of the mark MDI by Respondent.

4. Further, Petitioner conducted an investigation into the existence of a corporation named Modular Devices, Inc. incorporated under the laws of the state of California on the California Secretary of State’s website, and was unable to locate any information regarding Modular Devices, Inc. a California Corporation, as according the records search attached hereto, no such entity exists in the state of California. Attached as Exhibit “B”.

5. Upon information and belief, Respondent was purchased by Martek Power at least as early as July 1, 2002, as indicated in the attached article of the same date.

Attached as Exhibit “C”.

Abandonment of Respondent’s Mark

6. Upon information and belief, Respondent has not used the MDI mark on or in connection with any of the goods listed in Respondent’s MDI registration for at least three consecutive years and has no intention to resume such use.

7. Upon information and belief, as a result of such nonuse, to the extent that Respondent still exists, Respondent's MDI mark has lost all capacity as a source indicator for the goods covered by the MDI registration.

**Fraudulent Acts in the Submission of the Declaration of Use and Application
for Renewal Filed on February 7, 2008**

8. On February 7, 2008, Respondent filed a combined Declaration of Use and Application for Renewal indicating that Respondent was using its MDI mark on all of the goods or services listed in the existing registration for this specific class, which at the time was comprised of electrical power supplies and transformers.

9. Upon information and belief, Respondent did not exist as of the date of the filing of the Declaration of Use and Application for Renewal, and as a Respondent failed to comply with the statutory requirement to maintain the registration by filing a Declaration of Use in the name of the owner of the mark as of the deadlines set out in 15 U.S.C. 1058(a).

10. Upon information and belief, and as a result of the investigation conducted by Petitioner, Respondent, or Respondent's outside counsel who prepared and signed the combined Declaration of Use and Application for Renewal filed on Respondent's behalf, knowingly made false, material misrepresentations of fact when filing the same with the intent to defraud the U.S.P.T.O. Specifically, upon information and belief, Respondent, or Respondent's outside counsel, knew that as of the date of the filing of this document that Modular Devices, Inc. did not exist, and that no such entity was at that time using the mark MDI on or in connection with electrical power supplies and transformers. These

affirmative statements constituted false, material misrepresentations of fact with the intent to defraud the U.S.P.T.O.

Relief Sought

11. Petitioner is damaged by the continued registration of Registrant's mark because the continued existence of Respondent's MDI word mark will act as a blight on Petitioner's ongoing use of Petitioner's MDI Logo attached as Exhibit "A" on power supplies and power electronics.

12. In view of the above allegations, Respondent is not entitled to continue registration of its alleged mark since Respondent's MDI mark has become abandoned because of at least three consecutive years of nonuse of Respondent's MDI mark on the goods listed in Respondent's MDI registration, because Respondent's MDI mark has lost all significance as a source indicator for the goods listed in Respondent's MDI registration, and because Registrant has no intention to resume use of the MDI mark.

13. Respondent is further not entitled to maintain its registration in its MDI mark because Respondent engaged in fraudulent acts in the filing of its combined Declaration of Use and Application for Renewal on February 7, 2008.

WHEREFORE, Petitioner respectfully prays that Registration No. 1,086,282 be canceled.

Petitioner hereby appoints the following attorneys, to whom all correspondence should be addressed, to prosecute this Cancellation and transact all business in the Patent and Trademark Office connected therewith:

Please address all correspondence to:

Keith A. Weltsch
Paul J. Esatto, Jr.

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza, Suite 300
Garden City, New York 11530
Telephone: (516) 742-4343

Respectfully submitted,

Modular Devices, Inc.

Dated: June 4, 2010

By: 

Keith A. Weltsch

Paul J. Esatto, Jr.

SCULLY, SCOTT, MURPHY & PRESSER

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Facsimile: (516) 742-4366

General Email: intprop@ssmp.com

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION FOR CANCELLATION is being deposited with the United States Postal Service as first class mail, postage prepaid, to counsel of record and counsel for Respondent, and Respondent on this 4th day of June, 2010 as follows:

MODULAR DEVICES, INC.
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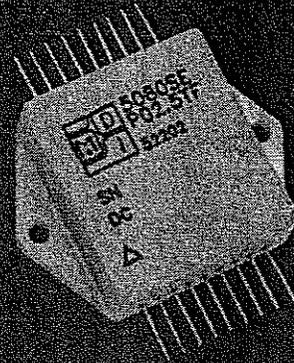


Keith A. Weltsch

Exhibit "A"

Space Challenges MDI Delivers

Point of Load Converters



100K+

Proton Rad Hard DC-DC Converters

The 5080 Series — Radiation Hardened
Non-Isolated Synchronous Switching Regulators

MODULAR DEVICES, INC.

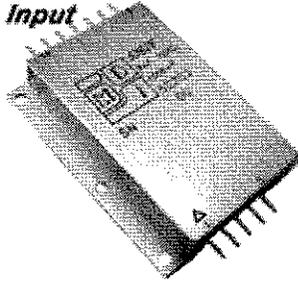
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Ask for our 178 page print catalog

AN ISO 9001:2000 REGISTERED COMPANY

53629**28 Volts DC
Input**

40 Watt Hybrid Proton Rad Hard 100K+[®] DC – DC Converters

Functions

- Model 53629 is a high efficiency cross regulated quad output DC – DC converter that incorporates a built-in MIL-STD-461 EMI filter.
- High efficiency and excellent cross regulation are achieved by using a planar power transformer and GaAs rectifiers. Sync and Enable inputs are also provided.
- Other input/output voltages available on special order.
- A combined total of 40W may be drawn on all 4 outputs. Up to 750mA is available from the auxiliary outputs provided the total output power does not exceed 40W.

Features

- Rad Hard: TID > 100kRad(Si)
- 2:1 margin: Operates beyond 200kRad TID
- No SEE: LET > 82MeV*cm²/mg
- Proton Resistant: no optocouplers used
- Industry Standard form factor and mounting footprint
- Built-in EMI input filter meets MIL-STD-461C requirements CE01, CE03, CS01, CS02 and CS06
- Completely self contained Thick Film Hybrid DC-DC Converter
- No external filter caps required
- Fully isolated design
- "Inhibit-not" enable function
- Power on soft start
- 250 kHz operation for low ripple and fast response time
- Short circuit and overvoltage protection
- External synch input

Specifications

INPUT: 28 VDC nominal
Range: 19 to 50 VDC

ISOLATION:
Input to case: 500 VDC
Input to output: 500 VDC
Output to case: 100 VDC

ENVIRONMENT:

Storage temperature: -55°C to +150°C
Shock: 50 G's @ 11ms. Per MIL-STD-810, M516.5, P III
Acceleration: 500 G's Per MIL-STD-883, M2001
Vibration: 30 G's Per MIL-STD-883, M2026, C2H
Grades EU, R & S:
Full Output Power at Tcase = +85°C
Linearly derates to zero at Tcase = +115°C
Grades RE & SE:
Full Power Output at Tcase = +125°C
Linearly derates to zero at Tcase = +135°C

WEIGHT: 110 grams maximum, 95 grams typical

APPLICATION NOTES

[Application Guide to MDI Full Featured Converters](#)

[Operation at Light Load](#)

[Implementing the Remote Sense and Adjust Functions](#)

[Recommended Mounting of Hybrids](#)

[Cascaded Converters Vs. Single Stage Conversion](#)

[Interface of 120 and 270 VDC Converters](#)

[Military Grade Hybrid Microcircuit](#)

[Space Grade Hybrid Microcircuit](#)

[Constant Acceleration Screening of Hybrid DC-DC Converters](#)

[Standard Product MIL-STD-461 Conducted](#)

[Susceptibility Test Criteria](#)

[Standard Hybrid DC/DC Converter Derating Criteria](#)

[MTBF \(Mean Time Between Failures\)](#)

[Radiation Effects on DC/DC Converters](#)

[MDI's Low Voltage DC/DC Converter Series](#)

[MDI's Proton Rad Hard DC/DC Converters](#)

[Hybrid DC/DC Converters Excel in AC Applications](#)

[MDI's 6000 DC/DC Converter Series](#)

[Custom DC/DC Converters](#)

[Assemblies of Hybrids](#)

[Space Power Supplies](#)

[Download PDF Catalog](#)

[5080 Series Application Notes PDF Version](#)

[5533 Series Application Notes \(Preliminary\)](#)

[Site Map](#)

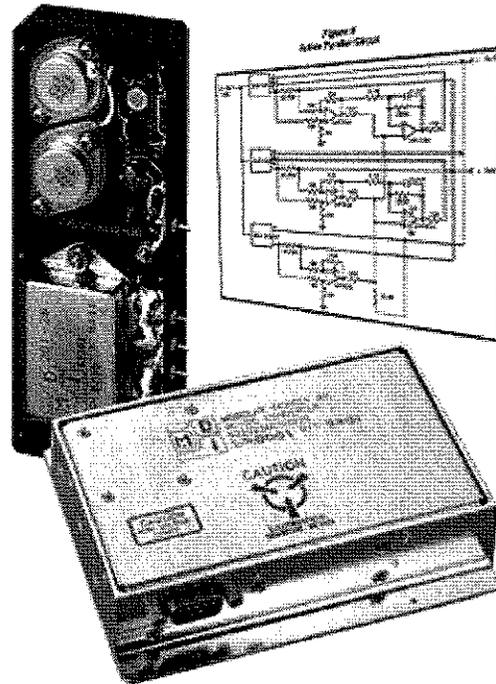


Exhibit "B"


[Secretary of State](#)
[Administration](#)
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[Business Programs](#)
[Political Reform](#)
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[Registries](#)

Business Entities (BE)

Online Services

- [Business Search](#)
- [Disclosure Search](#)
- [E-File Statements](#)
- [Mail Processing Times](#)

Main Page

Service Options

Name Availability

Forms, Samples & Fees

Annual/Biennial Statements

Filing Tips

Information Requests

(certificates, copies & status reports)

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FAQs

Contact Information

Resources

- [Business Resources](#)
- [Tax Information](#)
- [Starting A Business](#)
- [International Business Relations Program](#)

Customer Alert

(misleading business solicitations)

Business Search - Results

Data is updated weekly and is current as of Friday, May 28, 2010. It is not a complete or certified record of the entity.

- [Select an entity name below to view additional information.](#) Results are listed alphabetically in ascending order by entity name.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

Results of search for " MODULAR DEVICES INC " returned no entity records.

Record not found.

[Modify Search](#) [New Search](#)

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Exhibit "C"



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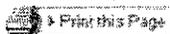
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Vendors consolidating, but many remain

Although hundreds of power supply and related components manufacturers serve the North American and European market, only six vendors accounted for 50% of the 2001 market, said technology market research firm Venture Development Corp. (VDC).

"There were nine companies in 1998 that dominated the power supply market. Now there are six. This trend toward market consolidation and selective growth is expected to continue in the foreseeable future," said VDC analyst Nathan Andrews.

VDC segmented the power supply market into AC/DC, DC/DC, and telecom rectifiers for the North American and European markets. In each of these six individual markets, the Top 5 vendors accounted for more than 50% of the 2001 market.

In the European telecom rectifier market, the Top 4 vendors accounted for more than 50% of the 2001 market. In the North American telecom rectifier market, the Top 2 alone accounted for more than 30% of the 2001 market.

According to VDC, the Top 5 vendors, listed alphabetically, are as follows:

- AC/DC switching power supplies: Artesyn, Ascom, Delta, Emerson (Astec), and Tyco (formerly Lucent)
- DC/DC converters: Artesyn, Delta, Emerson (Astec), Power-One, and Tyco (formerly Lucent)
- Telecom rectifiers and DC/DC converters: Artesyn, Ascom, Emerson (Astec), Mardoni, and Tyco (formerly Lucent)

Despite these vendors' dominance in the North American and European markets, hundreds of smaller players remain that have found smaller market niches or developed enduring relationships with purchasing OEMs, VDC acknowledged. However, acquisition of smaller, more complementary vendors is now a well-established tactic to expand market share and remain competitive.

For example, Ascom (Switzerland) purchased Rompower Inc., which concentrates on research and development (R&D) for DC/DC converters. Astec, a wholly owned Emerson Electric subsidiary, bought Nortel Network's telecom power business unit. C&D Technologies acquired Newport Components. Celestica Inc. bought Ascent Power Technology Inc. and VXI Electronics.

Celetron International in Simi Valley, Calif., acquired EOS Corp. to design and manufacture AC/DC power supplies. Delta Electronics (Taiwan) entered into an agreement with Volterra Semiconductor Corp. to produce and supply an advanced power delivery system.

Emerson formed a new company in Venezuela, known as Emerson Network Power Systems of Venezuela, providing, among other products, DC power systems. Magnetek acquired Omega Power Systems. The Martek Power group acquired Abbott Electronics, Conversion Devices, and Modular Devices.

Power-One acquired Melcher Group and International Power Devices, and N2Power Inc. signed a nonexclusive license agreement granting Power-One in Camarillo, Calif., rights to use N2Power's patented advanced power management technologies. Taiwan

Liteon Inc. is manufacturing DC/DC converters developed by an in-house R&D team formerly with Lucent Technologies.

Taiyo Yuden Co. Ltd. of Tokyo agreed to work with Transilica Inc., maker of wireless system on chips. Tyco bought Lucent's Power Systems business unit. Vicor Corp. and subsidiary VLT entered into a patent license agreement with Siemens Corp. to design smaller and more energy-efficient power supplies.

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