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ESTTA Tracking number: **ESTTA489119**

Filing date: **08/15/2012**

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	Baxano, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	655 River Oaks Parkway San Jose, CA 95134 UNITED STATES		

Attorney information	Susan L. Heller Greenberg Traurig, LLP 1840 Century Park East, Suite 1900 Los Angeles, CA 90067 UNITED STATES latm2@gtlaw.com Phone:(310) 586-7700

Registration Subject to Cancellation

Registration No	4057095	Registration date	11/15/2011
Registrant	Extremity Medical, LLC Suite 410 300 Interpace Parkway Parsippany, NJ 07054 UNITED STATES		

Goods/Services Subject to Cancellation

Class 010. First Use: 2011/05/00 First Use In Commerce: 2011/05/00 All goods and services in the class are cancelled, namely: Medical devices, namely, intramedullary fusion devices

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3894968	Application Date	09/01/2009
Registration Date	12/21/2010	Foreign Priority Date	NONE
Word Mark	IOFLEX		

Design Mark	IOFLEX
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue

U.S. Registration No.	3887573	Application Date	09/01/2009
Registration Date	12/07/2010	Foreign Priority Date	NONE
Word Mark	IOFLEX		
Design Mark	IOFLEX		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Medical services		

U.S. Registration No.	3894969	Application Date	09/01/2009
Registration Date	12/21/2010	Foreign Priority Date	NONE
Word Mark	IO-FLEX		

Design Mark	iO-Flex
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue

U.S. Registration No.	3887574	Application Date	09/01/2009
Registration Date	12/07/2010	Foreign Priority Date	NONE
Word Mark	IO-FLEX		
Design Mark	iO-Flex		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Medical services		

U.S. Registration No.	3894970	Application Date	09/01/2009
Registration Date	12/21/2010	Foreign Priority Date	NONE
Word Mark	IO Â· FLEX		

Design Mark	iO·Flex
Description of Mark	The mark consists of the term "IO", with a lower-case "I" and an upper-case "O", followed by a hyphen, followed by the word "Flex". The letter "F" in "Flex" is capitalized.
Goods/Services	Class 010. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue

U.S. Registration No.	3894971	Application Date	09/01/2009
Registration Date	12/21/2010	Foreign Priority Date	NONE
Word Mark	IO Â· FLEX		
Design Mark	iO·Flex		
Description of Mark	The mark consists of the term "IO", with a lower-case "I" and an upper-case "O", followed by a hyphen, followed by the word "FLEX". The letter "F" in "FLEX" is capitalized.		
Goods/Services	Class 044. First use: First Use: 2009/10/07 First Use In Commerce: 2009/10/07 Medical services		

Attachments	77817765#TMSN.jpeg (1 page)(bytes) 77817782#TMSN.jpeg (1 page)(bytes) 77817791#TMSN.jpeg (1 page)(bytes) 77817794#TMSN.jpeg (1 page)(bytes) 77817829#TMSN.jpeg (1 page)(bytes) 77817833#TMSN.jpeg (1 page)(bytes) 057095.pdf (33 pages)(2246503 bytes)

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	/slh/

Name	Susan L. Heller
Date	08/15/2012

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

In the matter of Registration No. 4,057,095
For the mark:

IO Fix

Registered November 15, 2011

BAXANO, INC., a Delaware corporation, Petitioner, vs. EXTREMITY MEDICAL, LLC, a New Jersey limited liability company, Respondent.	))))))))))	Cancellation No. _____

PETITION FOR CANCELLATION

Petitioner Baxano, Inc. ("Petitioner"), a Delaware corporation, having a principal place of business at 655 River Oaks Parkway, San Jose, California 95134, believes that it has been and will continue to be damaged by the continued registration of the mark that is the subject of Registration No. 4,057,095 and hereby petitions for cancellation of the same.

The grounds for cancellation are as follows:

1. Petitioner is a leading provider of surgical and medical devices, machines, instruments, apparatus and systems in the United States.

2. Since at least as early as October 7, 2009, Petitioner has continuously and exclusively used the marks IOFLEX, IO-FLEX and IO · FLEX (collectively referred to as the "IOFLEX Marks" or "Petitioner's Marks") in connection with surgical and medical devices and instruments, surgical and medical systems, and medical services.

3. Petitioner owns all right, title and interest in and to the IOFLEX Marks and is the owner of several U.S. federal trademark registrations for the IOFLEX Marks, which filing and first use dates

date back prior to any date on which Respondent can rely. Petitioner owns the following U.S. federal trademark registrations for the IOFLEX Marks:

MARK	DATE OF FIRST USE	REG. NO. REG. DATE	CLASS: GOODS/SERVICES
IOFLEX	07-Oct-2009	3,894,968 21-Dec-2010	10: Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
IOFLEX	07-Oct-2009	3,887,573 07-Dec-2010	44: Medical services
iO-Flex	07-Oct-2009	3,894,969 21-Dec-2010	10: Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
iO-Flex	07-Oct-2009	3,887,574 07-Dec-2010	44: Medical services
iO·Flex	07-Oct-2009	3,894,970 21-Dec-2010	10: Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
iO·Flex	07-Oct-2009	3,894,971 21-Dec-2010	44: Medical services

These registrations are valid, subsisting, unrevoked and have not been cancelled, and constitute *prima facie* evidence of the validity of the IOFLEX Marks and of Petitioner's exclusive right to use the IOFLEX Marks on the goods and services identified in the registrations. A copy of the registration certificates and

corresponding TARR status reports are attached hereto as Exhibit A and are made part of the record in these proceedings.

4. Beginning at least as early as October 7, 2009, continuously through to the present and without abandonment, Petitioner has extensively advertised, promoted, marketed, offered and sold its goods and services in commerce under the IOFLEX Marks, establishing valuable common law rights in the marks in addition to the rights afforded by its federal trademark registrations.

5. As a result, Petitioner's IOFLEX Marks are closely associated with Petitioner's long-standing reputation for quality and excellence, and the purchasing public has come to know, rely upon, and recognize the goods and services of Petitioner by such marks. Based on this extensive and prominent use, Petitioner's well-known and distinctive IOFLEX Marks have acquired enormous value and have achieved widespread recognition and fame among the relevant public as a symbol of Petitioner's goodwill and reputation as a leading provider of surgical and medical devices.

6. Upon information and belief, Respondent Extremity Medical, LLC ("Respondent") is a New Jersey limited liability company with a place of business at 300 Interpace Parkway, Suite 410, Parsippany, New Jersey 07054.

7. The mark that is the subject of this Petition for Cancellation is covered by Respondent's Registration No. 4,057,095 for the mark IO FIX and Design as depicted immediately below:

("Respondent's Mark" or the "IO FIX Mark").

8. Registration No. 4,057,095 for the IO FIX Mark covers "medical devices, namely, intramedullary fusion devices" in Class 10 (the "Respondent's Registration"), and was filed on an intent-to-use basis on April 13, 2010, registered November 15, 2011, with an alleged date of first use of May 2011.

9. Petitioner's first use of its IOFLEX Marks predate all of Respondent's filing, first use, and registration dates for the IO FIX Mark.

10. Respondent's IO FIX Mark is highly and confusingly similar to Petitioner's IOFLEX Marks. In particular, Respondent's IO FIX Mark bears a striking resemblance to Petitioner's IO · FLEX mark. For illustration purposes only, below is a side-by-side comparison of the two marks:[1]

Petitioner's Mark	Respondent's Mark
iO·Flex	IO Fix

As shown above, the two marks share the prefix "IO" and the wording "F_X" (both one syllable - FLEX vs. FIX). In addition, the marks both contain a stylized "X" at the end of the mark with curved line(s). Visually and aurally, the two marks are strikingly and confusingly similar.

11. Accordingly, Respondent's IO FIX Mark directly evokes the distinctive commercial impression associated with Petitioner's IOFLEX Marks. Given the fame and reputation of Petitioner's Marks in the surgical and medical devices industry, Respondent's use of the confusingly similar IO FIX Mark is likely to cause consumer confusion in the marketplace as to Respondent's association with Petitioner.

12. Moreover, the goods identified in Respondent's Registration are identical and/or highly related to the goods and services that are identified in Petitioner's federal trademark registrations and offered by Petitioner in connection with Petitioner's IOFLEX Marks. Significantly, both parties provide surgical and medical devices.

13. Upon information and belief, the goods identified in Respondent's Registration would be offered to the same, substantially similar, and/or overlapping classes of consumers as those to which Petitioner offers.

[1] Petitioner notes that the standard for a likelihood of confusion is not a side-by-side comparison as ordinary consumers retain only a general impression of a mark. Therefore, courts tend to focus on the lesser standard of "general recollection" produced by the marks, and not a side-by-side comparison.

14. Upon information and belief, the goods identified in Respondent's Registration would be offered through the same, substantially similar, and/or overlapping channels of trade as those through which Petitioner offers its goods and services.

15. Respondent's Registration was filed on an intent-to-use basis on April 13, 2010, long after Petitioner's first use in commerce of its famous and distinctive IOFLEX Marks. Petitioner thus has priority of use over Respondent.

16. Moreover, based on Petitioner's extensive use, promotion, and advertising of Petitioner's Marks, Petitioner's Marks are and have become strong, distinctive, and famous in the United States within the meaning of the Lanham Act.

17. Due to the identical nature of the parties' marks and underlying goods, it is highly likely that the public will view Respondent's IO FIX Mark as a mere extension of the famous Petitioner's IO FLEX Marks. As such, the public will erroneously assume or believe that Respondent's Mark and/or goods offered under Respondent's Mark emanate from the same source or origin as Petitioner, or are in some other way associated, endorsed, licensed, authorized, sponsored by, or, connected with Petitioner, all to Petitioner's irreparable damage in violation of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

18. Respondent's Registration and use of Respondent's Mark falsely suggests a connection with Petitioner and/or Petitioner's goods and/or services, thereby causing loss, damage and injury to Petitioner, in violation of Section 2(a) of the Trademark Act of 1946, 15 U.S.C. § 1052(a).

19. By reason of the similarity between Respondent's IO FIX Mark and Petitioner's IOFLEX Marks, the fame of the IOFLEX Marks, and the exclusive association between the IOFLEX Marks and Petitioner, continued registration of Respondent's IO FIX Mark will dilute Petitioner's IOFLEX Marks by impairing the distinctiveness of Petitioner's IOFLEX Marks to identify exclusively goods from Petitioner. Accordingly, continued registration of the IO FIX Mark violates the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

20. For the reasons set forth herein, Petitioner believes and asserts that the continued registration of Respondent's IO FIX Mark for the goods identified therein is inconsistent with Petitioner's superior rights in Petitioner's IOFLEX Marks, and has caused and will continue to cause damage to Petitioner and Petitioner's rights in the same.

WHEREFORE, Petitioner prays that U.S. Registration No. 4,057,095 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

GREENBERG TRAURIG, LLP

Dated: August 15, 2012

By: _____

Susan L. Heller
Candice E. Kim
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Los Angeles, California 90067
Tel: (310) 586-6568
Fax: (310) 586-0568
hellers@gtlaw.com
kimce@gtlaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITION FOR CANCELLATION** upon Respondent by depositing one copy thereof in the U.S. Mail, First-Class Certified Mail, postage prepaid, on August 15, 2012, addressed as follows:

Michael J. Zinna, Esq.
Ward & Zinna, LLC
382 Springfield Ave., Suite 300
Summit, NJ 07901-2707

and to

Extremity Medical, LLC
300 Interpace Parkway, Suite 410
Parsippany, New Jersey 07054

_____

Exhibit A

United States of America

United States Patent and Trademark Office

IOFLEX

Reg. No. 3,894,968

Registered Dec. 21, 2010

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

BAXANO, INC. (DELAWARE CORPORATION)
655 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

FOR: SURGICAL AND MEDICAL DEVICES AND INSTRUMENTS, NAMELY, SURGICAL INSTRUMENTS FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE; SURGICAL AND MEDICAL SYSTEMS, COMPRISED OF A SET OF MINIMALLY INVASIVE SURGICAL INSTRUMENTS USED IN SEQUENCE FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 10-7-2009; IN COMMERCE 10-7-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-817,765, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-20 18:08:02 ET

Serial Number: 77817765 Assignment Information Trademark Document Retrieval

Registration Number: 3894968

Mark

IOFLEX

(words only): IOFLEX

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-21

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-21

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Baxano, Inc.

Address:
Baxano, Inc.
655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 010
Class Status: Active
Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-01 - TEAS Change Of Correspondence Received

2010-12-21 - Registered - Principal Register

2010-11-19 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-11-18 - Law Office Registration Review Completed

2010-11-18 - Assigned To LIE

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-02 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Statement of Use Received

2010-05-11 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-03-16 - Official Gazette Publication Confirmation E-Mailed

2010-03-16 - Published for opposition

2010-02-05 - Law Office Publication Review Completed

2010-02-05 - Assigned To LIE

2010-01-13 - Approved For Pub - Principal Register

2010-01-13 - Teas/Email Correspondence Entered

2010-01-12 - Communication received from applicant

2010-01-12 - TEAS Response to Office Action Received

2009-12-09 - Notification Of Non-Final Action E-Mailed

2009-12-09 - Non-final action e-mailed

2009-12-09 - Non-Final Action Written

2009-12-04 - Assigned To Examiner

2009-09-09 - Notice Of Pseudo Mark Mailed

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Susan L. Heller

Correspondent
Susan L. Heller
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles CA 90067-2121
Phone Number: (310) 586-7700
Fax Number: (310) 586-7800

United States of America

United States Patent and Trademark Office

IOFLEX

Reg. No. 3,887,573

Registered Dec. 7, 2010

Int. Cl.: 44

SERVICE MARK

PRINCIPAL REGISTER

BAXANO, INC. (DELAWARE CORPORATION)
655 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

FOR: MEDICAL SERVICES, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 10-7-2009; IN COMMERCE 10-7-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-817,782, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

Thank you for your request. Here are the latest results from the TARR web server.

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Serial Number: 77817782 Assignment Information Trademark Document Retrieval

Registration Number: 3887573

Mark

IOFLEX

(words only): IOFLEX

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-07

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-07

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Baxano, Inc.

Address:
Baxano, Inc.
655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 044
Class Status: Active
Medical services
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-01 - TEAS Change Of Correspondence Received

2010-12-07 - Registered - Principal Register

2010-11-03 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-11-02 - Law Office Registration Review Completed

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Notice Of Approval Of Extension Request E-Mailed

2010-11-01 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-01 - Extension 1 granted

2010-10-18 - Extension 1 filed

2010-11-01 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Extension Received

2010-10-18 - TEAS Statement of Use Received

2010-04-27 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-02-02 - Official Gazette Publication Confirmation E-Mailed

2010-02-02 - Published for opposition

2009-12-29 - Law Office Publication Review Completed

2009-12-29 - Assigned To LIE

2009-12-09 - Approved For Pub - Principal Register

2009-12-04 - Assigned To Examiner

2009-09-09 - Notice Of Pseudo Mark Mailed

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Susan L. Heller

Correspondent
Susan L. Heller
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles CA 90067-2121
Phone Number: (310) 586-7700
Fax Number: (310) 586-7800

United States of America

United States Patent and Trademark Office

iO-Flex

Reg. No. 3,894,969

Registered Dec. 21, 2010

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

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FOR: SURGICAL AND MEDICAL DEVICES AND INSTRUMENTS, NAMELY, SURGICAL INSTRUMENTS FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE; SURGICAL AND MEDICAL SYSTEMS, COMPRISED OF A SET OF MINIMALLY INVASIVE SURGICAL INSTRUMENTS USED IN SEQUENCE FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 10-7-2009; IN COMMERCE 10-7-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-817,791, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

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Serial Number: 77817791 Assignment Information Trademark Document Retrieval

Registration Number: 3894969

Mark

iO-Flex

(words only): IO-FLEX

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-21

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-21

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-18

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655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 010
Class Status: Active
Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-01 - TEAS Change Of Correspondence Received

2010-12-21 - Registered - Principal Register

2010-11-19 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-11-18 - Law Office Registration Review Completed

2010-11-18 - Assigned To LIE

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-02 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Statement of Use Received

2010-05-11 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-03-16 - Official Gazette Publication Confirmation E-Mailed

2010-03-16 - Published for opposition

2010-02-05 - Law Office Publication Review Completed

2010-02-05 - Assigned To LIE

2010-01-13 - Approved For Pub - Principal Register

2010-01-13 - Teas/Email Correspondence Entered

2010-01-12 - Communication received from applicant

2010-01-12 - TEAS Response to Office Action Received

2009-12-09 - Notification Of Non-Final Action E-Mailed

2009-12-09 - Non-final action e-mailed

2009-12-09 - Non-Final Action Written

2009-12-04 - Assigned To Examiner

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

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United States of America

United States Patent and Trademark Office

iO-Flex

Reg. No. 3,887,574

Registered Dec. 7, 2010

Int. Cl.: 44

SERVICE MARK

PRINCIPAL REGISTER

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655 RIVER OAKS PARKWAY
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FOR: MEDICAL SERVICES, IN CLASS 44 (U.S. CLS. 100 AND 101).

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THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-817,794, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

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Serial Number: 77817794 Assignment Information Trademark Document Retrieval

Registration Number: 3887574

Mark

iO-Flex

(words only): IO-FLEX

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-07

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-07

Register: Principal

Law Office Assigned: LAW OFFICE 112

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Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Baxano, Inc.

Address:
Baxano, Inc.
655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 044
Class Status: Active
Medical services
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-01 - TEAS Change Of Correspondence Received

2010-12-07 - Registered - Principal Register

2010-11-03 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-11-02 - Law Office Registration Review Completed

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Notice Of Approval Of Extension Request E-Mailed

2010-11-01 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-01 - Extension 1 granted

2010-10-18 - Extension 1 filed

2010-11-01 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Extension Received

2010-10-18 - TEAS Statement of Use Received

2010-04-27 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-02-02 - Official Gazette Publication Confirmation E-Mailed

2010-02-02 - Published for opposition

2009-12-29 - Law Office Publication Review Completed

2009-12-29 - Assigned To LIE

2009-12-09 - Approved For Pub - Principal Register

2009-12-04 - Assigned To Examiner

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Susan L. Heller

Correspondent
Susan L. Heller
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles CA 90067-2121
Phone Number: (310) 586-7700
Fax Number: (310) 586-7800

United States of America

United States Patent and Trademark Office

iO·Flex

Reg. No. 3,894,970

Registered Dec. 21, 2010

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

BAXANO, INC. (DELAWARE CORPORATION)
655 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

FOR: SURGICAL AND MEDICAL DEVICES AND INSTRUMENTS, NAMELY, SURGICAL INSTRUMENTS FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE; SURGICAL AND MEDICAL SYSTEMS, COMPRISED OF A SET OF MINIMALLY INVASIVE SURGICAL INSTRUMENTS USED IN SEQUENCE FOR ACCESSING, LOCALIZING AND MODIFYING TISSUE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 10-7-2009; IN COMMERCE 10-7-2009.

THE MARK CONSISTS OF THE TERM "IO", WITH A LOWER-CASE "I" AND AN UPPER-CASE "O", FOLLOWED BY A HYPHEN, FOLLOWED BY THE WORD "FLEX". THE LETTER "F" IN "FLEX" IS CAPITALIZED.

SN 77-817,829, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-20 18:11:00 ET

Serial Number: 77817829 Assignment Information Trademark Document Retrieval

Registration Number: 3894970

Mark

(words only): IO · FLEX

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-21

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-21

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Baxano, Inc.

Address:
Baxano, Inc.
655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 010
Class Status: Active
Surgical and medical devices and instruments, namely, surgical instruments for accessing, localizing and modifying tissue; Surgical and medical systems, comprised of a set of minimally invasive surgical instruments used in sequence for accessing, localizing and modifying tissue
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of the term "IO", with a lower-case "I" and an upper-case "O", followed by a hyphen, followed by the word "Flex". The letter "F" in "Flex" is capitalized.

Design Search Code(s):
26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)
26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved
27.03.01 - Geometric figures forming letters, numerals or punctuation

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-01 - TEAS Change Of Correspondence Received

2010-12-21 - Registered - Principal Register

2010-11-19 - Notice Of Acceptance Of Statement Of Use E-Mailed

2010-11-18 - Law Office Registration Review Completed

2010-11-18 - Assigned To LIE

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-02 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Statement of Use Received

2010-05-11 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-03-16 - Official Gazette Publication Confirmation E-Mailed

2010-03-16 - Published for opposition

2010-02-05 - Law Office Publication Review Completed

2010-02-05 - Assigned To LIE

2010-01-13 - Approved For Pub - Principal Register

2010-01-13 - Teas/Email Correspondence Entered

2010-01-12 - Communication received from applicant

2010-01-12 - TEAS Response to Office Action Received

2009-12-09 - Notification Of Non-Final Action E-Mailed

2009-12-09 - Non-final action e-mailed

2009-12-09 - Non-Final Action Written

2009-12-04 - Assigned To Examiner

2009-09-09 - Notice Of Design Search Code Mailed

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
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Correspondent
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GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900

Los Angeles CA 90067-2121
Phone Number: (310) 586-7700
Fax Number: (310) 586-7800

United States of America

United States Patent and Trademark Office

iO·Flex

Reg. No. 3,894,971

Registered Dec. 21, 2010

Int. Cl.: 44

SERVICE MARK

PRINCIPAL REGISTER

BAXANO, INC. (DELAWARE CORPORATION)
655 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

FOR: MEDICAL SERVICES, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 10-7-2009; IN COMMERCE 10-7-2009.

THE MARK CONSISTS OF THE TERM "IO", WITH A LOWER-CASE "I" AND AN UPPER-CASE "O", FOLLOWED BY A HYPHEN, FOLLOWED BY THE WORD "FLEX". THE LETTER "F" IN "FLEX" IS CAPITALIZED.

SN 77-817,833, FILED 9-1-2009.

ELI HELLMAN, EXAMINING ATTORNEY

David J. Kappos

Director of the United States Patent and Trademark Office

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-20 18:11:41 ET

Serial Number: 77817833 Assignment Information Trademark Document Retrieval

Registration Number: 3894971

Mark

(words only): IO · FLEX

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-12-21

Filing Date: 2009-09-01

Transformed into a National Application: No

Registration Date: 2010-12-21

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-11-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Baxano, Inc.

Address:
Baxano, Inc.
655 River Oaks Parkway

San Jose, CA 95134
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 044
Class Status: Active
Medical services
Basis: 1(a)
First Use Date: 2009-10-07
First Use in Commerce Date: 2009-10-07

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of the term "IO", with a lower-case "I" and an upper-case "O", followed by a hyphen, followed by the word "FLEX". The letter "F" in "FLEX" is capitalized.

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27.03.01 - Geometric figures forming letters, numerals or punctuation

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

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2010-11-18 - Assigned To LIE

2010-11-02 - Allowed for Registration - Principal Register (SOU accepted)

2010-11-02 - Notice Of Approval Of Extension Request E-Mailed

2010-11-01 - Statement Of Use Processing Complete

2010-10-18 - Use Amendment Filed

2010-11-01 - Extension 1 granted

2010-10-18 - Extension 1 filed

2010-11-01 - Case Assigned To Intent To Use Paralegal

2010-10-18 - TEAS Extension Received

2010-10-18 - TEAS Statement of Use Received

2010-04-27 - NOA Mailed - SOU Required From Applicant

2010-04-19 - Applicant/Correspondence Changes (Non-Responsive) Entered

2010-04-19 - TEAS Change Of Owner Address Received

2010-02-02 - Official Gazette Publication Confirmation E-Mailed

2010-02-02 - Published for opposition

2009-12-31 - Law Office Publication Review Completed

2009-12-31 - Assigned To LIE

2009-12-11 - Approved For Pub - Principal Register

2009-12-11 - Assigned To Examiner

2009-12-04 - Assigned To Examiner

2009-09-09 - Notice Of Design Search Code Mailed

2009-09-08 - New Application Office Supplied Data Entered In Tram

2009-09-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

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Los Angeles CA 90067-2121
Phone Number: (310) 586-7700
Fax Number: (310) 586-7800