

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: B & W Tek, Inc.
SERIAL NO.: 78/317,689
TRADEMARK: B&WTEK INC. and Design
FILING DATE: October 23, 2003
CLASSES: 9 and 10 (as amended)
To: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Attn: Susan Stiglitz, Esquire
Trademark Examining Attorney
Law Office 103

REQUEST FOR RECONSIDERATION

In an Office Action dated June 23, 2004, the Examining Attorney made final a series of informalities: the drawing of the mark, the description of the mark, a disclaimer of certain matter, the specimen, the goods identification, and the filing basis. Applicant submits the following response and amendments in support of registration. A Notice of Ex Parte Appeal has also been entered into the record with the Trademark Trial and Appeal Board.



12-21-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #77

I. AMENDMENT TO IDENTIFICATION OF GOODS

Applicant respectfully requests the Examining Attorney to amend its identification of goods as follows, and to withdraw the necessary filing fee from Deposit Account No. 02-2555:

Class 9:

Optical spectrometers for non-medical use; lasers for non-medical use; light sources, namely, diodes, electric diodes, laser diodes, light diodes, light emitting diodes, super-luminescent laser diodes, and amplified spontaneous emission laser diodes; lighting systems comprised of light emitting diodes and conventional lamps; fiber optics; biomedical instruments, namely, DNA and protein chip scanners and cytometers; optical sensors for biological and chemical sensing, temperature measurement, and strain measurement; and analytical apparatus, namely, sensing and signaling devices for measurement and quality control of display of light emitting diodes, of materials processing, of environmental monitoring, and of gemstone analysis.

Class 10:

Optical spectrometers for medical use; lasers for medical use; surgical lamps, medical examination lamps; surgical instruments, namely, surgical lasers and scopes; apparatus for clinical diagnosis; and analytical apparatus for medical purposes.

II. SUBSTITUTE DRAWING PAGE

Before the instant application was handled by counsel, Applicant submitted a claim for color in its drawing, and in response the Examining Attorney required that Applicant resubmit its color claim in proper form. However, insofar as the color is a non-material element of the drawing, Applicant respectfully requests that the color claim be deleted altogether. See Exam Guide No. 1-03 (Part I.B.4). A compliant black and white

drawing of the mark is hereby provided on the attached Substitute Drawing Page. As indicated, the stippling in the substitute drawing is adequate to reflect shading in the mark, without the need for a color claim. Applicant respectfully requests the Commissioner for Trademarks to accept the attached Substitute Drawing Page. (See Exhibit A.)

III. DESCRIPTION OF THE MARK

The mark is comprised of Applicant's name in unitary form, "B&WTEKINC.," attached to an asterisk-like design component extending horizontally to the right from the "K" in the word "TEK."

IV. DISCLAIMER

Applicant respectfully requests that the Examining Attorney enter the following disclaimer:

No claim is made to the exclusive right to use the term "INC." apart from the mark as shown.

V. FILING BASIS

Applicant respectfully submits that the sole filing basis for the instant application is Section 1(a) (use in commerce).

VI. SUBSTITUTE SPECIMENS

In her Office Action, the Examining Attorney indicated that the application did not contain a specimen showing use of the mark for the identified goods. In response, Applicant respectfully attaches hereto one specimen for each class (as

amended) showing the mark in photographs as used on and in connection with the goods. (See Exhibit B.) In accordance with 37 C.F.R. § 2.20, Applicant submits the verified declaration of Dr. Sean Wang, Managing Director for Applicant, in support of the substitute specimen. (See Exhibit B.)

VII. CONCLUSION

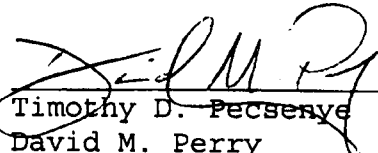
Whereas Applicant has complied with the requests of the Examining Attorney, Applicant respectfully requests that the subject mark be published for opposition.

Respectfully submitted,

B & W TEK, INC.

Dated: December 16, 2004

By:


Timothy D. Pecsénye
David M. Perry
Attorneys for Applicant

BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103
(215) 569-5767

cc: Dr. Sean Wang
Alan L. Zeiger, Esquire

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited in an envelope addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, via first class mail, postage prepaid on December 16, 2004.

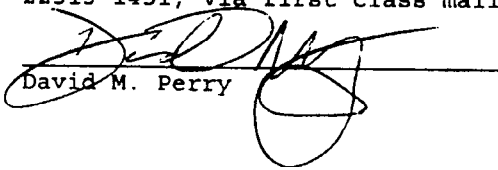

David M. Perry

EXHIBIT A

FEDERAL BUREAU OF INVESTIGATION

DATE: 1/15/71

TO: SAC, NEWARK

FROM: SA, NEWARK

RE: BAWSON DRIVE
NEWARK, NJ 07102

RE: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

TOPIC:

Optical spectrometers for non-medical use; lasers for non-medical use; light sources, namely, diodes, electric diodes, laser diodes, light diodes, light emitting diodes, super-luminescent laser diodes, and implanted spectrometers and laser diodes; light sources comprised of light emitting diodes and laser diodes; laser optics; biomedical instruments, namely DNA and protein dye scanners and cytometers; optical sensors for biological and chemical sensing; temperature measurement; and strain measurement; and analytical apparatus, namely, sensing and measuring devices for measurement and analysis of chemical compounds, including diodes for analysis of compounds and instruments and systems for gene core analysis. (Class.)

Optical spectrometers for medical use; lasers for medical use; surgical lamps; medical x-ray diagnostic lamps; surgical instruments, namely, surgical lamps and measuring apparatus for optical purposes; and analytical apparatus for medical purposes. (Class.)



EXHIBIT B

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DECLARATION

The undersigned, Dr. Sean Wang, hereby declares that:

1. He is Managing Director of the applicant corporation and owner of the above-identified application, and is authorized to execute this Declaration on behalf of said applicant corporation.
2. The substitute specimens of use provided by Applicant for Classes 9 and 10 were each in use in commerce on or in connection with the goods set forth in the above mentioned application (as amended), before the filing date of the instant application.

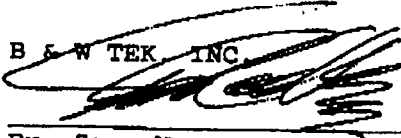
3. All statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated:

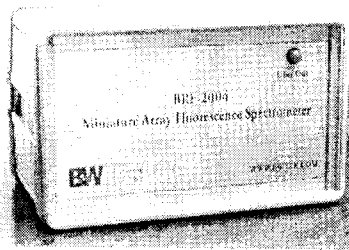
Dec 10, 2004

By:

B & W TEK, INC


Dr. Sean Wang
Managing Director

BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103
(215) 569-5767



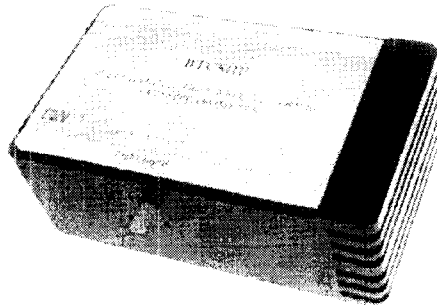


825 Dawson Dr. Suite 1, Newark, DE 19713

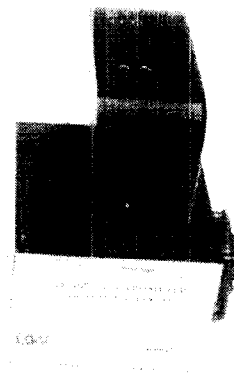
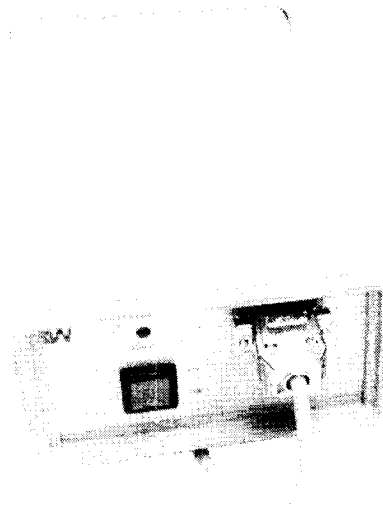
Tel: (302) 368-7824 Fax: (302) 368-7830

E-mail: info@bwi.com

Deep Well, H₂O-cooled CCD Spectrometer [B1C811E]



H₂O-cooled, Back-Thinned CCD Spectrometer [B1C611E]



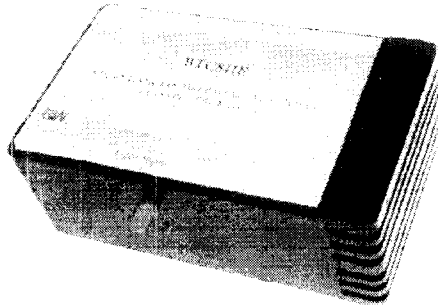


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http://www.bw-inc.com * E-mail: info@bw-inc.com

Deep Well, TE Cooled - 1000 Spectrometer [BIC8111]



TE Cooled, Back-Thinned CCD Spectrometer [BIC6111]

