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11596-77

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of:

Inventio AG

Law Office: 116

Serial No.: 79/023,084

TM Atty.: Sean Crowley

Filed: January 30, 2006

Trademark: SCHINDLER 6200

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF APPEAL AND MOTION TO SUSPEND AND REMAND

Sir:

Applicant, by its undersigned attorneys, hereby appeals the decision of the Examining Attorney refusing registration of applicant's above mark by finding the Amended Identification of Goods and Services in classes 7 and 9 unacceptable and that prior Registration Nos. 2,417,053 and 2,403,692 bar registration, which refusal the Examining Attorney made final in an Office Action mailed February 1, 2007.

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Applicant also moves, pursuant to Trademark Rule 2.142(d), to suspend the appeal and remand the application to the Examining Attorney to consider applicant's Response filed on January 11, 2007. Applicant requests that its attached Response be forwarded to the Examining Attorney (Sean Crowley, Law Office 116). It is respectfully submitted that there are adequate grounds for remand. If, upon considering




the Response, the Examining Attorney withdraws her refusal to register applicant's mark, the prosecution of an appeal will be unnecessary.

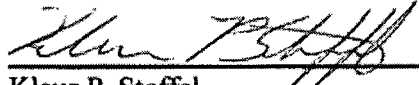
In view of the above, applicant respectfully requests that the Board institute and suspend the appeal and remand the application to the Examining Attorney to consider applicant's Amendment.

The fee of \$200 covering the appeal fee for two classes, and any additional fees required, should be charged to the undersigned attorneys' Deposit Account No. 06-2143.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 1, 2007:

Respectfully submitted,

Klaus P. Stoffel
Name of applicant, assignee or
Registered Representative

Signature


Klaus P. Stoffel
Registration No.: 31,668
WOLFF & SAMSON PC
One Boland Drive
West Orange, New Jersey 07052
Telephone: (973) 530-2086
Attorney for Applicant

August 1, 2007
Date of Signature

KPS/mj

Please place on Upper Right Corner
of Response to Office Action ONLY.

Examining Attorney: CROWLEY, SEAN

Serial Number: 79/023084



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RESPONSE

Sir:

In response to the Office Action of February 1, 2007, please amend the identification of goods and services in classes 7 and 9 as follows:

Elevators and freight elevators, vertical, horizontal and inclined transport systems, namely escalators, moving walkways, conveyors and parts thereof, namely traction sheaves to drive elevator and escalator belts, cables and ropes, hoisting machines, electric motors, transmissions belts for machines, motors and engines, transmission gears for machines, electrical drives for machines, motors and engines, brakes and brake linings, brake shoes, bearings for machines, couplings for machines, drive belts, drive shafts, control apparatus for machines, motors and engines, governors,

metal pulleys being parts of machines; steps and step rollers for escalators; pallets and pallet rollers for moving walkways; handrails for escalators and moving walkways; elevator cabins of metal; hydraulic motors and hydraulic drives for elevators; safety gears for elevators; door drives for elevators; cables and belts for elevator motors; counterweights for elevators, buffers to arrest elevators. Class 7

Electric and electronic measuring, signalling, monitoring, controlling and regulating apparatus, namely controls for monitoring movement of Individuals and for monitoring, controlling and regulating the operation of elevators, freight elevators, vertical, horizontal and inclined transport systems, namely escalators, moving walkways and conveyors; indicators of optical and acoustic signals, namely TFT, LCD, Projection and Plasma displays, computer monitors, emergency warning lights, signalling bells; electromagnetic signal transmitters, namely telephones, radio and modems; electric control panels; warning devices, namely fire alarm; burglar alarms, emergency calls, misuse alarms and malfunction alarms. namely emergency signal transmitters; apparatus for entering data and instructions; namely computers; data processors, and data recorders, namely transponders, electronic terminals with touch screens, electric control panels for elevators, computer monitors for listing, receiving, recording, transmitting, converting, sending and reproducing data, speech, texts, signals, sounds and images; microprocessors; remote monitoring and control apparatus for access control and for monitoring, controlling and regulating the operation of elevators, freight elevators,

vertical, horizontal and inclined transport systems, namely escalators, moving walkways and conveyors; speed limiters, namely controls for regulating speed ,of elevators, escalators, moving walkways and conveyors; systems for monitoring people and buildings, comprised primarily of embedded software controllers, light barriers, video cameras, photo cameras; electronic identification systems comprised primarily of video cameras, chip encoded cards, magnetic identifying cards; computer chips, namely Identification chips; electric transformers; computer software for security systems In relation to access control and for monitoring, controlling and regulating the operation of elevators, freight elevators, vertical, horizontal and inclined transport systems, namely escalators, moving walkways and conveyors; electronic publications, namely downloadable journals, manuals, newsletters, brochures and spare part listings In the field of security, elevators, escalators, moving walkways and conveyors; magnetic and digital storage media, namely blank electronic memories, DVD, video tapes, computer disks, cassettes, CD Roms as well as DVD, CD Roms, Computer disks and video tapes prerecorded with software in the field of security systems, elevators, escalators, moving walkways and conveyors for listing, receiving, recording, transmitting, converting, sending and reproducing data, speech, texts, signals, sounds and images; electrical wiring equipment, namely electrical cable ducts, cable Clips for electrical wiring, sheaths for electric cables, electric cables. electric wires, integrated electric circuits, electric switches, printed circuits, fuses. safety circuits, namely circuit breakers. Class

9

REMARKS

The Office Action of February 1, 2007 has been carefully considered.

Applicant has amended the identification of goods for Classes 7 and 9. Applicant submits that the identifications are now proper.

Turning now to the refusal under Section 2(d), as applicant has previously pointed out, Registration No. 2,417,053 had a due date of January 2, 2007 for a Declaration of Use, and Registration No. 2,403,692 had a due date of November 14, 2006 for a Declaration of Use. The undersigned is the attorney of record in both registrations. The owner of the Registrations in question is Schindler Aufzüge. The applicant in the present application, Inventio AG, is currently the IP holding company for Schindler Aufzüge. Marks previously registered in the name of Schindler Aufzüge, and still being used, were assigned to Inventio AG. Since Registration Nos. 2,417,053 and 2,403,692 were no longer being used they were not transferred to Inventio AG and have been allowed to go abandoned by not filing Declarations of Use. Since the six month grace period has also passed, the Registrations are abandoned. An Affidavit of Klaus P. Stoffel is attached.

Thus, it is respectfully submitted that Registration Nos. 2,417,053 and 2,403,692 cannot bar registration of the present mark.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 06-2143

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: , Commissioner for Trademarks, P.O. Box 145,1 Alexandria, Virginia 22313-1450, on August 1, 2007.

Klaus P. Stoffel
Name of applicant, assignee or
Registered Representative


Signature

August 1, 2007
Date of Signature

Respectfully submitted,



Klaus P. Stoffel
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AFFIDAVIT OF KLAUS P. STOFFEL

I, Klaus P. Stoffel, am the attorney of record in the above-identified trademark application. I am also the attorney of record in Trademark Registration Nos. 2,417,053 and 2,403,692.

In registration number 2,417,053, a Section 8 Declaration of Use was due on January 2, 2007. In registration number 2,403,692, a Section 8 Declaration of Use was due on November 14, 2006.

No Declaration of Use was filed in either of these registrations due to the fact that the trademark owner informed me that the marks were no longer in use and should be allowed to go abandoned.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were 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 any registration thereon.

August 1, 2007


Klaus P. Stoffel