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Filing date: **07/29/2008**

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

Proceeding	91176107
Party	Plaintiff Apple Computer, Inc., Apple Inc.
Correspondence Address	Jennifer D. Arkowitz Townsend and Townsend and Crew LLP Two Embarcadero Center, 8th Floor San Francisco, CA 94111-3834 UNITED STATES jda@townsend.com, mcm@townsend.com, v1t@townsend.com, d1h@townsend.com, litdocketing@townsend.com
Submission	Other Motions/Papers
Filer's Name	Alexandra M. Sepulveda
Filer's e-mail	amsepulveda@townsend.com,mmm@townsend.com
Signature	/Alexandra M. Sepulveda/
Date	07/29/2008
Attachments	Corrected Second Consented Motion to Suspend Pending Consolidation Order.pdf (9 pages)(276007 bytes)

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

In re Application No. 78/727,860
Filed: October 6, 2005
Published: February 27, 2007 in the Official Gazette
For: **LONPOD**

In re Application No. 78/866,801
Filed: April 21, 2006
Published: November 21, 2006 in the Official Gazette
For: **CONTROLPOD**

In re Application No. 78/867,126
Filed: April 21, 2006
Published: November 28, 2006 in the Official Gazette
For: **BACPOD**

In re Application No. 78/873,569
Filed: May 1, 2006
Published: November 28, 2006 in the Official Gazette
For: **ISYS LONPOD**

APPLE INC., <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">vs.</p> ISYS AUTOMATION, INC. <p style="text-align: center;">Applicant.</p>
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Opposition No. 91176107

**CORRECTED SECOND CONSENTED
MOTION TO SUSPEND PENDING
CONSOLIDATION ORDER UNDER 37
C.F.R. §2.117(a)**

This motion was inadvertently filed without the relevant attachments, which are hereby attached to this corrected motion. On March 31, 2008, Opposer Apple Inc., filed a Motion to Suspend Pending Consolidation Order Under 37 C.F.R. §2.117(a). Opposer was waiting to file the Motion to Consolidate pending Applicant's Answer to the Notice of Opposition filed on

March 11, 2008 (Opposition No. 91182911). On May 30, 2008, the Board issued an order suspending the proceedings until July 29, 2008 pending grant of the consolidation order. Applicant filed its Answer on April 21, 2008, and on June 23, 2008, the Opposer filed a consented Motion to Consolidate the Opposition Nos. 91176107 and 9118291. The Board has not yet considered or granted the motion. Pursuant to the Board's May 30, 2008 order, the proceedings in the captioned opposition are set to resume on July 29, 2008, despite the pending motion that will result in a consolidated schedule for all matters between the parties.

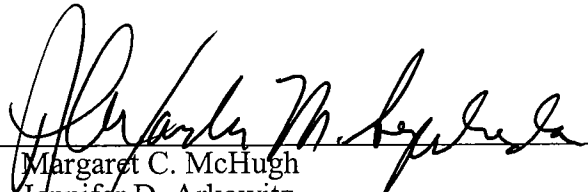
Accordingly, Opposer hereby requests further suspension of the captioned Opposition proceeding pursuant to 37 C.F.R. § 2.117(a) and T.B.M.P. § 510.02(a) pending consolidation of Opposition Nos. 91176107 and 91182911. Counsel for Applicant has provided consent to the present motion. Copies of the Motion to Suspend and Motion to Consolidate are enclosed herewith.

Opposer believes that all of the requirements for suspension have been met and the captioned Opposition should be suspended pending the consolidation of the two Opposition proceedings discussed above. Action toward that end is earnestly solicited.

Respectfully submitted,

TOWNSEND *and* TOWNSEND *and* CREW LLP

Date: 7/29/08

By: 
Margaret C. McHugh
Jennifer D. Arkowitz
Alexandra M. Sepulveda
Attorneys for Opposer
APPLE INC.

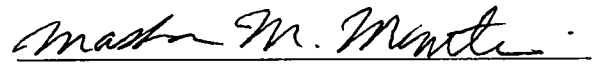
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Tel: 415-376-0200
Fax: 415-576-0300

61447804 v1

CERTIFICATE OF SERVICE

I hereby certify that on **July 29, 2008**, I served a copy of the following document(s) entitled **CORRECTED SECOND CONSENTED MOTION TO SUSPEND PENDING CONSOLIDATION ORDER UNDER 37 C.F.R. §2.117(a)** on counsel for Applicant by email and by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Barry F. Soalt, Esq.
Intellectual Property Law
Patents, Trademarks and Copyrights
Procopio, Cory, Hargreaves & Savitch LLP
530 B Street, Suite 2100
San Diego, CA 92101
Email: bfs@procopio.com
Attorneys for Applicant


Masha M. Martinenko

COPY

Attorney Docket No. 020750-03480US

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

In re Application No. 78/727,860
Filed: October 6, 2005
Published: February 27, 2007 in the Official Gazette
For: **LONPOD**

In re Application No. 78/866,801
Filed: April 21, 2006
Published: November 21, 2006 in the Official Gazette
For: **CONTROLPOD**

In re Application No. 78/867,126
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For: **BACPOD**

In re Application No. 78/873,569
Filed: May 1, 2006
Published: November 28, 2006 in the Official Gazette
For: **ISYS LONPOD**

APPLE INC.,

Opposer,

vs.

ISYS AUTOMATION, INC.

Applicant.

Opposition No. 91176107

**MOTION TO SUSPEND
PENDING CONSOLIDATION ORDER
UNDER 37 C.F.R. §2.117(a)**

On March 11, 2008, Opposer Apple Inc. filed a Notice of Opposition to ISYS Automation's application for **VAVPOD** (Opposition No. 91182911), and the Answer is due on April 20, 2008. Opposer intends to file a Motion to Consolidate the Opposition to **VAVPOD** with the Consolidated Opposition to **LONPOD, CONTROLPOD, BACPOD, and ISYS**

COPY

Opposition No. 91/176,107
Attorney Docket No. 020750-034800US

LONPOD but is unable to do so until Applicant files an Answer to the **VAVPOD** Opposition proceeding. See Fed. R. Civ. P. 42(a) and T.B.M.P. 511. Accordingly, Opposer hereby requests suspension of the captioned Opposition proceeding pursuant to 37 C.F.R. § 2.117(a) and T.B.M.P. § 510.02(a) due to the pending Opposition to **VAVPOD**. A copy of the Notice of Opposition to **VAVPOD** is enclosed herewith.

Opposer believes that all of the requirements for suspension have been met and the captioned Opposition should be suspended pending the consolidation of the two Opposition proceedings discussed above. Action toward that end is earnestly solicited.

Respectfully submitted,

TOWNSEND *and* TOWNSEND *and* CREW LLP

Date: March 31, 2008

By: Jennifer D. Arkowitz
Margaret C. McHugh
Jennifer D. Arkowitz
Attorneys for Opposer
APPLE INC.

Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Tel: 415-376-0200
Fax: 415-576-0300

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COPY

Opposition No. 91/176,107
Attorney Docket No. 020750-034800US

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2008, I caused the foregoing **MOTION TO SUSPEND PENDING CONSOLIDATION ORDER UNDER 37 C.F.R. §2.117(a)** to be served by United States mail, postage prepaid, in an envelope addressed to:

Barry F. Soalt
Procopio, Cory, Hargreaves & Savitch LLP
530 B Street, Suite 2100
San Diego, CA 92101
Attorney for Applicant



Dena Hong-Yee

COPY

Attorney Docket No. 020750-034800US

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

Opposition No. 91176107

In re Applications Nos. 78/727,860; 78/866,801; 78/867,126; 78/873,569

Filed: October 6, 2005; April 21, 2006; April 21, 2006; May 1, 2006, respectively

Published: February 27, 2007; November 21, 2006; November 28, 2006; November 28, 2006, respectively, in the Official Gazette

Applicant: Isys Automation, Inc.

Marks: **LONPOD; CONTROLPOD; BACPOD; ISYS LONPOD**, respectively

Opposition No.: 91182911

In re Application No. 77/092,749

Filed: January 26, 2007

Published: November 13, 2007 in the Official Gazette

Mark: **VAVPOD**

APPLE INC.,

Opposer,

vs.

ISYS AUTOMATION, INC.,

Applicant.

Opposition Nos.:

91176107; and
91182911

**OPPOSER'S MOTION TO
CONSOLIDATE**

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

In accordance with Fed. Rule Civ. Proc. 42(a) and T.B.M.P. § 511, Opposer Apple Inc., by and through its attorneys, hereby moves to consolidate Opposition No. 91176107 with newly instituted Opposition No. 91182911. The two oppositions involve identical parties, Apple Inc. and Isys Automation, Inc., and involve common questions of law and fact regarding the POD component of Applicant's marks.

COPY

Counsel for Applicant, Barry Soalt, consented to this motion in an email to Opposer's counsel on June 18, 2008. On May 19, 2008, Opposer filed for a stipulated extension of time, which has not yet been granted by the Board. Accordingly, Opposer requests the Board adopt the schedule currently in place for Opposition 91182911 as the schedule for the consolidated opposition, as follows:

Discovery closes:	11-16-2008
Plaintiff's testimony period to close:	02-14-2009
Defendant's testimony period to close:	04-15-2009
Rebuttal testimony period closes:	05-30-2009

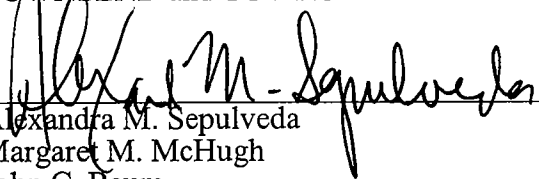
If however, the Board grants Opposer's May 19, 2008 motion, Opposer requests the Board adopt the following schedule as the schedule for the consolidated opposition:

Discovery closes:	12-16-2008
Plaintiff's testimony period to close:	03-16-2009
Defendant's testimony period to close:	05-15-2009
Rebuttal testimony period closes:	06-29-2009

Date: June 23, 2008

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP



Alexandra M. Sepulveda
Margaret M. McHugh
John C. Baum
Attorneys for Opposer
Apple Inc.


Two Embarcadero Center, 8th Floor
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Tel: (415) 576-0200
Fax: (415) 576-0300

COPY

PROOF OF SERVICE

I hereby certify that on June 23, 2008, I served a copy of the following document(s) entitled **OPPOSER'S MOTION TO CONSOLIDATE** on counsel for Applicant by email and by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

Barry F. Soalt, Esq.
Intellectual Property Law
Patents, Trademarks and Copyrights
Procopio, Cory, Hargreaves & Savitch LLP
530 B Street, Suite 2100
San Diego, CA 92101
Email: bfs@procopio.com
Attorneys for Applicant


Masha M. Martinenko

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