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Paper No.

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Wittorff :
Application No. 10/585,019 :
Filed: April 17, 2007 :
Attorney Docket No. 05198-P0017A :
Title: COMPRESSED BIODEGRADABLE CHEWING GUM :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed September 16, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed December 24, 2009, which set a shortened statutory period for reply of three months. An after-final amendment was received on June 14, 2010 along with a three-month extension of time so as to make timely the response, and an advisory action was mailed on July 6, 2010. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on June 25, 2010. A notice of abandonment was mailed on August 2, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

§ 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on September 16, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Patent No. 8,028,731 :
Issued: October 4, 2011 : LETTER REGARDING
Application No. 10/585,068 : PATENT TERM ADJUSTMENT
Filed: June 7, 2007 :
Attorney Docket No. 07040.0265 :

This is a decision on the REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT filed on December 4, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 231 days to 441 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 30, 2009 and ends on November 23, 2010, the day before the RCE was filed, the B delay would be 511 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on April 28, 2010, and the subsequent filing of the RCE on November 24, 2010. The 511 days of the over three year period therefore would be consumed by appellate review, beginning on April 28, 2010 and ending on November 24, 2010. The time for appellate review is excluded (511-210); thus the "B delay is 301 days. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 231 days (158 "A delay days" + 301 "B delay days" (511-210) - 228 Applicant delay days), not 441 days.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BROWDY AND NEIMARK, PLLC
1625 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Xavier Leroy et al :
Application No. 10/585,097 : NOTICE
Filed: June 30, 2006 :
Attorney Docket No. LEROY4

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,946,818 :
Issue Date: May 24, 2011 :
Application No. 10/585,114 : DECISION ON PETITION
Filed: August 31, 2007 :
Attorney Docket No. **20679-00224-US1** :

This is a decision on the petition under 37 CFR 1.182, filed November 21, 2011, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,946,818 on May 24, 2011. Petitioner requests duplicate Letters of Patent be issued.

The Office of Data Management is directed to issue duplicate Letters of Patent.

The fee for the instant petition is $400.00; deposit account 22-0185 will be charged an additional $270.00, accordingly.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to the Office of Data Management.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Kimberly Terrell—Office of Data Management FAX: 571-270-9958

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Decision Date : May 13,2011

In re Application of :

Simon Blumel

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10585175

Filed : 06-Jul-2007

Attorney Docket No : 5367-249PUS

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 13,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2812 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10585175
Filing Date	06-Jul-2007
First Named Inventor	Simon Blumel
Art Unit	2812
Examiner Name	CHARLES GARBER
Attorney Docket Number	5367-249PUS
Title	OPTOELECTRONIC MODULE, AND METHOD FOR THE PRODUCTION THEREOF

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Alfred W. Froebrich/
Name	Alfred W. Froebrich
Registration Number	38887

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/13/11

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No 10/585,182.: 7858724

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The changes presented correct typographical mistakes and do not effect the scope of the claims.

/Mark Eashoo, Ph.D./ — **SPE**

1767 — **Art Unit**

30 AUG 2010

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SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

In re Application of
WERNER *et al*
U.S. Application No.: 10/585,215
PCT No.: PCT/DE2005/000372
Int. Filing Date: 03 March 2005
Priority Date: 03 March 2004
Attorney Docket No.: 071956.0113
For: USE OF A METAL COMPLEX AS AN N-DOPANT FOR AN ORGANIC SEMICONDUCTING MATRIX MATERIAL, ORGANIC OF SEMICONDUCTING MATERIAL AND ELECTRONIC COMPONENT, AND ALSO A DOPANT AND LIGAND AND PROCESS FOR PRODUCING SAME

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed in the United States Designated/Elected Office (DO/EO/US) on 24 February 2009.

BACKGROUND

On 18 August 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 24 February 2009, applicants filed a response which was accompanied by, *inter alia*, the subject petition; a declaration signed by seven of the eight named inventors; a $200.00 petition fee; a five-month extension fee of $2,350.00; a $130.00 surcharge fee; and Exhibits 1 - 2.

On 19 May 2009, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that the "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," the "Date of Completion of all 35 U.S.C. 371 Requirements" and the "Filing or 371(c) Date" is 24 February 2009.

DISCUSSION

Applicants claim that one of the eight-named inventors (Olaf KÜHL) refuses to cooperate and filed a petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor.

Applicants completed items (1) and (3) with the subject petition.[1]

Regarding item (2), applicants claim that the nonsigning inventor's conduct constitutes a refusal to cooperate. Applicants included a letter dated 20 February 2009 from Volker Scholz, a European patent attorney. Mr. Scholz states that he twice sent the declaration to Mr. KÜHL by certified mail to the inventor's address. However, the inventor did not open the door to retrieve the letter. Mr. Scholz claims that the postal service then informed Mr. KÜHL to "fetch the letter," but that Mr. KÜHL did not appear at the post office to take the letter. A copy of several postal receipts in a foreign language were submitted with the petition and labeled as Exhibit 2.

This evidence is insufficient to satisfy MPEP 409.03(d)(II).

It is true that petitioners may show a refusal to cooperate by submitting sufficient proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent. However, petitioners have not made such a showing here.

First, the Office does not accept documents in a foreign language as evidence without an accompanying English translation. The postal receipts (Exhibit 2) submitted with the petition require an English translation to be considered. Second, copies of the cover letters purportedly sent to the nonsigning inventor should be provided. Finally, MPEP § 409.03(d) II requires that a complete copy of the application be presented (or attempted to be presented) to the nonsigning inventor for a refusal to cooperate be

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[1] The $200.00 fee for a petition under 37 CFR 1.47 has been paid. The last known address of the nonsigning inventor was provided in the petition.

accepted. Here, the letter by Mr. Scholz dated 20 February 2009 indicates that only a Declaration was provided to the nonsigning inventor.

For these reasons, item (2) of 37 CFR 1.47(a) is not satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by seven joint inventors on behalf of the nonsigning joint inventor. A review of the declaration shows that the address of joint inventor, Kentaro HARADA has been altered and the change was not initialed.

Any changes made in ink should be initialed and dated by the applicants prior to execution of the declaration. The Office will require a new oath or declaration if the alterations are not initialed and dated. *See* MPEP § 605.04(a). A new declaration for Mr. HARADA is required.

For these reasons, item (4) of 37 CFR 1.47(a) is also not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) is available.

The Form PCT/DO/EO/903 and filing receipt mailed 19 May 2009 are hereby **VACATED**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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999 Peachtree Street, N.E.
Atlanta, GA 30309

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DEC 16 2010

PCT LEGAL ADMINISTRATION

In re Application of :
WERNER *et al* :
U.S. Application No.: 10/585,215 :
PCT No.: PCT/DE2005/000372 :
Int. Filing Date: 03 March 2005 :
Priority Date: 03 March 2004 :
Docket No.: 17346-0088 :
For: USE OF A METAL COMPLEX AS AN N-DOPANT FOR AN ORGANIC SEMICONDUCTING MATRIX MATERIAL, ORGANIC OF SEMICONDUCTING MATERIAL AND ELECTRONIC COMPONENT, AND ALSO A DOPANT AND LIGAND AND PROCESS FOR PRODUCING SAME :

DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 01 November 2010.

BACKGROUND

On 30 August 2010, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 01 November 2010, applicants filed the subject response which was accompanied by, *inter alia*, documentary evidence in support of the petition (Exhibits 1 - 2), and a declaration executed by one of the named inventors.

DISCUSSION

In the renewed petition, applicants claim that Olaf KÜHL "could not be found or reached despite a diligent effort to do so." In the original petition, applicants asserted that the nonsigning inventor refused to cooperate.

As previously stated, a petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf

and on behalf of the nonsigning joint inventor.

Items (1) and (3) of 37 CFR 1.47(a) were completed in the original petition.

Regarding item (2) of 37 CFR 1.47(a), applicants resubmitted the letter from Mr. Volker Scholz dated 20 February 2009 along with copies of the German postal receipts. Applicants included translations of three phrases listed on the German postal receipts (two of which were listed in the letter by Mr. Scholz). Applicants claim that this evidence shows that Mr. KÜHL could not be found or reached despite a diligent effort to do so.

It is first noted that the objections listed in the decision mailed 30 August 2010 regarding a refusal to cooperate are still valid. With regards to applicants claim that the evidence shows that the nonsigning inventor cannot be reached, MPEP § 409.03(d)(I) of the MPEP discusses these situations, and states, in relevant part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47(a) . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

In the present case, applicants have not shown that a diligent effort was made to locate Mr KÜHL for the following reasons.

The letter by Mr. Scholz dated 20 February 2009 is not considered to meet the MPEP requirements that an affidavit or declaration of the facts be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. Moreover, applicants have shown only that documents were sent to the last known address of Mr. KÜHL, but that they were not delivered after two attempts. Apparently no further attempts were made.

In addition, applicants have not shown whether that address was still valid for Mr KÜHL, or whether the nonsigning inventor was on vacation, or out of town. There was also no evidence that a search of any type was made to locate Mr KÜHL.[1] Applicants have also not provided a copy of the cover letter as required as relevant evidence, and previously discussed in the prior decision.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet complete. Counsel is invited to contact the undersigned for further guidance to satisfy this requirement, if necessary.

Concerning item (4) of 37 CFR 1.47(a), applicants submitted a declaration signed by co-inventor Kentaro HARADA. This declaration lists only one inventor. The above-captioned application has eight inventors.

This declaration does not meet the requirements of 37 CFR 1.497(a)(3), and is not accepted. For this reason, item (4) of 37 CFR 1.47(a) is still not satisfied.

CONCLUSION

For the reason discussed above, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) is available.

Any further correspondence may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

---

[1] Such attempts could include internet searches for addresses, telephone numbers and email addresses. Contacting former employers and/or co-workers to obtain new contact information for Mr KÜHL would also be appropriate. These efforts are not extraordinary and are required to show that a diligent effort was made to contact the inventor.

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999 Peachtree Street, N.E.
Atlanta, GA 30309

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AUG 09 2011

PCT LEGAL ADMINISTRATION

In re Application of
WERNER *et al*
U.S. Application No.: 10/585,215
PCT No.: PCT/DE2005/000372
Int. Filing Date: 03 March 2005
Priority Date: 03 March 2004
Docket No.: 17346-0088
For: USE OF A METAL COMPLEX AS AN N-DOPANT FOR AN ORGANIC SEMICONDUCTING MATRIX MATERIAL, ORGANIC OF SEMICONDUCTING MATERIAL AND ELECTRONIC COMPONENT, AND ALSO A DOPANT AND LIGAND AND PROCESS FOR PRODUCING SAME

DECISION

This decision is in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 16 June 2011.

BACKGROUND

On 16 December 2010, a decision dismissing applicants' renewed petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 16 June 2011, applicants filed the subject response which was accompanied by, *inter alia*, a four-month extension and $1,730.00 extension fee, and documentary evidence in support of the petition (Exhibits 1 - 10).

DISCUSSION

Applicants claim that the conduct of Olaf KÜHL by avoiding or refusing all attempts to contact him regarding the subject application constitutes a refusal to cooperate.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the

nonsigning joint inventor.

Items (1) and (3) of 37 CFR 1.47(a) were previously satisfied.

Regarding item (2) of 37 CFR 1.47(a), applicants provided new evidence in the form of an affidavit of Manuela Krumbiegel (Exh. 5) listing the efforts used to contact the nonsigning inventor. These efforts included sending a complete copy of the subject application and declaration to a new work and personal address for Mr. KÜHL, which was found after searching the internet.

Ms. Krumbiegel also states that she talked to the wife of Mr. KÜHL on 24 April 2011 and confirmed his private address information. The documents mailed to his private address on 24 April 2011 were refused delivery by Mr. KÜHL. Ms. Krumbiegel later sent a complete copy of all the documents to two different email addresses found for Mr. KÜHL using the internet on 02 May 2011. No response to any of these efforts has been received. Sufficient documentary evidence was provided in the petition.

The failure of Mr. KÜHL to accept the documents mailed 24 April 2011 constitutes a refusal to cooperate as contemplated by section 409.03(d) of the MPEP.

Item (2) of 37 CFR 1.47(a) is now satisfied.

Regarding item (3), applicants state that they have located an updated work and residence address for Mr. KÜHL. (Exh. 1 - 2). The residence address will be used as the last known address for the nonsigning inventor required by MPEP § 409.03(e).

With regards to item (4) of 37 CFR 1.47(a), the initial declaration filed 24 February 2009 signed by seven inventors on behalf of the nonsigning inventor was not accepted as the address of Kentaro HARADA contained noninitialed changes. *See* MPEP § 605.04(a). A second declaration executed by Mr. HARADA was submitted on 01 November 2011. However, this declaration was not accepted as it listed only Mr. HARADA as an inventor in the subject application. In the subject response, applicants claim that Mr. HARADA was aware of the application's inventorship since he already signed the original declaration listing all eight inventors. Thus, the second declaration listing only Mr. HARADA as an inventor was proper.

This argument has been considered and rejected.

Each declaration stands on its own. The proper inventive entity must be recorded on each declaration for it to be accepted. *See* 37 CFR 1.497(a)(3).

Nonetheless, the original declaration containing the noninitialed change in the address of Mr. HARADA is now accepted.[1] This declaration is considered sufficient for the purposes of entry into the U.S. national phase despite the noninitialed alterations as

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[1] This acceptance is due to a change in Office policy dated 05 May 2011.

all other requirements of 37 CFR 1.497(a) and (b) are satisfied. Applicants should note that acceptance of a declaration containing a noninitialed alteration for purposes of national stage entry does not prohibit the examiner from later requiring a new oath or declaration to cure the defect.

For this reason, item (4) of 37 CFR 1.47(a) is also complete.

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 March 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 February 2009.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Olaf KühL
Wollweberstrasse 10
17489 Greifswald

In re Application of
WERNER *et al*
U.S. Application No.: 10/585,215
PCT No.: PCT/DE2005/000372
Int. Filing Date: 03 March 2005
Priority Date: 03 March 2004
Docket No.: 17346-0088
For: USE OF A METAL COMPLEX AS AN N-DOPANT FOR AN ORGANIC SEMICONDUCTING MATRIX MATERIAL, ORGANIC . . .

MAILED
AUG 09 2011
PCT LEGAL ADMINISTRATION

Dear Mr. Kühl:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

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Alexandria, VA 22313-1450
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MAILED

NOV 03 2011

OFFICE OF PETITIONS

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET NE
ATLANTA GA 30309

In re Application of :
Werner, et al. :
Application No. 10/585,215 : DECISION ON PETITION
Filed: February 24, 2009 :
Attorney Docket No. 17346-0088 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 21, 2011.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 23, 2010. This Notice set a statutory period for reply of three (3) months. No issue having been received, the application became abandoned on September 24, 201. The Office mailed a Notice of Abandonment on August 31, 2011.

On petition, applicant asserts that he filed the issue fee transmittal form on September 23, 2010. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of a facsimile confirmation report, dated September 23, 2010, and showing that 1 page was received by the Office. See MPEP 503. In addition, applicant has provided a copy of the form, bearing a Certificate of Transmission under 37 CFR 1.8, dated September 23, 2010.

In view thereof, **the holding of abandonment is withdrawn.**

As applicant has not provided proof that the issue and publication fees were charged to his deposit account, Deposit Account No. 19-5029 has been charged $1510 for the issue fee and $300 for the publication fee, as authorized.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 23, 2012

In re Application of :

Ansgar Werner

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10585215

Filed : 24-Feb-2009

Attorney Docket No : 17346-0088

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2815 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10585215
Filing Date	24-Feb-2009
First Named Inventor	Ansgar Werner
Art Unit	2815
Examiner Name	ANTHONY HO
Attorney Docket Number	17346-0088
Title	USE OF A METAL COMPLEX AS AN N-DOPANT FOR AN ORGANIC SEMICONDUCTING MATRIX MATERIAL, ORGANIC OF SEMICONDUCTING MATERIAL AND ELECTRONIC COMPONENT, AND ALSO A DOPANT AND LIGAND AND PROCESS FOR PRODUCING SAME

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Peter G. Pappas/
Name	Peter G. Pappas
Registration Number	33205

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,255	07/05/2006	Tetsujiro Kondo	291587US8PCT	6069

22850 7590 08/04/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HEIDEMANN, JASON E	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/04/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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MAIL

AUG 04 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
KONDO, TETSUJIRO et al
Application No. 10/585,255
Filed: July 05, 2006
For: **IMAGE PROCESSING DEVICE AND METHOD, RECORDING MEDIUM, AND PROGRAM FOR TRACKING A DESIRED POINT IN A MOVING IMAGE**

DECISION ON REQUEST
FOR CONSIDERATION OF IDS

This is a decision on the petition, filed June 25, 2010, under 37 CFR 1.181 to consider the references cited in the Information Disclosure Statement filed July 05, 2006.

Petitioner states,

> "The references in the IDS are discussed in an English language International Search Report submitted with the IDS. Thus, in accordance with MPEP § 609.04(a)(iii), an English language foreign Office Action/Search Report satisfies the requirement for concise explanation of the relevance of the foreign language references, as required under 37 C.F.R. § 1.98. Specifically, the above cited portion of the MPEP states that "where the information listed is not in the English language, but was cited in a Search Report or other action by a Foreign Patent Office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the Search Report or action which indicates the degree of relevance found by the foreign office."

REGULATIONS AND PRACTICE:

§ 1.97 Filing of information disclosure statement. States in part:
(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.
(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:
(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

§ 1.98 Content of information disclosure statement. States in part:
(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.
(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.
(2) A legible copy of:

(i) Each foreign patent;
(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
(iv) All other information or that portion which caused it to be listed.
(3)
(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

MPEP 609.04(a) [R-7] Content Requirements for an Information Disclosure Statement States in part:

III. CONCISE EXPLANATION OF RELEVANCE FOR NON-ENGLISH LANGUAGE INFORMATION

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.

OPINION

A review of the application file reveals that a Non final office action along with an a marked up PTO-1449 document, from IDS submitted July 05, 2006 by applicant, were mailed for the above-identified application on January 07, 2010. The PTO-1449 document indicated it was considered by the examiner on December 30, 2009. Documents AO, AP, and AQ were lined through; document AR was initialed; and document AW was left blank. There was no explanation why documents AO, AP, and AQ were lined through or why document AW was left blank.

In accordance with 37 CFR 1.97 (b)(1) and (3) the file record shows the IDS was timely filed. In accordance with 37 CFR 1.98(a)(1) and (2) the file record shows a list of all references for consideration was filed along with a legible copy of each cited reference. In accordance with MPEP 609.04(a)(III) the file record shows the documents AO, AP, and AQ that were lined through in the PTO 1449 were listed in an English –language version of the search report by a counter part foreign application which indicates the degree of relevance found by the foreign application. This indicates a concise explanation of relevance in accordance with 37 CFR 1.98(a)(3) has also been met.

Therefore, the petition is **GRANTED**.

The application file is being forwarded to the examiner to consider the documents listed in the PTO 1449 that were lined through (documents AO, AP, AQ) and left blank (document AW) in the Information Disclosure Statement filed on July 05, 2006. If the examiner continues to believe the references should not be considered, then an explanation of the reason in accordance with 37 CFR 1.97, 37 CFR 1.98, and MPEP 609.04(a) must be provided.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Tetsujiro KONDO, et *al.* :
Application No. 10/585,255 : DECISION GRANTING PETITION
Filed: July 5, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **291587US8PCT** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W.
Suite 1200
Washington DC 20006

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,640,556	:	
Oota Hidehiko	:	DECISION ON
Application No. 10/585,322	:	PETITION
Filed: July 6, 2006	:	
Atty Docket No. 050850-07109	:	

This is a decision on the PETITION FOR ISSUANCE OF DUPLICATE LETTERS PATENT UNDER 37 CFR § 1.182 filed October 1, 2010, requesting a duplicate because the original Letters Patent has been lost. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee of $400.

Accordingly, the petition is **GRANTED**.

The Office of Data Management is directed to issue a Duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272 - 3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 x 119.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, (FAX) 571-270-9753

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Yoon et al.	:	
Application No. 10/585,358	:	DECISION ON PETITION
Filed: July 6, 2006	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 29137.183.00	:	

This is a decision on the petition under 37 CFR 1.55(c), filed June 3, 2010, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) – (d) and (f) for the filing date of the Korean Patent Application No. 10-2004-0074307, filed September 16, 2004.

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(3) the surcharge set forth in § 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition does not comply with item (2) above. The petitioner did not supply an Application Data Sheet (ADS) in accordance with 37 CFR 1.76 or a the oath or declaration identifying the prior foreign application for which priority is claimed, setting forth the application number and filing date of the application for which priority is claimed including the country.

Accordingly, before the petition under 37 CFR 1.55(c) can be granted, an ADS in accordance with 37 CFR 1.76 or a the oath or declaration, along with a renewed petition under 37 CFR 1.55(c), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of :
Yoon et al. :
Application No. 10/585,358 : DECISION ON PETITION
Filed: July 6, 2006 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 29137.183.00 :

This is a decision on the renewed petition under 37 CFR 1.55(c), filed September 21, 2010, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) – (d) and (f) for the filing date of the Korean Application No. 10-2004-0074307, filed September 16, 2004.

The petition is **GRANTED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(3) the surcharge set forth in § 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application is a national stage entry of PCT/KR05/02149 filed on July 5, 2005, which is after November 29, 2000 and within 12 months of September 16, 2004. On September 21, 2010, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A filing receipt accompanies this decision on petition.

This matter is being referred to Technology Center AU 1762 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to Alicia Kelley at (571) 272-6059. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/585,358	07/06/2006	1762	1000	29137.183.00	22	1

CONFIRMATION NO. 2782

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

CORRECTED FILING RECEIPT

OC000000045389852

Date Mailed: 01/11/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Sung Cheol Yoon, Daejeon-city, KOREA, REPUBLIC OF;
Young Chul Won, Kyungki-do, KOREA, REPUBLIC OF;
Young Whan Park, Daejeon-city, KOREA, REPUBLIC OF;
Sung Ho Chun, Daejeon-city, KOREA, REPUBLIC OF;
Dai Seung Choi, Daejeon-city, KOREA, REPUBLIC OF;
Won Kook Kim, Daejeon-city, KOREA, REPUBLIC OF;
Tae Sun Lim, Daejeon-city, KOREA, REPUBLIC OF;
Heon Kim, Jeollanam-do, KOREA, REPUBLIC OF;
Jung Min Lee, Kyungsangbuk-do, KOREA, REPUBLIC OF;
Kyung Lim Paik, Daejeon-city, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 30827

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/KR05/02149 07/05/2005

Foreign Applications

REPUBLIC OF KOREA 10-2004-0052612 07/07/2004
REPUBLIC OF KOREA 10-2004-0074307 09/16/2004

If Required, Foreign Filing License Granted: 04/16/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/585,358**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Method of producing cyclic olefin polymers having polar functional groups, olefin polymer produced using the method and optical anisotropic film comprising the same

Preliminary Class

526

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

MAILED

MAR 26 2012

OFFICE OF PETITIONS

In re Application of

Srivats, et al.

Application No. 10/585,389

Filed: October 14, 2008

Attorney Docket No. **04-40395-US**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 27, 2012.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **dismissed**.

This application was held abandoned on July 19, 2011, after it was believed that no response was received to the final Office action mailed April 18, 2011. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 23, 2012, indicating that a reply to the notice was not received.

Petitioner maintains the imposition of the holding of abandonment was improper because a Notice of Appeal was filed on October 18, 2011

A review of the application file history reveals that an amendment after final rejection was filed on October 18, 2011, along with a Notice of Appeal and fee to be entered in the event that the amendment after final rejection did not place the application in condition for allowance. On November 22, 2011, an Advisory action was mailed indicating that the amendment filed October 18, 2011, failed to place the application in condition for allowance. Accordingly, applicant had two months from the date the Notice of Appeal was filed in which to file an appeal brief. See 37 CFR 41.37. Extension of time where available under 37 CFR 1.136(a). The record does not reflect that an appeal brief was filed within the allowable period. The period set for reply to the final Office action may have been tolled by the filing of the Notice of Appeal, but a new period was set by the filing of the Notice of Appeal allowing an extendable period of two months in which to file an appeal brief. No response, i.e., an appeal brief or a Request for Continued Examination was filed within the allowable period. The application was, therefore, abandoned on December 19, 2011.

The petition is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1860.00 for a large entity and $930.00 for a verified small

entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of

Srivats, et al.

Application No. 10/585,389

Filed: October 14, 2008

Attorney Docket No. **04-40395-US**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 27, 2012.

The decision mailed March 26, 2012, is **VACATED**.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on July 19, 2011, after it was believed that no response was received to the final Office action mailed April 18, 2011. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 23, 2012, indicating that a reply to the notice was not received.

Petitioner maintains the imposition of the holding of abandonment was improper because a Notice of Appeal was filed on October 18, 2011

A review of the application file history reveals that an amendment after final rejection was filed on October 18, 2011, along with a Notice of Appeal and fee to be entered in the event that the amendment after final rejection did not place the application in condition for allowance. On November 22, 2011, an Advisory action was mailed indicating that the amendment filed October 18, 2011, failed to place the application in condition for allowance. Accordingly, applicant had two months from the date the Notice of Appeal was filed in which to file an appeal brief. See 37 CFR 41.37. Extensions of time are available under 37 CFR 1.136(a). The period in which to file an appeal brief after the filing of a Notice of Appeal is extendable five additional months after the two month period given. Accordingly, applicant has until midnight EST on May 18, 2012, in which to file appeal brief and remit the funds for the appropriate extension of time. It appears that the Notice of Abandonment mailed February 23, 2012, and the imposition of the holding of abandonment was premature because the extendable period during which the appeal brief could be filed is not yet expired. The holding of abandonment is withdrawn, accordingly.

In re Application No. 10/585,389

The application file is being forwarded Technology Center GAU 3617, to await the filing of the appeal brief or other appropriate filing. Petitioner is again cautioned that if the appeal brief, or other appropriate filing, is not made by May 18, 2012, along with the necessary extension of time, the application will again go abandoned for failure to file an appeal brief after the filing of the Notice of Appeal on October 18, 2011.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of :
Picard et al. :
Application No. 10/585,396 : DECISION ON PETITION
Filed: July 6, 2006 :
Attorney Docket No. PU050068 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 31, 2011, as required by the Notice of Allowance and Fee(s) Due mailed October 29, 2010. Accordingly, the date of abandonment of this application is February 1, 2011. A Notice of Abandonment was mailed February 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Caron et al. :
Application No. 10/585,400 :
Filed: July 7, 2006 :
Attorney Docket No. 0604-1014 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2011.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed via Customer Number however the request does not designate a Customer Number to be withdrawn by. The request was signed by Liam McDowell on behalf of all the practitioners (with registration numbers) of record listed on the attached papers.

Further, the Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40(c).

The current request does not properly withdraw practitioners via Customer Number as it does not set forth all of the above certifications. Therefore, the request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed and provide all of the above listed certifications pursuant to 37 CFR 10.40(c).

There is an outstanding Office action mailed November 3, 2010 that requires a reply from the applicant.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 21 2011

OFFICE OF PETITIONS

LADAS & PARRY LLP
1040 AVENUE OF THE AMERICAS
NEW YORK NY 10018-3738

In re Patent No. 7,902,162 :
Issue Date: March 8, 2011 :
Application No. 10/585,623 : DECISION ON PETITION
Filed: July 11, 2006 :
Attorney Docket No. U 016364-6 :

This is a decision on the petition under 37 CFR 3.81(b), filed April 7, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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OCT 2 1 2010

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of
Kevin Turnbull, et al.
Application No. 10/585,743
Filed: August 11, 2008
Attorney Docket No. 1817-0173PUS1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by James M. Slattery on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed September 16, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN TURNBULL
17 LISROLAND VIEW
KNOCKBRIDGE, DUNDALK, COUNTY LOUTH
IRELAND

cc: MOFFETT RESEARCH AND DEVELOPMENT LIMITED
ARDEE ROAD, COUNTY LOUTH
DUNDALK, IRELAND

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/585,743	08/11/2008	Kevin Turnbull	1817-0173PUS1

CONFIRMATION NO. 1508

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000044076192

Date Mailed: 10/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NIXON & VANDERHYE, PC
901 North Glebe Road
11th Floor
Arlington, VA 22203

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Patrick Dawson Bailey :
Application No. 10/585,864 : DECISION ON PETITION
Filed: July 11, 2006 : TO WITHDRAW
Attorney Docket No. 0206.71 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on August 11, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SWANSON & BRATSCHUN, L.L.C.**
8210 Southpark Terrace
Littleton, CO 80120

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United States Patent and Trademark Office
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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of :
John A. Harold-Barry et al. :
Application No. 10/585,907 : ON PETITION
Filed: July 12, 2006 :
Attorney Docket No. GB04 0018 US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6842.

This application is being referred to Technology Center AU 2627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Carl Friedman
Petitions Examiner
Office of Petitions

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,947,253
Issued: May 24, 2011
Application No. 10/585,928
Filed: July 13, 2006
Attorney Docket No. P-8972-US

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 6, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

MAILED

FEB 28 2011

PCT LEGAL ADMINISTRATION

In re Application of :
KOHNO *et al* :
U.S. Application No.: 10/585,985 :
PCT No.: PCT/JP2005/000737 :
Int. Filing Date: 21 January 2005 :
Priority Date: 21 January 2004 :
Attorney Docket No.: 80441(302767) :
For: PROTEIN IMMOBILIZATION METHOD :
AND QUANTIFICATION METHOD :

DECISION

This is a decision on the petition under 37 CFR 1.78(a)(3) filed 19 October 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Here, the petition does not satisfy item (1) above. Applicants submitted an amendment that states:

> This application is a U.S. national stage application which claims priority under 35 USC §119 and 35 USC §120 to the following two international applications designating the United States: PCT/JP2004/000504, filed on January 21, 2004 the entirety of which is incorporated by reference and

PCT/JP2005/000737, filed on January 21, 2005 the entirety of which is incorporated by reference.

With regard to international application number PCT/JP2005/000737, the present application cannot claim benefit under 35 U.S.C. 120 to this application because both applications have the same filing date. In other words, the present application is merely a different stage of international application PCT/JP2005/000737. *See* MPEP § 1893.03(c), next to last paragraph.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. Here, the amendment does not identify the relationship of international application PCT/JP2004/000504 to the instant application.

Moreover, the reference to add the prior-filed application PCT/JP2004/000504 is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required. In addition, the improper incorporation by reference statements must be removed.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the Office of PCT Legal Administration at (571) 273-04559, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

MAILED

MAY 26 2011

PCT LEGAL ADMINISTRATION

In re Application of :
KOHNO *et al* :
U.S. Application No.: 10/585,985 :
PCT No.: PCT/JP2005/000737 :
Int. Filing Date: 21 January 2005 : **DECISION**
Priority Date: 21 January 2004 :
Attorney Docket No.: 80441(302767) :
For: PROTEIN IMMOBILIZATION METHOD :
AND QUANTIFICATION METHOD :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed 28 March 2010, to accept an unintentionally delayed claim for the benefit of priority to the prior-filed international applications set forth in the amendment filed with the petition.

The renewed petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

In this case, the renewed petition still does not satisfy item (1) above. Applicants submitted an amendment to the specification that states:

> This application is a U.S. national stage application which claims priority under 35 USC §119 and 35 USC §120 to the following international application designating the United States: PCT/JP2004/000504, filed on January 21, 2004 which is a priority application of the instant application, and this application also claims priority under 35 USC §119 to

PCT/JP2005/000737, filed on January 21, 2005.

As previously noted, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application.

Here, the amendment to the specification still does not identify the proper relationship of PCT/JP2004/000504 to the instant application. Moreover, the claim of priority to PCT/JP2005/000737 under 35 USC §119 is not allowed. The present application cannot claim benefit under 35 U.S.C. 119 to this application because both applications have the same filing date. *See* MPEP § 1893.03(c), next to last paragraph.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required. In addition, the improper incorporation by reference statements must be removed.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the Office of PCT Legal Administration at (571) 273-04559, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

MAILED

SEP 30 2011

PCT LEGAL ADMINISTRATION

In re Application of :
KOHNO *et al* :
U.S. Application No.: 10/585,985 :
PCT No.: PCT/JP2005/000737 :
Int. Filing Date: 21 January 2005 :
Priority Date: 21 January 2004 :
Attorney Docket No.: 80441(302767) :
For: PROTEIN IMMOBILIZATION METHOD :
AND QUANTIFICATION METHOD :

DECISION

This is a decision on the second renewed petition under 37 CFR 1.78(a)(3) filed 03 August 2011, to accept an unintentionally delayed claim for the benefit of priority to the prior-filed international applications set forth in the amendment filed with the petition.

The second renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). The petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Items (2) and (3) were previously submitted. Regarding item (1), applicants included an amendment to the specification which identifies the proper relationship of the international applications to the instant application. All items of 37 CFR 1.78(a)(3) are now complete.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application accompanies this decision on petition.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

This matter is being referred to Technology Center Art Unit 1641 for appropriate action on the amendment filed 03 August 2010, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed international application designating the United States of America.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

MAILED

OCT 12 2010

PCT LEGAL ADMINISTRATION

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Orum & Roth
53 W Jackson Boulevard
Ste 1616
Chicago IL 60604

In re Application of	:	
LAURE, Stefan	:	
Application No.: 10/586,009	:	DECISION
PCT No.: PCT/DE2005/000047	:	
Int. Filing Date: 14 January 2005	:	
Priority Date: 15 January 2004	:	
Attorney's Docket No.: 14430	:	
For: PLASMA TREATMENT OF LARGE-SCALE COMPONENTS	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.137(b) filed 30 December 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 January 2005, applicant filed international application PCT/DE2005/000047, which designated the U.S. and claimed a priority date of 15 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 28 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2006 (15 July 2006 being a Saturday).

On 12 July 2006, applicant filed a submission for entry into the national stage in the United States which included, *inter alia*, the U.S. Basic National Fee and a declaration of the inventor.

On 02 November 2007 , the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required because the declaration filed 12 July 2006 failed to identify the citizenship of the inventor. The NOTIFICATION set a two-month extendable period for response.

On 18 June 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned as to the United States of

America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 02 November 2007 within the time period set therein.

On 30 December 2008, applicant filed the instant petition under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a declaration of the inventor.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the required reply, a proper declaration of the inventor, has not been provided. See the section "Declaration of the Inventor" below.

As to item (2), applicant submitted the petition fee on 30 December 2008.

As to item (3), a grantable petition has not yet been provided.

Declaration of the Inventor

The declaration filed 30 December 2008 is not sufficient because the "wording of an oath or declaration cannot be amended. If the wording is not correct or if all of the required affirmations have not been made or if it has not been properly subscribed to, a new oath or declaration is required. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration." MPEP § 602.01.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains abandoned for the reasons set forth in the NOTIFICATION OF ABANDONMENT mailed 18 June 2008.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal

Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

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Orum & Roth
53 W Jackson Boulevard
Ste 1616
Chicago IL 60604

MAILED

JAN 18 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
LAURE, Stefan	:	
Application No.: 10/586,009	:	DECISION
PCT No.: PCT/DE2005/000047	:	
Int. Filing Date: 14 January 2005	:	
Priority Date: 15 January 2004	:	
Attorney's Docket No.: 14430	:	
For: PLASMA TREATMENT OF LARGE-SCALE COMPONENTS	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.137(b) filed 19 November 2010 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 January 2005, applicant filed international application PCT/DE2005/000047, which designated the U.S. and claimed a priority date of 15 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 28 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2006 (15 July 2006 being a Saturday).

On 12 July 2006, applicant filed a submission for entry into the national stage in the United States which included, *inter alia*, the U.S. Basic National Fee and a declaration of the inventor.

On 02 November 2007 , the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required because the declaration filed 12 July 2006 failed to identify the citizenship of the inventor. The NOTIFICATION set a two-month extendable period for response.

On 18 June 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 02 November 2007 within the time period set therein.

On 30 December 2008, applicant filed a petition under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a declaration of the inventor.

On 12 October 2010, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.137(b) because the declaration of the inventor filed 30 December 2008 was not proper.

On 19 November 2010, applicant filed the instant renewed petition under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a declaration of the inventor.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of the inventor filed 19 November 2010 is sufficient..

As to item (2), applicant submitted the petition fee on 30 December 2008.

As to item (3), the required statement has been provided.

Declaration of the Inventor

The declaration of the inventor filed 19 November 2010 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

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APR 20 2011

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of	:	
SOUTHARD, et al	:	
Application No. 10/586,036	:	DECISION ON PETITION
Filed: August 19, 2008	:	TO WITHDRAW
Attorney Docket No. 560252000100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 4, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Madeline I. Johnston on behalf of the attorneys of record associated with Customer Number 25226.

The attorneys of record associated with Customer Number 25226 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: VASOGENIX PHARMACEUTICALS, INC.
8527 BLUEJACKET STREET
LENEXA KS 66214

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HESPOS & PORCO LLP
110 WEST 40TH STREET
SUITE 2501
NEW YORK NY 10018

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of :
Minoru Fujimoto :
Application No. 10/586,145 : ON PETITION
Filed: July 14, 2006 :
Attorney Docket No: P1360US :

This is a decision on the petition filed February 18, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 8, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned September 9, 2010. Accordingly, a Notice of Abandonment was mailed December 21, 2010.

This matter is being referred to Technology Center 1789 for appropriate action on the amendment filed February 18, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,204	09/29/2006	Wei-Ping Chen	2009_1195	4772

513 7590 11/10/2010

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER	
KOSACK, JOSEPH R	

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
11/10/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
eoa@wenderoth.com

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NOV 10 2010

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

: PETITION DECISION

In re Application of:
Chen et al.
Serial No.: 10/586,204
Filed: July 13, 2006
Attorney Docket No.: **2009_1195**

The request filed October 22, 2010 to withdraw finality of the Office action of July 22, 2010 is being treated as a petition under 37 CFR § 1.181.

BACKGROUND

More recently, applicants filed an RCE on June 2, 2010.

In response thereto, the examiner mailed a final Office action on July 22, 2010 setting a three month shortened statutory period for reply. In this Office action, claims 38-44 were pending and were rejected. Specifically, claims 38-44 continued to be rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. in view of Nettekoven et al. and Berlin et al. Claims 38-44 were previously provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13- 18 of copending Application No. 10/586,287. Claims 38-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. in view of Nettekoven et al. and Berlin et al. Claims 38-44 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over at least claims 44 and 54-60 of copending Application No. 10/586,287.

In reply to the final Office action of July 22, 2010, applicants filed this petition under 37 CFR § 1.181 on October 22, 2010, requesting withdrawal of finality of the Office action of July 22, 2010.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that the "Examiner has misinterpreted the claims, and as a result, the final rejection is premature and should be withdrawn (see MPEP 706.07(d)). More specifically, applicants argue that the "Examiner has misinterpreted claim 38, and that the finality of the rejection set forth in the current Office Action is premature, and should be withdrawn.

Applicants' argument has been accorded careful consideration but it is not persuasive. Applicants should note that arguments to the merits of a rejection is not a petitionable matter but an appealable one. Note the following rule:

> § 1.181 Petition to the Director.
> (a) Petition may be taken to the Director:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

It is noted that applicants' argument in the instant petition is not directed to an action or requirement of the examiner but is directed solely to the merits of the rejections maintained by the examiner. Specifically, applicants do not agree with the examiner's rejections over claims 38-44. It is deemed that a *clear issue for appeal* between the examiner and applicants regarding the status of the claimed invention and reasons why the claims are currently rejected has been established. Applicants are reminded of the right to the Appeal process concerning substantive issues involving the rejection of claims; see 37 CFR 1.191.

Accordingly, applicants' arguments are not persuasive that the final Office action issued July 22, 2010 was premature and the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED**.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
SOUTHARD, et al :
Application No. 10/586,209 : DECISION ON PETITION
Filed: November 8, 2007 : TO WITHDRAW
Attorney Docket No. 560252000700 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 4, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Madeline I. Johnston on behalf of the attorneys of record associated with Customer Number 25226.

The attorneys of record associated with Customer Number 25226 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: VASOGENIX PHARMACEUTICALS, INC.
8527 BLUEJACKET STREET
LENEXA KS 66214

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/586,209	11/08/2007	Jeffrey L. Southard	560252000700

CONFIRMATION NO. 2819

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

POWER OF ATTORNEY NOTICE

OC000000047227077

Date Mailed: 04/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/04/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

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OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Jack A. Elias :
Application No. 10/586,254 : DECISION ON PETITION
Filed: October 31, 2008 :
Attorney Docket No. YALE-107/02US :
306577-2152

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 28, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2010. A Notice of Abandonment was mailed on August 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received September 7, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,401	06/04/2007	Diane Mathis	50339/002002	2533

21559 7590 08/06/2010

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER	
GIBBS, TERRA C	

ART UNIT	PAPER NUMBER
1635	

NOTIFICATION DATE	DELIVERY MODE
08/06/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

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AUG 06 2010

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	:	
Mathis et al.	:	
Serial No.: 10/586,401	:	PETITION DECISION
Filed: June 4, 2007	:	
Attorney Docket No.: **50339/002002**	:	

This is in response to the petition under 37 CFR § 1.181, filed July 21, 2010, requesting that the finality of the Office action of May 25, 2010 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on December 4, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-51 were pending. The examiner rejected claims 1-3 and 6-23 and withdrew claims 4, 5 and 24-51 from consideration. The examiner rejected claims 1-3 and 6-23 under 35 USC 112, second paragraph, as indefinite. The examiner rejected claims 1-3 and 6-23 under 35 USC 112, first paragraph, as non-enabling for preventing. Claims 1-3, 6-16 and 19-23 were rejected under 35 USC 102 (e) as being anticipated by US 7,271,156 ('156). Claims 1-3, 6-16 and 19-23 were rejected under 35 USC 102 (e) as being anticipated by US 7,208,478 ('478). Claims 1-3, 6-17 and 19-23 were rejected under 35 USC 102 (e) as being anticipated by US 6,613,751 ('751). Claims 1-3 and 6-23 were rejected under 35 USC 102 (b) as being anticipated by US 6,194,388 ('388).

In reply to the non-final Office action of December 4, 2008, applicants filed a response on April 6, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action, and amendments to the claims.

On May 25, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 6-23 and 52-74 were pending and were rejected claims. Claims 1, 6-23 and 52-74 were newly rejected under 35 USC 102 (b) as being anticipated by US 6,207,646 ('646). The examiner indicated that applicants' amendments necessitated the new ground(s) of rejection set forth in the Office action.

In response thereto, applicants filed a petition on July 21, 2010, requesting that the finality of the Office action of May 25, 2010 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on July 21, 2010, applicants request reconsideration of the final Office action mailed by the examiner on May 25, 2010. Specifically, applicants argue that "claim 1 was amended to remove reference to an agent and to specify that the pharmaceutical composition comprises a polynucleotide comprising the sequence 5' TCC ATG ACG TTC CTG ACG TT 3' (SEQ ID NO: 3). SEQ ID NO: 3 was originally recited in claim 4, now cancelled. Claim 56 was added in the April 6, 2009 amendment and recites a method of treating or reducing inflammatory arthritis in a mammal by administering to said mammal in need thereof a therapeutically effective amount of a pharmaceutical composition comprising a polynucleotide comprising the sequence 5' GAC GTT 3' (SEQ ID NO: 1). Claim 56 is one embodiment of claim 1 prior to amendment and includes the limitations of claim 18 and cancelled claim 3. Accordingly, the current § 102(b) rejection could have been made previously considering that current claim 1 is directed to the subject matter of previously pending claim 4, and new claim 56 is directed to the subject matter of previously pending claim 3 and current claim 18. Thus, Applicants submit that their amendment could not have necessitated this § 102(b) rejection."

The following excerpt from the MPEP § 706.07 was also cited in support of applicants' assertions:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Applicants' arguments are well-taken and found persuasive because the 102(b) rejection over the '646 patent was not necessitated by Applicants' amendment and could have been presented prior to the amendment of April 6, 2009. Also, the rejection was not based on information provided in an IDS. In view of the evidence, the final Office action issued May 25, 2010 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

DECISION

The petition is **GRANTED.**

The Office action mailed May 25, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. As a result, any amendments submitted in response to that action will be entered.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jackie Stone
Director, Technology Center 1600

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OFFICE OF PETITIONS

HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN NJ 07041

In re Patent of Van Eis, et al. :
Patent No. 7,691,861 :
Issued : April 6, 2010 : ON APPLICATION FOR
Application No. 10/586,420 : PATENT TERM ADJUSTMENT
Filed: July 19, 2006 :
Atty Docket No. NOV-05-US :

This decision is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT REDETERMINATION UNDER 37 CFR 1.705," filed March 19, 2010. Applicants request that the Office remove the 42 day period of reduction charged against applicants in connection with the delay in filing a compliant response to the December 5, 2008 non-final Office action and, instead, charge applicants with a period of reduction of no greater than 7 days.

The petition is **DISMISSED**.

On April 6, 2009, applicants filed a response to the non-final Office action, mailed December 5, 2008. On April 13, 2009, the Office mailed a Notice of Non-Compliant Amendment to an incorrect address. Applicants did not learn of the mailing of the Notice of Noncompliant Amendment until May 15, 2009. Applicants filed a compliant amendment and extension of time fee on May 18, 2009. The Office subsequently refunded applicants' extension of time fee.

Applicants argue that they should not be charged with a 42 day period of reduction in connection with the delay in filing a compliant response to the December 5, 2008 non-final Office action because the Office erred in mailing the April 13, 2009 Notice of Noncompliant Amendment to an incorrect address.

37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to

conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

On April 6, 2009, applicants filed a reply to the non-final Office action mailed December 5, 2008. This reply after non-final Office action was filed three-months and 32 days after the Office action was mailed. Thus, pursuant to 37 CFR 1.704(b), applicants were charged with a 32 day reduction. It is undisputed that an amendment with an omission was filed on April 6, 2009. The April 6, 2009 reply was non-compliant. The response correcting the omission was not filed until May 18, 2009.

Thus, entry of a period of reduction of 42 days pursuant to 37 CFR 1.704(c)(7) is warranted and will not be removed or modified. The 42 day period of reduction is calculated beginning on the day after the date the initial noncompliant reply was filed, April 7, 2009, and ending on the date that a compliant reply was filed, May 18, 2009.

In view thereof, the determination of patent term adjustment remains five hundred forty-two (542) days (355 days of A period delay plus 261 days of B period delay, reduced by 74 days of Applicant delay).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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STANLEY P. FISHER
REED SMITH
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

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SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Igor E. BONDAREV et al :
Application No. 10/586,434 :
Filed: September 9, 2008 :
Attorney Docket No. 04-40018-US1 :

ON PETITION

This is in response to the "Petition under 37 CFR 1.47(a), filed August 25, 2010.

The petition is **DISMISSED**.

The Office of Finance records indicate that no petition fee has been received. Authorization to charge the fee set forth in 37 CFR 1.17(g) to deposit account 12-0555 has been given in the Petition. The Office will charge the Deposit Account in the amount of $200.00 for the requisite fee.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include papers executed by the non-signing inventor. Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioner request the acceptance of a Revocation of Power of Attorney and new Power of Attorney under 37 CFR 1.47(a) on the grounds that reasonable and diligent efforts have been made to contact the non-signing inventor, John S. Bertram. In support of the request a declaration has been submitted by Ann Park indicating that letters have been sent to the last known address, and no response has been received.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above. Specifically, the declaration submitted by Ann Park does not establish unavailability of the non-signing inventor. Evidence of no response to the letters sent to the non-signing inventor, requesting that the non-signing inventor contact Ann Park, would not establish reasonable and diligent efforts to show the unavailability of John S. Bertram.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor John S. Bertram. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor John S. Bertram's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers requiring signature to Mr. John S. Bertram's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petition

cc: STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314-3827

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OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

Patent No. 7,674,945	:	
Issue Date: March 9, 2010	:	
Application No. 10/586,510	:	ON PETITION
Filed: July 18, 2006	:	
Attorney Docket No. 31411/04002	:	

This is a decision on the petition filed July 16, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Christopherus Bader	: DECISION ON REQUEST FOR
Patent Number	: 7644620	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/586,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **220** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

DUANE MORRIS LLP
505 9TH STREET, N.W.
SUITE 1000
WASHINGTON, DC 20004

In re Application of :
Martin Alles, et al. :
Application No. 10/586,744 : ON PETITION
Filed: June 23, 2008 :
Attorney Docket No. GRA26 029US :

This is a decision in response to the petition, filed October 15, 2010, requesting withdrawal of the holding of abandonment in the above-identified application under the provisions of 37 CFR 1.181 (no fee). Alternatively, petitioner requests revival under the provisions of 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application became abandoned for a failure to timely reply to the non-final Office action, mailed December 22, 2009. A Notice of Abandonment was mailed on August 2, 2010.

Petitioner asserts that the Office action of December 22, 2009 was not received. In support petitioner submits a copy of the firms docketing records covering the dates of 12/22/09 through 3/22/10, where the Office action would have been entered and docketed for a reply had it been received.

A review of the written record indicates no irregularity in the mailing of the Office action on December 22, 2009, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would

include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, reminder system, or the individual docket record for the application in question.

The instant petition does not establish non-receipt of the Office action in compliance with the procedures set for at MPEP 711.03(c). Specifically, the petition does not describe the system used for recording an Office action received at the correspondence address of record and there is no statement establishing the reliability of the docketing system. Further, the petition fails to include a statement that a search of the file jacket or equivalent was made and that the application contents thereof indicates that the Office action of December 22, 2009 was not received.

Absent the required evidence to establish non-receipt of the Office action of December 22, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted. Accordingly, a decision on the alternative petition under the provisions of 37 CFR 1.137(a) follows.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not comply with the requirements of 37 CFR 1.137(a). Specifically, the petition lacks items (1) and (3) above.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment or comply with the requirements of 37 CFR 1.137(a), petitioner should consider filing a petition under the provisions of 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An

"unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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DUANE MORRIS LLP
505 9TH STREET, N.W.
SUITE 1000
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of :
Martin Alles, et al. :
Application No. 10/586,744 : DECISION ON PETITION
Filed: June 23, 2008 :
Attorney Docket No.: GRA26 029US :

This is a decision in response to the renewed petition under 37 CFR 1.181 (no fee), filed January 14, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 22, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 2, 2010. A petition under 37 CFR 1.181 was filed October 15, 2010; however, the petition was dismissed in a decision mailed December 2, 2010. On January 14, 2011, the present petition was filed, wherein petitioner further argues that the Office action of December 22, 2009 was not received.

As set for in MPEP 711.03(c), the following showing is required for non-receipt of an Office action:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of

non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment dated August 2, 2010 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2618 technical support staff for **re-mailing** the non-final Office action. The period for reply will run from the mailing date of the Office action.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Patent No. : **7831200**
Ser. No. **10/586745**
Inventor(s) : **ALLES, MARTIN**
Issued : **11/09/2010**
Title : **SYSTEM AND METHOD FOR IDENTIFYING THE PATH OR DEVICES ON THE PATH OF A COMMUNICATION SIGNAL**
Docket No. : **GRA26 028US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

Duane Morris LLP
505 9th Street, N.W.
Suite 1000
Washington DC 20004

OL

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/08/10

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.: 10586750 Patent No.: 7806499

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: The request for certificate of Correction filed on 11/23/2010 has been approved.

MATTHEW LUU
SPE

2861
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-13-10

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10586894 Patent No.: 7700335

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

_____ 1652
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,010	07/21/2006	Daisuke Kumaki	0553-0506	9347

24628 7590 09/20/2011

Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER	
GARRETT, DAWN L	
ART UNIT	**PAPER NUMBER**
1786	

MAIL DATE	DELIVERY MODE
09/20/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 20 2011

Mailed:

In re application of	:	
Leach et al.	:	DECISION ON
Serial No. 10/587,010	:	PETITION
Filed: 07/21/2006	:	

For: **LIGHT EMITTING ELEMENT AND LIGHT EMITTING DEVICE USING THE SAME**

This is a decision on a PETITION filed June 3, 2011, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center 1700 for consideration.

DECISION

Petitioner requests that the document identified as an English translation of JP Patent Publication No. 2003-264085 be expunged and the previous PTO-1449 be replaced with the newly submitted PTO-1449. The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned" from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return" from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/587,010

The images will be removed from the Official file.

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

Mark J. Murphy
Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Bernards et al.	:	DECISION ON PETITION
Application No. 10/587,023	:	TO WITHDRAW
Filed: January 9, 2007	:	FROM RECORD
Attorney Docket No. BJS-620-445	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by B. J. Sadoff on behalf of all attorneys/agents of record who are associated with Customer Number 23117. All attorneys/agents associated with Customer Number 23117 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,759,271 :
Issue Date: July 20, 2010 :
Application No. 10/587,058 : ON PETITION
Filed: July 21, 2006 :
Attorney Docket No. F-891 :

This is a decision on the petition filed January 6, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the additional assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Charlema Grant
Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 03 2011
OFFICE OF PETITIONS

Merck
Patent - Docket - RY 60-30
126 East Lincoln Avenue
Rahway NJ 07065-0907

In re Patent of Vermeij	:	DECISION ON REQUEST
Patent No. 8,025,884	:	FOR
Issue Date: September 27, 2011	:	RECONSIDERATION OF
Application No. 10/587,067	:	PATENT TERM ADJUSTMENT
Filed: November 5, 2008	:	
Attorney Docket No. I-2004.001 US	:	

This is a decision on the petition filed on October 28, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-nine (799) days.

The petition under 37 CFR 1.705(d) is **DISMISSED.**

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of Monday, July 24, 2006, not July 20, 2006, as patentees assert. Per 35 U.S.C. 371(f), at the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with. 35 U.S.C. 371(c)(4) requires an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants.

While early processing was requested, early processing requirements were not met. The oath/declaration was filed on November 5, 2008.

The earliest claimed priority date is January 22, 2004. Because the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on Saturday, July 22, 2006, the period expired on the subsequent business day, Monday, July 24, 2006. *See* PCT Rule 80.5. Accordingly, the commencement date is Monday, July 24, 2006. The over three year period begins on July 25, 2009 and ends on September 27, 2011, the date of issuance of the patent, and is 795 days.

Accordingly, no changes to the patent term adjustment will be made. It remains 795 days -- 281 days of A delay + 795 days of B delay - 281 days of overlap - 0 days of Applicant delay.

The Office acknowledges receipt of the $200.00 fee under 37 CFR 1.18(e). This fee is required and will not be refunded.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of
Ayumi Senda
Application No. 10/587,117
Filed: July 24, 2006
Attorney Docket No. SONYJP 3.3-519

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

HEDMAN & COSTIGAN, P.C.
1230 AVENUE OF THE AMERICAS
7th FLOOR
NEW YORK NY 10020

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Application of
DRONZEK JR., PETER J.
Application No. 10/587,126
Filed: 07/21/2006
Attorney Docket No. 181-046

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 30, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This application is being forwarded to Technology Center Art Unit 1746 for examination in due course.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK,
L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Herold et al. :
Application No. 10/587,150 :
Filed: July 24, 2006 : ON APPLICATION FOR
Attorney Docket No. 2006_0980A : PATENT TERM ADJUSTMENT
Title: AMINO ALCOHOL :
DERIVATIVES AND THEIR ACTIVITY :
AS RENIN INHIBITORS :

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed March 11, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred seventy-seven (377) days, not one hundred fifty-one (151) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) will be assessed from deposit account no. 50-4409. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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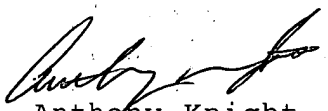
[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Cross appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Ms. Cross desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. Cross, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Cc: Sophie Binet Cross
Novartis Institutes for Biomedical Research, Inc.
220 Massachusetts Avenue
Cambridge, MA 02139

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 14 2010

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Patent No. 7,786,307 :
Herold et al. : DECISION ON REQUEST FOR
Issue Date: August 31, 2010 : RECONSIDERATION OF
Application No. 10/587,150 : PATENT TERM ADJUSTMENT
Filed: July 24, 2006 :
Attorney Docket No. 2006_0980A :
Title: AMINO ALCOHOL :
DERIVATIVES AND THEIR ACTIVITY :
AS RENIN INHIBITORS :

This is a decision on the petition filed on September 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted to five hundred fifty (550) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentees dispute the 120 day reduction for the submission of the petition filed March 11, 2010. Patentees contend that pursuant to 37 CFR 1.704(e) a reduction for the submission of a request for application for patent term adjustment under 37 CFR 1.705(b) will not be considered a failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(10).

Patentees' argument has been considered but not determined to be persuasive. A review of the record shows that the 120 day reduction was entered based upon the submission of the "Addendum to Statement Under 37 CFR §3.73(b)" filed on March 11, 2010.

37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

The submission filed March 11, 2010 warrants a 120 day reduction. The submission of the Addendum to Statement Under 37 CFR §3.73(b) after the mailing of the Notice of Allowance is a failure to engage in reasonable efforts to conclude prosecution. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by the lesser period of four months or 120 days. The 120 day period is calculated beginning on March 11, 2010 and ending on August 31, 2010 the date the patent issued. As such the 120 day reduction will not be removed. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001).

In view thereof, the patent is entitled to an overall adjustment of 430 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an

applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Akio Ohba et al :
Application No. 10/587,172 : ON PETITION
Filed: June 11, 2007 :
Attorney Docket No. IMAGE PROCESSOR, IMAGE PROCESSING METHOD, RECORDING MEDIUM, COMPUTER PROGRAM, AND SEMICONDUCTOR DEVICE

This is a decision on the petition, filed April 7, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 1, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2482 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Jean-Pierre Sachetto et al :
Application No. 10/587,201 : DECISION GRANTING PETITION
Filed: July 25, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SACH3001/ESS :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 10, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Additionally, the petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Robert P. Udal appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Udal desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 27, 2011

Zhun Lu
Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19899-2207

Patent No: 7,851,512 B2
Application No: 10/587,277
Applicant: Li Guogiao, et al.
Issued: December 14, 2010
Title: **COMPOSITION CONTAINING ARTEMISININ FOR TREATMENT OF MALARIA**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

The alleged error on the title page in item 30 is an editing change made in accordance with the style of the Invention Patent Manual.

In view of the foregoing your request in this matter are hereby **denied**.

Further correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/24/11

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 10587460 Patent No.: 7680271

CofC mailroom date:
01/12/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/William Korzuch/	2431
SPE	Art Unit

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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,976,473 :
Issue Date: July 12, 2011 :
Application No. 10/587,461 : ON PETITION
Filed: July 25, 2006 :
Attorney Docket No. 060210.00469 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed June 6, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/3011

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/587,467 Patent No.: 7928224

CofC mailroom date: 06/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

_____ 1624
SPE Art Unit

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Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Norman Booth	:	
Application No. 10/587,534	:	DECISION ON PETITION
Filed: September 12, 2007	:	TO WITHDRAW
Attorney Docket No. 3485-P10380US (69105USP00	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 15, 2011.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP, has been revoked by the assignee of the patent application on January 20, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Traskbritt, P.C.
P. O. Box 2550
Salt Lake City, UT 84110

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,956,070	:	DECISION ON
Alcaraz, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: June 7, 2011	:	AND NOTICE OF INTENT
Application No. 10/587,633	:	TO ISSUE
Filed: July 28, 2006	:	CERTIFICATE OF
Attorney Docket No. 06275-0518US1	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed August 8, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand one hundred sixty-six (1166) days to one thousand two hundred seven (1207) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand two hundred seven (1207)** days.

On June 7, 2011, the above-identified application matured into U.S. Patent No. 7,956,070. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on August 8, 2011. Patentees assert that they should not have been assessed applicant delay of seventy-one (71)days for the submission of a Rule 312 Amendment on March 29, 2011, after the Notice of Allowance was mailed on December 30, 2010. Rather, Patentees assert that they should have only been assessed applicant delay of thirty (30) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the... paper". Here, Applicant filed the Rule 312 Amendment on March 29, 2011, and the Office mailed a Response to Rule 312 Communication on April 27, 2011. Accordingly, Applicants should have been accorded 30 days of delay for the filing of the Rule 312 Amendment, not 71 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is one thousand two hundred seven (1207) days (657 days of "A" delay and 679 days of "B" delay)) of PTO delay, reduced by 122 days of applicant delay and 7 days of overlap between "A" and "B" delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seven (1207)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,956,070 B2

DATED : **June 7, 2011**

INVENTOR(S) : Alcaraz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1166 days.

Delete the phrase "by 1166 days" and insert – by 1207 days--

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 09/13/2010

Applicant	: Christopher T. Falvey	: DECISION ON REQUEST FOR
Patent Number	: 7679350	: RECALCULATION of PATENT
Issue Date	: 03/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/587,785	: OF WYETH
Filed	: 06/04/2007	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,856	07/28/2006	Shuya Kaechi	00862.110014.	9830

5514 7590 01/07/2011
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER	
PICH, PONNOREAY	

ART UNIT	PAPER NUMBER
2435	

MAIL DATE	DELIVERY MODE
01/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Michael O'Neill
Fitzpatrick Cella Harper & Scinto
1290 Avenue of the Americas
New York, NY 10104-3800

In re Application of: Kaechi)
Application No. 10/587856)
Attorney Docket No. 00862.110014)
Filed: July 28, 2006)
For: Method of Detecting and Authenticating Connection Target for Wireless Communication Apparatus)

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed September 13, 2010 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **Granted**.

RELEVANT PROSECUTION HISTORY

March 9, 2010	A restriction requirement of subcombinations useable together into 2 different groups was mailed out. Each subcombination was then held to have multiple patentably distinct species
April 09, 2010	A provisional election with traverse was made to Group 1 and Species 2a plus arguments were made about burden on the examiner not identifying one of the 3 reasons listed in the form paragraphs 8.01, 8.02 and 8.21 and that as this is an application filed under 35 USC 371 unity of invention practice must be followed and not 'normal US restriction practice'.
June 7, 2010	The restriction was repeated as the arguments were found not persuasive as a detailed explanation of burden was provided and that MPEP 1893.03(d) does not require only unity of invention to be used but rather is an additional requirement for applications filed under 371.
September 13, 2010	The petition was filed along with an amendment.
December 6, 2010	A quayle action was filed stating that previously withdrawn claims 5, 8, 13 and 16 were rejoined but claims 1, 3-4, 6-7, 9, 11-12, 14-15, and 17-18 still stood

withdrawn. Additionally, the letter stated applicant's traversal may no longer be relevant as applicant has since amended all the pending claims so they are no longer the same claims which were previously restricted. The letter then did not further elaborate any new grounds of restriction.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
>
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
>
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
>
> (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
There are two criteria for a proper requirement for restriction between patentably distinct inventions:
(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 1893.03(d) states:

Examiners are reminded that unity of invention (not restriction practice pursuant to 37 CFR 1.141 -1.146) is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371..

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner.

In the above-identified application, applicant filed a request for reconsideration prior to the petition.

MPEP § 1893.03(d) sets forth that lack of unity practice is the proper avenue for separating inventions under 371 and not normal U.S restriction practice.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-18.

/Tod Swann/

Tod Swann
Special Programs Examiner
Technology Center 2400

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH*

Attorney Docket Number: 2006_1222A	Patent Number: 7,655,687
Filing Date (or 371(b) or (f) Date): July 28, 2006	Issue Date: February 2, 2010
First Named Inventor: Hidetoshi HAMAMOTO et al.	
Title: ANTI-INFLAMMATORY ANALGESIC FOR EXTERNAL USE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-WYETH INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

*Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Amy E. Schmid/ 2010.08.02 13:56:53 -04'00'	Date: August 2, 2010
Name: Amy E. Schmid	Registration Number: 55,965

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

X *Total of 1 form is submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 08/11/2010

Applicant	: Hidetoshi Hamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7655687	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/587,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **661** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of
John Cracknell, et al.
Application No. 10/587,873
Filed: July 16, 2007
Attorney Docket No. SHP-PT088

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 9, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH PA 15222

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Application of
Donald A. Stevens
Application No. 10/587,886
Filed: June 1, 2007
Attorney Docket No. 4417-062209

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by James G. Porcelli on behalf of all attorneys of record who are associated with Customer Number 28289.

All attorneys/agents associated with the Customer Number 28289 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed May 24, 2011 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Donald A. Stevens
507 South Stewart Street
Winchester, VA 22601

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 3, 2010

20100504

TO SPE OF : ART UNIT 2863
SUBJECT : Request for Certificate of Correction for Appl. No /10/587887 patent 7590500

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

2863

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8-31-10**

TO SPE OF : ART UNIT **1625**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10587975** Patent No.: **7767819**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Janet L. Andres/ — **SPE**

1625 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Mae et al.	:	
Application No. 10/588,034	:	ON APPLICATION FOR
Filed: August 1, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 09812.0566	:	
Title: IMAGE RECORDING	:	
APPARATUS AND METHOD, AND	:	
PROGRAM FOR SELECTING A	:	
RECORDING MODE INDEPENDENT FROM	:	
THE RECORDING ASPECT RATIO	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed March 8, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred ninety-seven (897) days, not five hundred eighty-three (583) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **DISMISSED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On December 9, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 583 days.

Applicants dispute the 583 day adjustment. Applicants contend the requirements under 371 were met on August 1, 2006. Thus, applicants contend an adjustment of 897 days is required.

The Office has considered applicants' argument and finds it unpersuasive that an adjustment of 897 days, instead of 583 days

is warranted. Applicants contend a 897 day adjustment is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to 37 CFR §1.702(a)(1).

A non-final Office action was mailed on March 16, 2010, which is 14 months and 583 days after the application fulfilled the requirements of 35 U.S.C. 371 on June 10, 2007. Applicants contend fulfillment of the application was met on August 1, 2006.

A review of the record shows that the requirements of 35 U.S.C. 371 were fulfilled on June 10, 2007. As early commencement was not requested, the last of 371 requirements to be completed was commencement at 30 months on June 10, 2007. Thus, the mailing of the non-final Office action on March 16, 2010, is 14 months and 583 days after fulfillment.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 583 days.

As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petition Attorney
Office of Petitions

See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,635,053 :
Issued: 12/22/2009 :
Application No. 10/588,038 : ON PETITION
Filed: 08/01/2006 :
Atty Docket No. 049202/312425 :

This is a decision on the request under 37 CFR 3.81(b) filed on May 18, 2011, to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

It is noted that although the assignment document itself correctly captions the assignee's name as "ROFA Rosenheimer Förderanlagen GmbH," the Recordation Form Cover Sheet incorrectly captioned the assignee's name as "ROFA." Therefore, it is recommended that petitioners submit a corrected cover sheet in accordance with MPEP 323.01 and 37 CFR 3.34.

The fee for the request under 37 CFR 3.81(b) of $130.00 will be charged to counsel's deposit account as authorized.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 8028-1061	Patent Number: 7,664,318
Filing Date (or 371(b) or (f) Date): 31-Jul-2006	Issue Date: 16-Feb-2010
First Named Inventor: HORIBA, Yuji	
Title: FIGURE READING APPARATUS, METHOD AND PROGRAM	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Benoit Castel/	Date August 10, 2010
Name (Print/Typed) Benoit Castel	Registration Number 35041

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 09/02/2010

Applicant	: Yuji Horiba	: DECISION ON REQUEST FOR
Patent Number	: 7664318	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/588,076	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,155	08/01/2006	Makoto Kagaya	MIY.001.0045.PC	4105

58789 7590 12/06/2010

NDQ&M WATCHSTONE LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON, DC 20001

EXAMINER	
ZIA, SYED	

ART UNIT	PAPER NUMBER
2431	

MAIL DATE	DELIVERY MODE
12/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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S Peter Konzel
NDQ&M Watchstone LLP
300 New jersey Avenue, NW
Fifth Floor
Washington DC 20001

In re Application of:	)	
Kagaya	)	
Application No. 10/588,155	)	**DECISION ON PETITION**
Filed: August 1, 2006	)	**UNDER 37 CFR § 1.181**
For: Secret Information Management Scheme Based on Secret Sharing Scheme	)	

This is a decision on the petition filed on November 17, 2010 under 37 C.F.R. § 1.181 to request for withdrawal of the Finality of Office Action mailed August 17, 2010.

The petition is **GRANTED**.

BACKGROUND

On March 2, 2010, a non-Final Office action was issued with no 35 USC 101 rejection of any claims in it.

On June 2, 2010, a response was filed not amending claim 16.

On August 17, 2010, a Final Office action was issued with a 35 USC 101 rejection of claim 16.

RULES AND PROCEDURES

MPEP § 706.07(a) states in part that:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

DECISION

A review of the file indicates that the new 35 USC 101 rejection was not necessitated by amendment nor based on information submitted in an IDS. Therefore, the Final Office Action issued was premature.

For the above stated reasons, the petition is **GRANTED.** The finality of the Office action mailed August 17, 2010 is hereby removed. The November 17, 2010 amendment and response will be forwarded to TSS for processing as a response to a non final office action.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147.

Tod R Swann, WQAS 2430
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/10

TO SPE OF : ART UNIT 3636 Dunn David (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/588249 Patent No.: 7814920

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

DAVID DUNN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3636
Art Unit

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Paper No.

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
NOV 03 2011
OFFICE OF PETITIONS

In re Patent No. 8,008,230	:	DECISION ON REQUEST
Alain Gardner	:	FOR
Issue date: August 30, 2011	:	RECONSIDERATION OF
Application No. 10/588,321	:	PATENT TERM ADJUSTMENT
Filed: August 3, 2006	:	
Atty Docket No. PRD2188USPCT	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705 filed October 19, 2011.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**.

On August 30, 2011, the application matured into U.S. Patent No. 8,008,230, with a revised patent term adjustment of 1010 days. On October 19, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is at least 1116 days. Patentee maintains that the period of B delay is 757 days, not 651 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentee's argument has been considered, but not found persuasive. Patentee's calculation fails to take into account the period of appellate review excluded from the period of B delay under the Office's current interpretation of the statute.

The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is (106) days, beginning on January 14, 2011, the date of filing of the notice of appeal and ending on April 29, 2011, the subsequent date of the mailing of a notice of allowance. Accordingly, it is concluded that the B delay was properly entered as 651 (757 - 106) days.

However, the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be given under 37 CFR 1.136(a).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
Gilmour et al. :
Application No. 10/588395 : ON APPLICATION FOR
Filed: 06/29/2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
19603/4612 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed on May 25, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent should be increased from 150 days to at least 444 days. Applicants, in essence, request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of :
Alain H. CURAUDEAU, et *al.* :
Application No. 10/588,419 :
Filed: October 15, 2007 :
Attorney Docket No. **249692001700** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 3, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Inquires concerning either the examination or status of the application should be directed to the Technology Center. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

Attachment: Statement Under 37 CFR 3.73(b)

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____

Signature Date

_____ _____

Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

JUL 07 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
TESAR et al	:	
Application No.: 10/588,568	:	DECISION ON PETITION
Filing Date: February 7, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 166470600	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 18, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to the prior-filed provisional application set forth in the application data sheet (ADS) filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above. Although the ADS contains a proper reference to the prior applications, the ADS is not signed as required by 37 CFR 1.33 and 10.18. Submission of an ADS with a signed cover letter is not sufficient. Applicant may wish to refer to the most recent version of Form PTO/SB/14 (http://www.uspto.gov/forms/sb0014_fill.pdf) which contains an appropriate signature block.

Before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition and either an ADS or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

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JUL 27 2011

PCT LEGAL ADMINISTRATION

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of	:	
TESAR et al	:	
Application No.: 10/588,568	:	DECISION ON PETITION
Filing Date: February 7, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 166470600	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 12, 2011 to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to the prior-filed provisional application set forth in the application data sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

A petition for acceptance of a late claim for priority under 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed application has been included in an application data sheet as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been

submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1643 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Alain H. Curadeau et al. :
Application No. 10/588,571 : DECISION ON PETITION
Filed: September 5, 2008 : TO WITHDRAW
Attorney Docket No. 249692001600 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kate H. Murashige on behalf of all attorneys/agents associated with customer number 25225. All attorneys/agents associated with customer number 25225 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: QLT Inc.
887 Great Northern Way
Vancouver, BC V5T 4T5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/588,571	09/05/2008	Alain H. Curaudeau	249692001600

CONFIRMATION NO. 8305

POWER OF ATTORNEY NOTICE

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

OC000000046764220

Date Mailed: 03/24/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/16/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KASPER AND LAUGHLIN
13 FOREST DRIVE
WARREN, NJ 07059

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Manfred Gunthner, et al. :
Application No. 10/588,590 : ON PETITION
Filed: September 25, 2006 :
Attorney Docket No.: MRO204 A :

This is a decision in response to the petition, filed January 25, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 9, 2009. A Notice of Abandonment was mailed on July 15, 2009. On January 25, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3632 for appropriate action by the Examiner in the normal course of business on the amendment received January 25, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

24 AUG 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

The Dow Chemical Company
P.O. BOX 1967
Midland MI 48641

In re Application of :
SONNENSCHEIN et al. :
U.S. Application No. 10/588,622 : DECISION ON PETITION
PCT Filing Date: February 2004 :
Attorney Docket No. 63344A
For: AQUEOUS-BASED ADHESIVE FOR BONDING LOW SURFACE ENERGY SUBSTRATES

This is a decision on the "Petition under 37 CFR 1.78(a)" filed March 12, 2010. The stated purpose of the petition is "to accept the unintentionally delayed benefit claim under 35 U.S.C. 120 for the benefit of PCT International Patent Application number PCT/US2005/004097 filed 10 February 2005 and benefit claim under 35 U.S.C. 119(e) for benefit of U.S. Provisional Patent Application Number 60/546,891, filed 23 February 2004."

The petition is **dismissed** as moot for the reasons stated below.

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

The current procedure where a claim for priority under 37 CFR §1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear in the national stage application papers within the time period under 37 CFR 1.78(a)(5)(ii) and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s), a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office

[1] *Note* MPEP 201.11 (III)(D).

noted the claim for priority of the prior-filed application as shown by its inclusion on the filing receipt.

In view of the dismissal of the instant petition as moot, the $1410 fee will be refunded to counsel Deposit Account.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298. This matter is being referred to the appropriate Technology Center for examination in due course.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

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JUL 20 2011

OFFICE OF PETITIONS

In re Application of :
STUMPF, ANDREAS :
Application No. 10/588,637 : ON APPLICATION FOR
Filed: 08/29/2007 : PATENT TERM ADJUSTMENT
Docket No. 379612-250US (397490) :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)" filed June 28, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is a minimum of 1,000 days, not 491 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

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MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Ryan Smith Westberry, et al. :
Application No. 10/588,689 : DECISION ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. 186257/US :

This is a decision on the petitions, filed January 24, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 1, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 1, 2010. Accordingly, the date of abandonment of this application is January 2, 2011.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

As to the petition under 37 CFR 1.181:

While it is noted that petitioner made an attempt to timely pay the required issue fee set in the Notice of Allowance and Issue Fee(s) Due mailed October 1, 2010, the issue fee transmittal submitted to the Office on December 17, 2010 was incomplete and did not provide the deposit account number in which to charge fees.

As to the petition under 37 CFR 1.137(b):

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1510 issue fee and $300 publication fee, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

In view of the above, the petition is **GRANTED**.

As authorized, the $1620 fee required by 37 CFR 1.137(b) has been charged to petitioner's Deposit Account No. 50-2387.

Telephone inquiries concerning this decision should be directed to April M., Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4100.

This application is being referred to the Office of Data Management for further processing into a patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Louise Edwards et al :
Application No. 10/588,702 : ON PETITION
Filed: March 13, 2007 :
Attorney Docket No. 15652-14300-US

This is a decision on the petition, filed March 17, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 14, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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AUG 01 2011
OFFICE OF PETITIONS

In re Application of :
Louise Edwards et al. :
Application No. 10/588,702 : DECISION GRANTING PETITION
Filed: March 13, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15652-14300-US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 29, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1030 15TH STREET, N.W.
SUITE 400 EAST
WASHINGTON, DC 20005-1503

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JUN 27 2011

OFFICE OF PETITIONS

In re Application of :
Hide Yoshino et al :
Application No. 10/588,778 : ON PETITION
Filed: December 3, 2007 :
Attorney Docket No. 2006-1312A

This is a decision on the petition, filed June 27, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 31, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22314

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DEC 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,640,842 :
Issue Date: January 5, 2010 :
Application No. 10/588,847 : ON PETITION
Filed: August 9, 2006 :
Attorney Docket No.: P09009US00/MP :

This is a decision on the petition filed March 2, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted; however, the petition was recently referred to the undersigned for consideration.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

In re Application :
An, et al. :
Application No. 10/588,883 : DECISION ON APPLICATION
Filed: August 9, 2006 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 57070-8017.US0 :

This is a decision on the "STATEMENT OF FACTS UNDER 37 C.F.R. 1.705(b)(2) IN SUPPORT OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 16, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred seventy-three (573) days to eight hundred forty-six (846) days.

The application for patent term adjustment is **DISMISSED**.

On June 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred seventy-three (573) days. On September 16, 2011, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is eight hundred forty-six (846) days.

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

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[1] Applicants filed the application for patent term adjustment together with the issue fee.

Applicants assert entitlement to a patent term adjustment of 846 days on the basis that date of completion of all 35 U.S.C. 371 requirements was August 9, 2006, not May 8, 2007.

Applicants' argument has been considered, but is not persuasive. Applicants appear to have confused the Office's responsibility to mail an Office action within fourteen months under 37 CFR 1.702(a)(1) with the Office's responsibility to issue a patent within three years under 37 CFR 1.702(b).

MPEP 1893.03(b) states:

> The Date of all 35 USC 371 Requirements included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) is relevant for purposes of patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)(II) and 37 CFR 1.702(a)(1) when the USPTO has failed to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the requirements under 35 U.S.C. 371 were fulfilled.

Here, 35 U.S.C. 371 requirements were completed on May 8, 2007. Accordingly, under 37 CFR 1.703(a)(1), the Office had until July 8, 2008 to mail a notification under 35 U.S.C. 132 or a Notice of Allowance. Applicants are correct that the actual filing date, for purposes of 37 CFR 1.702(b) "over three year delay", is August 9, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred seventy-three (573) days** (667 days of PTO delay, reduced by 94 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JAN 20 2012

PCT LEGAL ADMINISTRATION

In re Application of: CSAKY, Karl, G., et al.
U.S. Patent No.: 8039585
U.S. Application No.: 10/588,884
PCT No.: PCT/US2004/004142
International Filing Date: 12 February 2004
Priority Date: 12 February 2004
Attorney's Docket No.: NIHA 0383
For: THERAPEUTIC ADMINISTRATION OF THE SCRAMBLED ANTI-ANGIOGENIC PEPTIDE C16Y

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to the "Petition Under §§ 1.181 and 1.705 To Accord Filing Date Incorrectly Entered And To Recalculate Patent Term Adjustment" filed 19 December 2011. No petition fee is required.

BACKGROUND

On 12 February 2004, applicants filed international application PCT/US2004/004142. The international application did not claim an earlier priority date, and it designated the United States. The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 12 August 2006.

On 09 August 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an executed declaration in compliance with 37 CFR 1.497.

On 27 August 2007, applicants filed a supplemental declaration.

On 29 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) as 27 August 2007. Also on 29 February 2003, a filing receipt was issued that identified the "Filing Or 371(c) Date" as 27 August 2007.

On 28 September 2011, an "ISSUE NOTIFICATION" was mailed indicating that the application would issue as U.S. Patent No. 8039585 on 18 October 2011, and that the Patent Term Adjustment was 1003 days.

On 19 December 2011, applicants filed the present petition under 37 CFR 1.181.

DISCUSSION

The present petition requests that the date under 35 U.S.C. 371(c) be corrected from 27 August 2007 to 09 August 2006, the date on which applicants filed the original executed declaration. Applicants also argue that, based on the corrected 35 U.S.C. 371(c) date, the Patent Term Adjustment should be increased. The present decision addresses only the issue of the appropriate 35 U.S.C. 371(c) date. The issue regarding Patent Term Adjustment will be considered in due course by the Office of Petitions.

A review of the application file confirms that applicants filed an executed declaration in compliance with 37 CFR 1.497 on 09 August 2006. This submission, coupled with applicants' filing of the present national stage application and payment of the basic national fee, satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). The correct date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is therefore 09 August 2006, as asserted by applicants in the present petition.

CONCLUSION

Applicants' petition under 37 CFR 1.181 with respect to the appropriate 35 U.S.C. 371(c) date is **GRANTED** to the following extent.

The date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) for the present application is corrected to 09 August 2006. USPTO records will be updated accordingly.

The application is being referred to the Office of Petitions for consideration of applicants' additional request to recalculate the Patent Term Adjustment in light of the corrected 35 U.S.C. 371(c) date.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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MAR 13 2012

OFFICE OF PETITIONS

In re Patent No. 8,039,585 :
Csaky et al. :
Issue Date: October 18, 2011 :
Application No. 10/588,884 : DECISION ON REQUEST FOR
Filed: August 9, 2006 : RECONSIDERATION OF
Attorney Docket No. : PATENT TERM ADJUSTMENT
41743.8005.US00 :
Title: THERAPEUTIC :
ADMINISTRATION OF THE SCRAMBLED :
ANTI-ANGIOGENIC PEPTIDE C16Y :

This is a decision on the "PETITION TO RECALCULATE PATENT TERM ADJUSTMENT" filed on December 19, 2011 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred ninety-three (1,393) days. This petition is properly treated under 37 CFR 1.705(d).

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

Patentees dispute the 519 day adjustment. Patentees contend a 909 day adjustment is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, pursuant to 37 CFR §1.702(a)(1).

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated

after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 519 day reduction is dismissed as untimely.

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 23-3050 for consideration of the application for patent term adjustment under 37 CFR 1.705(d). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

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MAY 2 4 2011

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Application of:
Gillespie et al.
Serial No.: 10/588,902
Filed: June 18, 2007
Attorney Docket No.: **010180.00053**

: Response to Communication

This is in response to the communication of February 17, 2011 requesting removal/expungement of a Petition Decision mailed in error. It is clear the Petition Decision of December 17, 2010 is in error.

The reasons set forth in this letter establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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16TH FLOOR
NEW YORK NY 10001-7708

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,522,004 :
Issue Date: PRIL 21, 2009 :
Application No. 10/588,910 : ON PETITION
Filed: August 9, 2006 :
Attorney Docket No. 06522/LH :

This is a decision on the renewed petition filed November 10, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to add the second named assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,916	07/17/2007	Takafumi Kurosawa	TOS-167-USA-PCT	2935

27955 7590 12/23/2010

TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER	
KASSA, TIGABU	

ART UNIT	PAPER NUMBER
1619	

MAIL DATE	DELIVERY MODE
12/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 2 3 2010

TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
KUROSAWA, TAKAFUMI et al.	:	DECISION ON REQUEST TO
Application No. 10/588,916	:	PARTICIPATE IN PATENT
Filed: July 17, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. TOS-167-USA-PCT	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 07, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the office actions just prior to the "Decision to Grant" (the latest "Notification of Reasons for Refusal) from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH program and petition fails to comply with the requirement because:

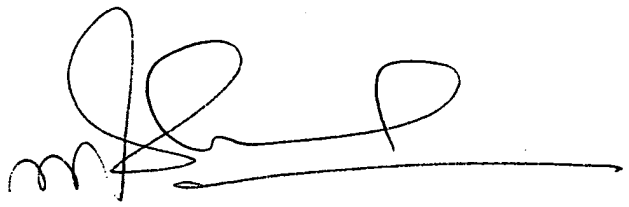
The examination of the application has already begun.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be submitted via EFS-Web with the document description: Petition to make special under Patent Pros Hwy. Information regarding EFS-Web is available at http://www.uspto.gov/ebc/efs_help.html.

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.



Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,938	08/08/2006	Kenneth John Woronoff	60,469-115 PUS1; OT-5256	9734

7590 03/07/2011

David J Gaskey
Carlson Gaskey & Olds
Suite 350
400 W Maple Road
Birmingham, MI 48009

EXAMINER	
KRUER, STEFAN	

ART UNIT	PAPER NUMBER
3654	

MAIL DATE	DELIVERY MODE
03/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAR - 7 2011

David J Gaskey
Carlson Gaskey & Olds
Suite 350
400 W Maple Road
Birmingham MI 48009

In re Application of: Kenneth WORONOFF	: DECISION ON PETITION
Appl. No. 10/588,938	: UNDER 37 CFR 1.181
Filed: August 8, 2006	:
For: DEVICE FOR MOVING A PLATFORM ALONG ELEVATOR GUIDE RAILS	:

This is a decision on applicant's petition filed under 37 CFR 1.181 on June 28, 2010 to withdraw the objections to the specification, drawings and claims made in the final Office action mailed on April 28, 2010.

The petition is **DISMISSED.**

Applicant alleges that the examiner improperly objected to the specification and drawings on 1) the use of a hand-held drill which is disclosed as an alternative feature and was not claimed; and 2) the use of a pressurized actuator in lieu of an (electrical) drive motor was clearly shown in figure 5 of the drawings, and the operation of the pressurized actuator is clearly described on pages 5-6 of the specification. Applicant also alleges that the examiner improperly objected to claims 25-26 and 30-31 for the word "desired" when the examiner's preference would be to use the word "upward."

A review of the record shows that in the Office action dated June 19, 2008 the examiner objected to the disclosure as being incomprehensible with respect to the use of a hand-held drill in lieu of a drive motor, and the use of a pressurized actuator in lieu of an (electrical) drive motor. The examiner also objected to the drawings for failing to show an arrangement utilizing a hand-held drill to forcibly drive a gearing, and an arrangement to evacuate the pressurized fluid from the pressurized actuators to upwardly move a lower platform. In addition, the examine objected to the term "desired" in claims 25, 26, 30 and 31 and preferred it changed to "upward."

> 37 CFR 1.83 on content of drawing specify that *"The drawing in a nonprovisional application must show every feature of the invention specified in the claims."*

> MPEP 608.02(d) specifies that *"Any structural detail that is of sufficient importance to be described should be shown in the drawing. (Ex parte Good, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911).)"*

A review of the specification indicates that in one embodiment, the moving mechanism for moving the platforms includes a drive motor (see page 3 of the specification). The specification also discloses the use of a hand-held drill as an equivalent structure of a drive motor for the moving mechanism as described in lines 11-13 on page 3 of the specification. A review of the claims showed that a hand-held drill was not included in any of the pending claims 18-30 and 32-34. Rule 37 CFR 1.83 set forth a drawing requirement for every feature of the invention specified in the claims. However, there is no drawing requirement for a purported feature of the invention not specified in the claims. Therefore, the objections to the disclosure and drawings on the use of a hand-held drill are improper and hereby withdrawn.

On page 5 of the specification, applicant describes yet another embodiment of the moving mechanism – using pressurized actuators. Claim 23 includes a limitation *"the moving mechanism comprises a pressurized actuator."* Claim 30 includes a limitation *"a moving mechanism comprising a pressurized actuator between the first and second platforms and coupled to the platforms that sequentially urges the platforms toward and away from each other to cause incremental movement of the platforms in a desired direction along the guide rails;"* This feature is disclosed at the bottom of page 5 and continues on the top of page 6 of the specification as *"when the actuator 70 are in an expanded position and fluid is evacuated from the actuators to cause them to contract, the second platform 30 is pulled upward toward the first platform 28. Subsequently, when the actuators are filled with pressurized fluid they expand causing the first platform 28 to be pushed upward and away from the second platform 30, which remains in position because of the operation of the holding devices 36."* There is a drawing requirement set forth in the rule 37 CFR 1.83 for the pressurized actuator specified in claims 23 and 30. A close look of the drawings, especially figure 5, indicates there is no showing of the claim feature "sequentially urges the platforms toward and away from each other to cause incremental movement of the platforms in a desired direction along the guide rails." The arrangement to evacuate/fill the actuators with pressurized fluid and the structural details of the pressurized actuators are important to the understanding of how the platforms can be moved sequentially and incrementally and must be shown in accordance with MPEP 608.02(d). Therefore, the objections to the disclosure and the drawing on the pressurized actuator(s) are proper and hereby maintained.

> MPEP 608 specifies that *"All amendments or claims must find descriptive basis in the original disclosure, or they involve new matter. Applicant may rely for disclosure upon the specification with original claims and drawings, as filed."*

> MPEP 608.01(g) states that *"... An applicant is ordinarily permitted to use his or her own terminology, as long as it can be understood...The description is a dictionary for the claims and should provide clear support or antecedent basis for all terms used in the claims. See 37 CFR 1.75, MPEP § 608.01(i)..."*

> 37 CFR 1.75. (d) (1) states that *"The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the*

description so that the meaning of the terms in the claims may be ascertainable by reference to the description (See § 1.58(a).)"

Regarding the objection on the claimed term "desired" in claims 25, 26, 30 and 31, applicant argues that this term is entirely consistent with the description and was used in the originally filed claims in this case. Applicant also asserts that he is entitled to be his own lexicographer, and the examiner should not impose his own personal preferences on applicant's choice of claim terms. A review of the specification shows that the term "desired" is used in lines 1-2 on page 2 as *"[The holding] devices allow the platforms to move in a desired direction and prevent movement in an opposite direction."* Claims 25 and 30 includes the limitation of *"a holding device associated with each of the platforms, the holding devices allowing movement of the platforms along the guide rails in the desired direction and preventing movement of the platform in a direction opposite to the desired direction."* It is clear that this claim language in claims 25 and 31 has full support or antecedent basis in the description found on page 2 of the specification, and in full compliance with the requirements set forth in MPEP 608.01 (g) and 37 CFR 1.75 (d)(1). It is also agreed that applicant can be his own lexicographer per MPEP 608.01 (g). While the term "desired" may be broad, it is not indefinite. Therefore, the objection on the term "desired" in claims 25, 26, 30 and 31 is hereby withdrawn.

In summary, the objections to the disclosure and drawings on the feature of hand-held drill, and the term "desired" in claims 25, 26, 30 and 31 are withdrawn. The objection to the disclosure and drawings on the feature of pressurized actuator is maintained. Since the application is currently in abandoned status, applicant's petition is dismissed as moot.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Kathy Matecki, Director
Technology Center 3600
572-272-5250

lm: 3/3/11

LM

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VLP Law Group LLP
555 Bryant Street
Suite 820
Palo Alto CA 94301

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SEP 22 2011

OFFICE OF PETITIONS

In re Application of :
Hayes, et al. :
Application No. 10/588,978 : ON PETITION
Filed: April 24, 2007 :
Attorney Docket No. 921-001-002

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned April 22, 2011, for failure to file a proper reply to the final Office action mailed January 21, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed August 25, 2011.

The Request for Continued Examination and amendment filed September 19, 2011, are noted.

The application file is being forwarded to Technology Center, GAU 1617 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUN 13 2011
OFFICE OF PETITIONS

MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

In re Patent No. 7,872,242 :
Issue Date: January 18, 2011 :
Application No.: 10/588,981 : ON PETITION
Filed: March 27, 2008 :
Attorney Docket No.: F146 :

This is a decision in response to a petition filed May 25, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of :
Adragna, et al. :
Application No. 10/589,038 : DECISION
Filed: 10 August, 2006 :
Attorney Docket No. 03-AG-327/GC :

This is a decision on the petition filed on 19 July, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability mailed on 1 April, 2010, with reply due under a non-extendable deadline on or before 1 July, 2010.

The application went abandoned by operation of law after midnight 1 July, 2010.

The Office mailed a Notice of Abandonment 19 July, 2010.

On 19 July, 2010, Petitioner filed, *inter alia*, a petition with fee, pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 03 2011

PCT LEGAL ADMINISTRATION

ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York NY 10017-5621

In re Application of	:	
KRUPA et al.	:	
Application No.: 10/589,089	:	DECISION
PCT No.: PCT/IL2006/000786	:	
International Filing Date: 06 July 2006	:	
Priority Date: 08 July 2005	:	
Attorney Docket No.: 207,775	:	
For: FLAT FOLDING HINGED ANTENNA	:	

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMNET (MPEP 711.03(c)I AND 37 CFR §1.181)" filed in the United States Patent and Trademark Office (USPTO) on 27 July 2011. No petition fee is required.

BACKGROUND

On 06 July 2006, applicant filed international application PCT/IL2006/000786, which designated the United States and claimed a priority date of 08 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 January 2008.

On 09 August 2006, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 01 June 2009, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 07 February 2011, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond the NOTIFICATION OF MISSING REQUIREMENTS mailed 10 June 2009.

On 27 July 2011, applicants filed the instant petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a declaration of the inventors and a USPTO date-stamped postcard receipt.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 10 June 2009 applicant filed a declaration of the inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 10 June 2009 and which itemizes an "Executed Dec. (2 pp.)" and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the declaration filed 27 July 2011 is a copy of the declaration originally filed 10 June 2009. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 27 July 2011 may properly be accepted as originally received in the USPTO on 10 June 2009. The NOTIFICATION OF ABANDONMENT mailed 07 February 2011 is hereby vacated.

The declaration filed 10 June 2009 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 07 February 2011 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision. (Additionally, the correspondence address for the instant application should be changed to ABELMAN, FRAYNE & SCHWAB, 666 THIRD AVENUE, NEW YORK, NY 10017-5621 (emphasis added only for contrasting with current correspondence address).

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06/24/11

TO SPE OF : ART UNIT 1759

SUBJECT : Request for Certificate of Correction for Appl. No.: 10589148 Patent No.: 7943098

CofC mailroom date: 06/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should claims be approved

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: First six listed changes are approved. The seventh change should be made to column 13, line 8, as indicated on page 2 of the Request letter.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

An incorrect location for the seventh change is currently indicated on the certificate

1759

SPE Art Unit

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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LINCESING, LLC
PO BOX 5312
PRINCETON, NJ 08543-5312

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Phiippe Gilberton, et al. :
Application No. 10/589,174 : ON PETITION
Filed: August 11, 2006 :
Attorney Docket No. PU040008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 9, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

A review of the record shows that while petitioner did file his required reply to the outstanding Office action of December 8, 2009, however, the petition is not properly signed. The signature on the petition does not contain a proper registration number.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING, LLC
PO BOX 5312
PRINCETON, NJ 08543-5312

MAILED
OCT 05 2010
OFFICE OF PETITIONS

In re Application of :
Philippe Gilberton, et al. :
Application No. 10/589,174 : ON PETITION
Filed: August 11, 2006 :
Attorney Docket No. PU040008 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS, MN 55402-1498

MAILED
DEC 15 2010
OFFICE OF PETITIONS

ON PETITION

In re Application of :
David Knaack et al. :
Application No. 10/589,226 :
Filed: December 20, 2006 :
Attorney Docket No. 2004367-0111 :

This is in response to the petitions, filed May 11, 2010, under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.64, and under 37 CFR 1.48(a) requesting correction of inventorship.

The petition under 37 CFR 1.183 is **DISMISSED AS MOOT.**

The petition under 37 CFR 1.48(a) is **GRANTED**.

In view of the joinder of the inventor, further consideration under § 1.183 is not necessary.

Additionally, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Keyvan Benham as an additional inventor.

A corrected filing receipt is enclosed.

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Petitioner has already paid $130 for consideration of the petition filed January 20, 2010. Accordingly, an additional $270 will be charged to petitioners Deposit Account No. 04-1420.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/589,226	12/20/2006	1617	1015	2004367-0111	34	6

CONFIRMATION NO. 5785

CORRECTED FILING RECEIPT

25763
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Date Mailed: 12/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Knaack, Summit, NJ;
Michele Diegmann, Scotch Plains, NJ;
Albert Manrique, Manalapan, NJ;
Keyvan Benham, Red Bank, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 25763

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US05/03092 01/27/2005
which claims benefit of 60/539,555 01/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/22/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/589,226**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Stabilized bone graft

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-26-11

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 10589238 Patent No.: 7827313

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ SPE

_____ Art Unit

PAGE 2/2 * RCVD AT 6/16/2011 9:53:14 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/48 * DNIS:2709945 * CSID: * DURATION (mm-ss):00-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/2/11

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/589,307 Patent No. 7,582,264

CofC mailroom date 5/26/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams

SPE

2856

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MATHEW M. NELSON

Application 10/589,386
Technology Center 3700

DECISION ON PETITION

This is a decision on Patent Owner's "Petition to Director," filed February 12, 2010 ("Petition"). The Petition seeks revival of the application and reinstatement of the appeal.

See 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On June 10, 2009, Appellant filed an Appeal Brief.

2. On July 16, 2009, the Examiner entered a Notification of Non-Compliant Appeal Brief.

3. On July 23, 2009, Appellant filed Corrections to Appeal Brief.

4. On October 19, 2009, the Examiner entered another Notification of Non-Compliant Appeal Brief.

5. On October 26, 2009, Appellant filed Applicant's Amended Appeal Brief.

6. On January 19, 2010, the Examiner entered a Notice of Abandonment, noting:

> The communication filed on 10/19/09 (sic 10/26/09) did not correct the status of claims.

7. On February 12, 2010, Appellant filed the present Petition and a second Applicant's Amended Appeal Brief. The Petition seeks revival of the application and reinstatement of the appeal under 37 C.F.R. § 1.183. Petition, p. 1.

8. Rule 1.183 specifies:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

9. In the Petition, Appellant's attorney admits that in Applicant's Amended Appeal Brief of October 26, 2009, the identity of the claims on appeal, as required by 37 C.F.R. § 41.37(c)(1)(iii), inadvertently was omitted. Petition, p. 2.

10. Appellant's attorney argues that such omission was an inadvertent clerical error and should not be the basis for holding the application abandoned, i.e.:

> It is beyond all reasonable doubt plainly and manifestly unjustified to use a technicality as a nuclear option to decide that the appeal is dismissed, not on its merits, but on a clerical error made by Applicant's undersigned attorney.

Petition, p. 3.

DISCUSSION

Inadvertent clerical errors do not constitute sufficient cause to invoke the provisions of Rule 1.183.

That is not to say, however, that no remedy is available for correcting the present situation. Rule 1.137(b) relating to revival of unintentionally abandoned applications does provide a process for achieving such a remedy. This process is recommended for use by Appellant in the present situation.

DECISION

In view of the foregoing, the Petition is DENIED and Appellant is granted a period of one month from the date hereof to file a petition under Rule 1.137(b).

James T. Moore
Acting Chief Administrative Patent Judge

Terry M. Crellin
204 W. 330 North
Laverkin, UT 84745

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,386	06/07/2007	James K. Garland	TEAR AWAY WALL	7139

7590 02/25/2011

Terry M. Crellin
204 W. 330 North
Laverkin, UT 84745

EXAMINER	
NELSON, MATTHEW M	
ART UNIT	PAPER NUMBER
3776	

MAIL DATE	DELIVERY MODE
02/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MATHEW M. NELSON

Application 10/589,386
Technology Center 3700

DECISION ON PETITION

This is a decision on the "Petition to Revive Unintentionally Abandoned Application Under Rule 1.137(b)", filed October 25, 2010 ("Petition to Revive"). *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On June 10, 2009, Appellant filed an Appeal Brief.

2. On July 16, 2009, the Examiner entered a Notification of Non-Compliant Appeal Brief.

3. On July 23, 2009, Appellant filed Corrections to the Appeal Brief.

4. On October 19, 2009, the Examiner entered another Notification of Non-Compliant Appeal Brief.

5. On October 26, 2009, Appellant filed Applicant's Amended Appeal Brief.

6. On January 19, 2010, the Examiner entered a Notice of Abandonment, noting:

> The communication filed on 10/19/09 (sic 10/26/09) did not correct the status of claims.

7. On February 12, 2010, Appellant filed a Petition to the Director, under 37 CFR § 1.183.

8. On October 5, 2010 a decision on the Petition to the Director was mailed to Appellant, denying Appellant's Petition, but giving Appellant one month to file a Petition under 37 CFR § 1.137(b).

9. On October 25, 2010, Appellant filed the present Petition and the amended first page of the Appeal Brief that was filed on February 12, 2010.

10. The Petition to Revive was accompanied by:

(a) The Amended First Page of the Appeal Brief correcting the defect;

(b) The Petition Fee; and

(c) A statement that "applicant hereby states that the required reply from the due date for the reply until the filing of a grantable petition pursuant to paragraph (b) of Rule 1.137 was unintentional."

11. There are no facts know by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

12. Since the application was filed after June 8, 1995, on June 7, 2007, no terminal disclaimer is required.

13. A review of the amended first page of the Appeal indicates that the correction is in compliance with 37 CFR § 41.37.

DISCUSSION

As indicated above, Appellant has complied with all of the requirements of a petition under 37 CFR § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the application is returned to the Examiner for the preparation of an Examiner's Answer.

James T. Moore
Acting Chief Administrative Patent Judge

Terry M. Crellin
204 W. 330 North
Laverkin, UT 84745

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 18, 2012

In re Application of :

John Babich

Application No : 10589405

Filed : 11-Aug-2006

Attorney Docket No : 346715-0626 NATL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 18, 2012

The request is **APPROVED.**

The request was signed by Michel Morency (registration no. 50183) on behalf of all attorneys/agents associated with Customer Number 48329 . All attorneys/agents associated with Cusotmer Number 48329 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	Mr. John Garvey
Name2	K&L Gates
Address 1	One Lincoln Street
Address 2	
City	Boston
State	MA
Postal Code	02111
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10589405
Filing Date	11-Aug-2006
First Named Inventor	John Babich
Art Unit	1618
Examiner Name	DAMERON JONES
Attorney Docket Number	346715-0626 NATL
Title	Technetium-And Rhenium-Bis (Heteroaryl) Complexes, And Methods Of Use Thereof

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 48329

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Mr. John Garvey K&L Gates
Address	One Lincoln Street
City	Boston
State	MA
Postal Code	02111
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michel Morency/
Name	Michel Morency
Registration Number	50183

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 15, 2011

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of	:	
Yokoyama, Tsukao, et, al	:	**DECISION ON PETITION**
Application No. 10/589,420	:	
Filed: 08/15/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. YPOI.001APC	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 15, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10589437
Filing Date	01-Aug-2007
First Named Inventor	Kenichi Shiraishi
Art Unit	2882
Examiner Name	MESFIN ASFAW
Attorney Docket Number	1220.1001
Title	EXPOSURE APPARATUS, SUPPLY METHOD AND RECOVERY METHOD, EXPOSURE METHOD, AND DEVICE PRODUCING METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/david m. pitcher/
Name	David M. Pitcher
Registration Number	25908

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 28,2011

In re Application of :

Kenichi Shiraishi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10589437

Filed : 01-Aug-2007

Attorney Docket No : 1220.1001

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 28,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10589437
Filing Date	01-Aug-2007
First Named Inventor	Kenichi Shiraishi
Art Unit	2882
Examiner Name	MESFIN ASFAW
Attorney Docket Number	1220.1001
Title	EXPOSURE APPARATUS, SUPPLY METHOD AND RECOVERY METHOD, EXPOSURE METHOD, AND DEVICE PRODUCING METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ○ A sole inventor ○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ○ A joint inventor; all of whom are signing this e-petition ○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/david m. pitcher/
Name	David M. Pitcher
Registration Number	25908

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MICHAEL J. STRIKER
103 EAST NECK ROAD
HUNTINGTON NY 11743

MAILED
APR 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,802,629 :
Issue Date: September 28, 2010 :
Application No. 10/589,716 : DECISION ON PETITION
Filed: April 3, 2008 :
Attorney Docket No. 3836 :

This is a decision on the Petition For Certificate Of Correction, filed November 24, 2010, which is being treated as Petition Under 37 CFR §3.81(b), to identify the correct second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the second assignee's name on the previously submitted PTOL 85B. Accordingly, petitioner urges, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the second assignee's name identified thereon from:

"**Forteg** Brandschutz GmbH & Co. KG"

to:

--**Fogtec** Brandschutz GmbH & Co KG.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,802,629.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,837,223
Shilliday et al.
Issue Date: November 23, 2010
Application No. 10/589,778
Filed: April 25, 2008
Attorney Docket No.
53982/333698
Title: INFLATABLE CUSHIONING DEVICE

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 29, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-one (621) days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixteen **(516)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 88 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 459 days.

The period of adjustment under 37 CFR 1.702(a) and the period of adjustment under 37 CFR 1.702(b) overlaps for 31 days (August 22, 2009 to September 21, 2009).

Patentees also contend that an additional adjustment of 106 days is warranted based upon the Office's failure to respond within four months to applicants December 11, 2009 reply.

Patentees' argument has been considered but not deemed persuasive. 37 CFR 1.702(a)(2) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> > Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

The mailing of the Office action on March 17, 2010, met the requirements of 37 CFR §1.702(a)(2). The subsequent mailing of the supplemental non-final Office action July 27, 2010 does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on March 17, 2010. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on March 17, 2010 will be used to calculate the amount of Office delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating

that the term of the above-identified patent is extended or adjusted by **five hundred sixteen (516)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,837,223 B2

DATED : November 23, 2010 **DRAFT**

INVENTOR(S) : Shilliday et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 187 days

Delete the phrase "by 187 days" and insert – by 516 days--

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DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application
Garry Chambers et al.
Application No. 10/589,850
Filed: August 17, 2006
Attorney Docket No. 0089500-003US0

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705 filed September 3, 2010. Applicant requests that the determination of patent term adjustment be corrected from 410 to 9481days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

MAILED

MAY 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,892,557 :
Issued: February 22, 2011 :
Application No. 10/589,866 : DECISION ON PETITION
Filed: September 19, 2006 :
Attorney Docket No. 27637U :

This is a decision on the petition, filed, February 24, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,871	08/18/2006	Rene Roscher	27579U	3799

34375 7590 07/14/2011
NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

EXAMINER	
CHONG, YONG SOO	
ART UNIT	PAPER NUMBER
1627	

MAIL DATE	DELIVERY MODE
07/14/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte RENE ROSCHER and
CHRISTOPH KARL

Application 10/589,871
Technology Center 1600

DECISION ON PETITION

This is a decision on the "Petition Under 37 CFR § 41.3" filed June 22, 2011 ("Petition"). The Petition requests a two-month extension of time to file a Reply Brief.

FINDINGS

1) On June 28, 2010, Appellants filed a Notice of Appeal and a three month extension of time.

2) On January 26, 2011, Appellants filed an Appeal Brief and a five month extension of time.

3) On April 20, 2011, an Examiner's Answer was mailed to Appellants.

4) The Examiner's Answer contains a new ground of rejection.

5) On April 22, 2011 the Examiner's Answer was returned to the United States Patent and Trademark Office as undeliverable.

6) The Petition indicates that Appellants were made aware of the Examiner's Answer due to a phone call from the Examiner on June 21, 2011.

7) On June 22, 2011, Appellants filed their petition.

8) There is no indication that the Examiner's Answer was remailed to Appellants.

9) The Petition requests a two-month extension of time because:

> Petitioners /Appellants would simply like a fair opportunity to respond to the Examiner's Answer. Accordingly, Petitioners /Appellants respectfully petition the Chief Administrative Patent Judge to establish a two-month time period for filing a Reply Brief in the captioned application for two months after June 21,2011, the date that Petitioners/Appellants were made aware that an Examiner's Answer was mailed, i.e. August 21, 2011.

(Petition 2).

10) Requests for extensions of time to file a Reply Brief are covered by 37 CFR §41.43(c), which is provided below:

> Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

11) 37 CFR §1.136(b) further states:

> When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for *sufficient cause and for a reasonable time specified.* Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute.

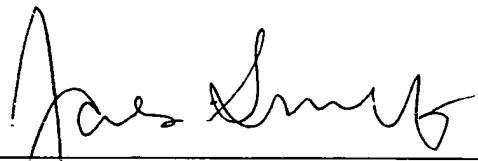
(Emphasis added.)

DISCUSSION

In view of the fact that Appellants were made aware of the Examiner's Answer the day after the Reply Brief was due, the Request for an Extension of Time is **Granted**. Appellants will be given two months from the date of this Decision, to file a Reply Brief.

DECISION

In view of the foregoing, the Petition is GRANTED.



James D. Smith
Chief Administrative Patent Judge

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Barbara A. Shimei
Director, Patents & Licensing
Bayer HealthCare LLC - Pharmaceuticals
555 White Plains Road, Third Floor
Tarrytown NY 10591

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of
Heike Gielen-Haertwig et al.
Application No. 10/589,907
Filed: June 29, 2007
Attorney Docket No. **438P2251**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2011, to revive the above-identified application.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 3, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 4, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on January 6, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1624 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

JoAnne Burke
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,119	06/11/2007	Lin Zhi	3800024.00324 / 1112US	1033

77202 7590 01/31/2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

EXAMINER	
CHANDRAKUMAR, NIZAL S	
ART UNIT	**PAPER NUMBER**
1625	
MAIL DATE	**DELIVERY MODE**
01/31/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FEB 0 1 2011

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of:
Zhi et al.
Serial No.: 10/590,119
Filed: August 18, 2006
Attorney Docket No: **3800024.00324 / 1112US**

: PETITION DECISION

This is in response to the petition filed on January 7, 2011 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on January 29, 2010 and September 13, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on April January 29, 2010 and September 13, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on January 29, 2010 and September 13, 2010 is attached.

The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (January 29, 2010, "Transmittal Letter" of 3 pages, and September 13, 2010, "Transmittal Letter" of 2 pages). Consequently the information contained therein may not be considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of January 29, 2010 and September 13, 2010.

DECISION

The petition is **GRANTED.**

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,119	06/11/2007	Lin Zhi	33310.01112.US02/1112US	1033

13565 7590 05/18/2011

McKenna Long & Aldridge LLP
4435 Eastgate Mall
Suite 400
San Diego, CA 92121

EXAMINER	
CHANDRAKUMAR, NIZAL S	
ART UNIT	PAPER NUMBER
1625	
MAIL DATE	DELIVERY MODE
05/18/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAY 18 2011

McKenna Long & Aldridge LLP
4435 Eastgate Mall
Suite 400
San Diego CA 92121

In re Application of:	:	
Zhi et al.	:	
Serial No.: 10/590,119	:	PETITION DECISION
Filed: June 11, 2007	:	
Attorney Docket No.:	:	
33310.01112.US02/1112US		

This is in response to the petition under 37 CFR § 1.181, filed April 28, 2011, requesting that the finality of the Office action of April 15, 2011 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on November 3, 2010 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-25, 27-35, 62-70, 72-78 and 82 were pending. The examiner rejected claims 1-25, 27-35, 62-68, 78 and 82 and withdrew claims 69-70 and 72-77 from consideration. Claims 1, 2, 3, 4, 12, 13, 14, 15, 16 were rejected under 35 U.S.C. 102(b) as being anticipated by Selvakumar et al. Claim 5, 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Rettig et al. Claim 6, 7, 8, 9, 10, 11, 22, 23, 24, 29 were rejected under 35 U.S.C. 102(b) as being anticipated by Oki et al. Claim 18,19, 20, 21,25, 27, 28, 30, 35 were rejected under 35 U.S.C. 102(b) as being anticipated by Abdallah et al. Claims 30, 31,32, 34, 35 were rejected under 35 U.S.C. 102(b) as being anticipated by Sokolov et al. Claim 62 was rejected under 35 U.S.C. 102(b) as being anticipated by Zyss et al. Claim 30 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sokolov et al. Claim 62 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

In reply to the non-final Office action of November 3, 2010, applicants filed a response on February 14, 2011. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On April 15, 2011, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-25, 27-35, 62-69, 72-78 and 82-86 were pending. The examiner rejected claims 1-25, 27-35, 62-68, 78 and 82-86 and withdrew claims 69 and 72-77 from consideration. Claims 1 and 18 were rejected under 35 U.S.C. 102(b) as being anticipated by Sues et al. Claims 1-4, 8-25, 27, 30, 34, 63-68, 78, 82, 83, 85, 86 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. Claims 1-5, 8-25, 27, 30, 34, 63-68, 78, 82, 83, 85, 86 are rejected under 35 U.S.C. 102(b) as being anticipated by Sunjic et al. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Elslager et al. Claims 1,22, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Jin et al. Claims 1-25, 27-35, 62-68, 78, 82-86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

In response thereto, applicants filed this petition on April 28, 2011, requesting that the finality of the Office action of April 15, 2011 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on April 28, 2011, applicants submit that the finality of the Office action of April 15, 2011 is premature. Applicants argue that "In the instant Office Action, the Examiner newly has rejected claims 1-25, 27-35, 62-68 and 78 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter because the recitation "pharmaceutically acceptable ester or amide thereof" is considered "vague and indefinite." Applicant respectfully submits that, to the extent that this ground of rejection is proper, it could have been applied to claims 1-25, 27-35, 62-68 and 78 in the previous Office Action. Claim 1 was amended in the previous Response, mailed February 14, 2011, to eliminate hydrogen and alkyl as alternatives in the definition of R^2 and to correct an error in the definition of R^9 by including the selections COR^A and $CO2R^A$, which are recited in original claim 2. Claim 1 as previously pending recites "or a pharmaceutically acceptable salt, ester, or amide thereof." Original claim 1 recites "or a pharmaceutically acceptable salt, ester, amide or prodrug thereof." Claims 2-25, 27-35, 62-68 and 78 ultimately depend from claim 1 and include every limitation thereof. Thus, to the extent this rejection is pertinent to pending claims 1-25, 27-35, 62-68 and 78, previously pending claims 1-25, 27-35, 62-68 and 78, which included the recitation "or a pharmaceutically acceptable salt, ester, or amide thereof," could have been so-rejected in the last Office Action. Therefore, the new ground of rejection is not necessitated by the amendment of claim 1 in the previous Response." Similar reasoning applies to claims 30-35.

Applicants' argument is well taken and persuasive since applicants' amendments did not necessitate the new rejection. It is pointed out that the language which forms the basis for the 35 USC 112, second paragraph, rejection was clearly present in the claims before the examiner at the time of the non-final Office action of November 3, 2010.

It is pointed out that MPEP § 706.07 recites:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).
>
> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Accordingly, it is decided that Applicants' argument is well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed April 15, 2011 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jacqueline Stone
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/12/11

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10590235 Patent No.: 7771864

CofC mailroom date:
12/27/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paula Ridley 1725

SPE Art Unit

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Alexandria, VA 22313-1450
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SEP 27 2010

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
1875 Eye Street, N.W.
Suite 1100
Washington, DC 20006

In re Application of	:	
Pablo A. Meouchi Saade	:	
Application No. 10/590,294	:	DECISION ON PETITION
Filed: August 14, 2007	:	TO WITHDRAW
Attorney Docket No. 008-43	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Burton A. Amernick on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Pablo A. Meouchi Saade at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Pablo A. Meouchi Saade**
Sierra Cayambe, No. 11
Colonia Jardines de la Montana
14210 Mexico, D.F.
Mexico

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/590,294	08/14/2007	Pablo A. Meouchi Saade	21879-00070-US1

CONFIRMATION NO. 6809

30678
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

POWER OF ATTORNEY NOTICE

OC000000043710901

Date Mailed: 09/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/02/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 0595-1078	Patent Number: 7,662,455
Filing Date (or 371(b) or (f) Date): 05-Oct-2006	Issue Date: 16-Feb-2010
First Named Inventor: FABREGUETTE, Julien	
Title: FABRIC PREPREG BY TWO DISTINCT THERMOSETTING MATRICES	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Benoit Castel/	Date August 10, 2010
Name (Print/Typed) Benoit Castel	Registration Number 35041

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 09/02/2010

Applicant	: Julien Fabreguette	: DECISION ON REQUEST FOR
Patent Number	: 7662455	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/590,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALSTOM Power Inc.
200 Great Pond Drive
P.O. Box 500
WINDSOR CT 06095

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FEB 28 2012
OFFICE OF PETITIONS

In re Application of :
Jean-Xavier Morin et al. :
Application No. 10/590,357 : DECISION ON PETITION
Filed: September 14, 2006 :
Attorney Docket No. VA30455 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 21, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 19, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 17, 2011. Accordingly, the date of abandonment of this application is September 20, 2011. A Notice of Abandonment was mailed on October 4, 2011.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

As to item (3), the petitioner states that due to a "docketing error" a response to the Notice of Allowance was not timely received. Applicant provided an affidavit from office staff member Deborah Picciano having information regarding the docking procedures at the office of Alstom Power, Inc. Ms. Picciano states that "an employee of Alstom, Nancy Schofield had received the Notice of Allowance" and "missed blocks "B", "C", "D", "E", of the IP docketing system. Nancy Schofield had firsthand knowledge of the matter, according to the applicant, however no

statement from the employee was received. Applicant provides a flowchart of the docketing procedures of the IP Master docket. Applicant did not provide a copy of the actual IP Master docket, showing the receipt of incoming papers, most importantly the receipt of the Notice of Allowance mailed from the U.S. Patent and Trademark Office regarding this application. The Office also sent out an email notification of outgoing correspondence on June 17, 2011. The applicant was afforded more than one opportunity to respond timely to the Notice of Allowance.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). *See* MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,860 petition fee. The "unavoidable" petition fee can be applied toward a petition to revive unintentionally.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By way of the Electronic Filing System (EFS).

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Office of Petitions
Office of Petitions

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APR 03 2012
OFFICE OF PETITIONS

In re Application of
Morin, et al.
Application No. 10/590,357
Filed: September 14, 2006
Attorney Docket No. **VA30455**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 12, 2012.

The second renewed petition is GRANTED.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed June17, 2011, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 18, 2011. A Notice of Abandonment was mailed on October 4, 2011.

The issue fee and publication fees were received on December 21, 2011.

The application file is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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McDermott Will & Emery
600 13th Street, NW
Washington DC 20005-3096

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application of
Babish, et al.
Application No. 10/590,424
Filed: April 2, 2007
Atty. Dkt. No.: 068911-0160

: DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 and the alternative petition to revive under 37 CFR 1.137(b), filed October 7, 2011.

The application became abandoned September 3, 2011 for failure to timely submit a proper reply in response to the Notice of Allowability mailed June 2, 2011. The Notice of Allowability set a three month statutory period of time for reply. Notice of Abandonment was mailed September 19, 2011.

DECISION UNDER 37 CFR 1.181

Petitioner's arguments have been carefully reviewed, but have not been found convincing. Applicants argue that in view of the mailing of the Supplemental Notice of Allowability on July 27, 2011, corrected drawings were not required. Applicants further assert that to the extent corrected drawings were required, the failure to submit the corrected drawings was a result of the Office's failure to note the drawing requirement in the Supplemental Notice of Allowability mailed July 27, 2011.

Despite the mailing of a Supplemental Notice of Allowability on July 27, 2011, the Notice of Allowability mailed June 2, 2011 was not withdrawn, vacated, or expunged from the record. Accordingly, the failure to timely submit a proper reply to the Notice of Allowability mailed June 2, 2011 resulted in the abandonment of the application. Failure by applicant of a patent application to reply within the time period provided under § 1.134 and § 1.136 results in abandonment of the application as a matter of law. See, 37 CFR 1.135(a). Absent a showing that a proper reply to the Notice of Allowability mailed June 2, 2011 was timely filed within the time period for reply set forth therein, the holding of abandonment will not be withdrawn.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

As to requirement (1), receipt is acknowledged of the replacement drawing sheet. As to item (2), the required petition fee has been charged to the authorized deposit account. As to item (3), a proper statement of unintentional delay has been provided. Item (4) is not applicable to the instant application.

After careful review, the instant petition has been found in compliance with the requirements set under 37 CFR 1.137(b).

In view thereof, the petition under 37 CFR 1.137(b) is hereby **GRANTED**.

Accordingly, the instant petition is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,477	08/24/2006	Amir Barzilay	32110	8675

7590 11/19/2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER	
HELLING, KAITLYN ELIZABETH	

ART UNIT	PAPER NUMBER
3739	

MAIL DATE	DELIVERY MODE
11/19/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 19, 2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of :
Barzilay, Amir et al :
Application No. **10/590477** : **DECISION ON PETITION**
Filed: **08/24/2006** :
Attorney Docket No: **32110** : ***ACCEPTANCE OF COLOR DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 30, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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July 6, 2011

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

Re Application of
BARZILAY, AMIR,ET Al
Application: **10/590477**
Filed: **08/24/2006**
Attorney Docket No: **32110**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 2, 2011.

The petition is **GRANTED**.
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,596	08/24/2006	Kunio Gobara	MAT-8894US	8964

52473 7590 09/20/2011

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
ROBERTS, BRIAN S	

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
09/20/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Ratnerprestia
P.O. Box 980
Valley Forge PA 19482

In re Application of: Gobara et al.
Application No. 10/590596
Filed: August 24 2006
For: Information Processing Device, and Bubble Packet Transmission Method and Program

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on August 24, 2006. The PTO regrets the delay in deciding this petition.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

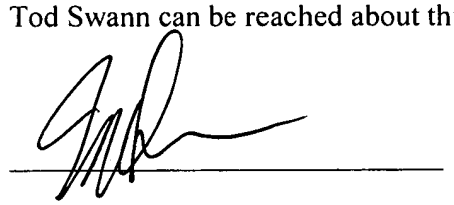
(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The Petition to Make Special is hereby **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

A message will be forwarded to the examiner indicating this decision and the special handling of this application per MEP 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Tod Swann can be reached about this petition at (571-272-3612.



Tod Swann
Quality Assurance Specialist
TC 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS MI 48326-1581

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :
Diebold et al. :
Application No. 10/590,628 : DECISION ON PETITION
Filed: June 19, 2007 :
Attorney Dkt. No.: AP10894 :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on December 29, 2010.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on May 21, 2010. The Notice set an extendable three-month reply period of August 21, 2010. Accordingly, this application became abandoned on August 22, 2010. A Notice of Abandonment was mailed on January 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, claims and replacement drawings (2) the petition fee of $1620.00, and (3) a statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Hallacher appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3661 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Caiteng Zhang :
Application No. 10/590,637 : DECISION ON PETITION
Filed: August 23, 2006 : TO WITHDRAW
Attorney Docket No. 2467-2 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

04 OCT 2010

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

In re Application of:
KIMURA, Syuji, et al.
U.S. Application No.: 10/590,644
PCT No.: PCT/JP2005/002156
International Filing Date: 14 February 2005
Priority Date: 27 February 2004
Attorney Docket No.: Sl08-P065676US
For: PLL CIRCUIT

DECISION ON PETITION
(37 CFR 1.55(c))

This decision is issued in response to the "Petition under 37 CFR 1.55(c)" filed on 11 August 2010. The petition seeks acceptance of an unintentionally delayed foreign priority claim directed to prior-filed Japanese application number 2004-055280.

For the reasons set forth below, the petition is **DISMISSED AS MOOT**.

The petition procedure set forth in 37 CFR 1.55(c) applies only to delayed claims of priority "under 35 U.S.C. 119(a)-(d) or 365(a);" it does not apply to foreign priority claims raised in an international application, which are made pursuant to 35 U.S.C. 365(b). Moreover, the four-month deadline for presenting a foreign priority claim set forth in 37 CFR 1.55(a)(1)(i) expressly applies only in "an original application filed under 35 U.S.C. 111(a)," not to a national stage application filed under 35 U.S.C. 371.

The present application is the U.S. national stage of international application PCT/JP2005/002156 filed under 35 U.S.C. 371. With respect to a national stage application, 37 CFR 1.55(a)(1)(ii) states the following:

> In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

As evident from the international publication of PCT/JP2005/002156, a foreign priority claim directed to Japanese application number 2004-055280 was properly and timely presented in the international application, and a review of the present national stage application file confirms that the International Bureau (IB) has communicated to the United States Patent and Trademark Office (USPTO) the certified copy of the foreign priority application submitted during the international phase of the application.

In view of the above, and pursuant to 37 CFR 1.55(a)(1)(ii), applicants timely presented a foreign priority claim directed to Japanese application number 2004-055280 in the present

national stage application. A petition under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed foreign priority claim is therefore unnecessary in the present application.

The $1,410 petition fee filed with the present petition will be refunded to applicants.

It is noted that the declaration filed herein on 25 July 2008 does not comply with 37 CFR 1.63(c)(1) and (2) because it fails to set forth the mailing address and residence of the inventors and the foreign priority claim. A supplemental declaration in compliance with 37 CFR 1.63 or an acceptable application data sheet (ADS) containing the foreign priority claim and the address and residence information would resolve the defect in the declaration; however, a supplemental declaration has not been submitted herein, and the ADS filed with the present petition on 11 August 2010 (which includes the required information) is unacceptable as filed because it was not signed by the agent.

The application is being referred to GAU 2817 for further examination in accordance with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3296

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
BERNARD, Jerome, et al.
U.S. Application No.: 10/590,734
PCT Application No.: PCT/EP2005/002367
International Filing Date: 10 February 2005
Priority Date: 27 February 2004
Attorney's Docket No.: 2121-0191PUS1

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to applicant's "Request For Corrected Notice Of Acceptance" filed 03 October 2008 and resubmitted on 30 September 2010, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 10 February 2005, applicants filed international application PCT/EP2005/002367. The international application claimed a priority date of 27 February 2004, and it designated the United States. On 15 September 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was 30 months from the priority date, i.e., 27 August 2006.

An executed declaration of the inventors was filed during the international stage of PCT/EP2005/002367 pursuant to PCT Rules 4.17(iv) and 26ter.

On 25 August 2006, applicants filed papers to initiate a U.S. national stage application. This submission included, among other materials, payment of the basic national fee. The submission did not include an express request to begin national examination procedures pursuant to 35 U.S.C. 371(f).

On 12 October 2006, applicants filed a Combined Declaration And Power Of Attorney.

On 11 July 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" as 25 August 2006 and the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 27 August 2006. On the same date, the USPTO issued a filing receipt identifying the 35 U.S.C. 371(c) date as 25 August 2006.

On 03 October 2008, applicants filed the "Request For Corrected Notice Of Acceptance" considered as a petition herein (the petition was resubmitted on 30 September 2010).

DISCUSSION

The present petition requests a corrected Notification Of Acceptance identifying the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 12 October 2006, the date applicants filed the executed Combined Declaration And Power Of Attorney. However, as noted above, an executed inventors' declaration was filed during the international stage of PCT/EP2005/002367 pursuant to PCT Rules 4.17(iv) and 26ter. As set forth in 37 CFR 1.497(a), where a compliant declaration has been timely submitted in the international application under PCT Rule 4.17(iv), a new declaration under 37 CFR 1.497 is not required. Thus, the declaration filed by applicants in the national stage application on 12 October 2006 was not necessary to satisfy the declaration requirement of 35 U.S.C. 371(c)(4); such requirement had already been satisfied during the international stage.

MPEP section 1893.03(b), sets forth the following criteria for determining the correct "Date Of Completion Of all 35 U.S.C. 371 Requirements" listed on the Notification Of Acceptance:

> The "Date of Completion of all 35 U.S.C. 371 Requirements" included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) is ... the latest of:
>
> (A) the date of submission of the basic national fee;
>
> (B) the date of submission or communication of the copy of the international application;
>
> (C) the date of submission of the translation of the international application if the international application is not in the English language;
>
> (D) the date of submission of an oath or declaration of the inventor in compliance with 35 U.S.C. 371 (c)(4) (see 37 CFR 1.497(c) for an explanation of when an oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4));
>
> (E) the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date (Form PCT/DO/EO/903 will indicate the date early processing was requested);
>
> (F) if a request for early processing has not been requested prior to 30 months from the priority date, the date of submission of any translation of the annexes to the international preliminary examination report if the translation of the annexes are filed within the time period set in a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring either an English translation of the international application or an oath or declaration; and

(G) the date of submission of any surcharge for submitting the oath or declaration later than 30 months from the priority date.

In the present application, elements A, B, and D were satisfied as of 25 August 2006 (based on applicants' original national stage submission and the declaration filed during the international stage), and elements C, F, and G do not apply. The appropriate "Date Of Completion Of All 35 U.S.C. 371 Requirements" is therefore determined by element E. As noted above, the materials filed by applicants on 25 August 2006 to initiate the present application did not include a "request for early processing under 35 U.S.C. 371(f)." Accordingly, pursuant to element E, the appropriate "Date Of Completion Of All 35 U.S.C. 371 Requirements" is 27 August 2006, that is, "the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(c)(4)."

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 11 July 2008 properly identified the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" as 25 August 2006 and the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 27 August 2006. Applicants' request for a corrected Notification Of Acceptance identifying the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 12 October 2006 is therefore properly dismissed.

CONCLUSION

The Request For Corrected Notice Of Acceptance is **DISMISSED** without prejudice.

The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" is 25 August 2006 and the correct "Date Of Completion Of All 35 U.S.C. 371 Requirements" is 27 August 2006, as indicated in the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 11 July 2008.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,713,367 :
Issue Date: May 11, 2010 :
Application No. 10/590,806 : ON PETITION
Filed: August 25, 2006 :
Attorney Docket Number: DAVIDK 3.3-017 :

This is a decision on the petition, filed September 24, 2010, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about May 11, 2010, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person (Fax – (571) 270-9764)
Kimberly Terrell (Fax – (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington DC 20005-1503

MAILED
MAR 16 2011
PCT LEGAL ADMINISTRATION

In re Application of :
YAMAMOTO et al. : DECISION ON PETITION
Application No.: 10/590,909 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 2006_1366A :
For: CONTENT PLAYBACK DEVICE :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment and supplemental application data sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in a supplemental ADS and in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the

prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed Daniel Stemmer at (571) 272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2431 for appropriate action on the amendment filed January 19, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Thomas ARNDT, et *al.* :
Application No. 10/590,932 : DECISION GRANTING PETITION
Filed: August 28, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **294710US0PCT** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 28, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,052	08/28/2006	Thomas Joseph Seal	12854-20446	6449

25231 7590 01/14/2011

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

EXAMINER	
SLIFKA, COLIN W	

ART UNIT	PAPER NUMBER
1732	

MAIL DATE	DELIVERY MODE
01/14/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

Applicant: Seal
Appl. No.: 10/591,052
Filing Date: August 28, 2006
Title: REMEDIAL HEAP TREATMENT
Attorney Docket No.: 12854-20446
Pub. No.: US 2007/0186724 A1
Pub. Date: August 16, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on January 6, 2011, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 01/14/2011 KKING1
01707/2011 INTEFSW 00004530 10591052
01 FC:1504 -300.00 OP

Repln. Ref: 01/14/2011 KKING1 0015075600
DAA:501419 Name/Number:10591052
FC: 9204 $300.00 CR

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United States Patent and Trademark Office
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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Frederic A. MACDONALD et al. :
Application No. 10/591,169 : DECISION ON PETITION
Filed: August 30, 2006 :
Attorney Docket No. **06780069US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 09, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 09, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction July 09, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power of attorney filed March 12, 2010 is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3685 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,919,081 :
Issue Date: April 5, 2011 :
Application No. 10/591,203 : ON PETITION
Filed: June 22, 2007 :
Attorney Docket No.: 235.0155 0101 :

This is a decision on the petition, filed April 29, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioner has provided a request for a certificate of correction under § 1.323, including the fee required by § 1.20(a); however, it is noted that there is no statement that the assignment was recorded prior to issuance of the patent and the $130 processing fee set forth in § 1.17(i) has not been paid. Accordingly, the request cannot be granted at this time.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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MINNEAPOLIS, MN 55458-1336

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,919,081 :
Issue Date: April 5, 2011 :
Application No. 10/591,203 : ON PETITION
Filed: June 22, 2007 :
Attorney Docket No.: 235.0155 0101 :

This is a decision on the renewed request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction filed July 14, 2011

The request is **GRANTED**.

As authorized, the $130 processing fee set forth in § 1.17(i) is being charged to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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SEP 22 2010
OFFICE OF PETITIONS

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

In re Application of	:	
Peleg et al.	:	
Application No. 10/591,317	:	ON PETITION
Filed: August 31, 2006	:	
Attorney Docket No. P-6625-US	:	

This is a decision on the petition under 37 CFR 1.182, filed July 20, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Eran Peleg
2. Evgeny Kazakov
3. Michael Kazakov

A Corrected Filing Receipt reflecting the above changes is enclosed.

This application is being referred to the Office of Data Management to await a response to the Notice of Allowance.

Telephone inquiries regarding this decision should be directed to Joan Olszewski at (571) 272-7751. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/591,317	08/31/2006	2191	775	P-6625-US	39	2

CONFIRMATION NO. 9428

CORRECTED FILING RECEIPT

49443
Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Date Mailed: 09/21/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Eran Peleg, Vradim, ISRAEL;
Evgeny Kazakov, Naale, ISRAEL;
Michael Kazakov, Jerusalem, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 49443

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IL05/00243 03/02/2005
which claims benefit of 60/548,879 03/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/591,317**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

DEVICE, SYSTEM AND METHOD FOR ACCELERATED MODELING

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,347	03/18/2009	Yardena Samuels	001107.00617	6442

22907 7590 08/04/2010

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
GODDARD, LAURA B	
ART UNIT	PAPER NUMBER
1642	
MAIL DATE	DELIVERY MODE
08/04/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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AUG 0 4 2010

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Application of:
Samuels et al.

Serial No.: 10/591,347

Filed: August 31, 2006

Docket: **001107.00617**

Title: **MUTATIONS OF THE PIK3CA GENE IN HUMAN CANCERS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on July 16, 2010 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

(A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),

(B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));

(C) An executed oath or declaration in compliance with 37 CFR 1.63;

(D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;

(E) A title and an abstract in compliance with 37 CFR 1.72;

(F) Drawings in compliance with 37 CFR 1.84;

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);

(H) Foreign priority claim under 35
U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);

(I) Domestic benefit claims under 35
U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);

(J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);

(K) No preliminary amendments present on the filing date of the application; and

(L) No petition under 37 CFR 1.47 for a non-signing inventor.

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was no in condition for examination as evidenced by applicants' failure to file this petition in accordance with the rules for accelerated examination and MPEP 708.02 which states "Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age. Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below. A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a)."

I

For the above-stated reasons, the petition is **DENIED**.

The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Marianne C. Seidel, Quality Assurance Specialist, at (571) 272-0584.

/MC Seidel/
Marianne. C. Seidel, Quality Assurance Specialist
Technology Center 1600

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King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of :
Hongwei Yuan et al. :
Application No. 10/591,358 :
Filed: August 12, 2008 :
Attorney Docket No. 57070-8021.US00 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the paper filed June 21, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(b). The petition requests the initial determination of patent term adjustment be corrected from zero (0) days to eight hundred twenty-two (822) days.

The petition is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on April 14, 2010, advising Applicants of a patent term adjustment to date of 0 days. In response, Applicants timely filed the instant petition on June 21, 2010, prior to submitting the issue fee on July 14, 2010.

Applicants assert the correct patent term adjustment is 822 days, which is the sum of 623 days of delay under 37 C.F.R. § 1.702(a) ("A Delay") and 310 days of delay under 37 C.F.R. § 1.703(b) ("B Delay") reduced by 111 days of delay under 37 C.F.R. § 1.704(c) (Applicant Delay").

A Delay

Applicants argue the patent term adjustment should include a 623-day increase for delay under 37 C.F.R. § 1.702(a)(1), which provides for an adjustment if the Office fails to:

> Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application.

Applicants assert the 14-month time period set forth in 37 C.F.R. § 1.702(a)(1) began on the filing date for the application which Applicants assert is August 14, 2006.

The instant application was not filed under 35 U.S.C. § 111(a). Instead, the application is the national stage of an international application. Therefore, the 14-month time period began on the date the application fulfilled the requirements of 35 U.S.C. § 371.

The application fulfilled the requirements of 35 U.S.C. § 371 on August 12, 2008. The Office mailed an action under 35 U.S.C. § 132 on June 29, 2009, which was less than 14 months after the date the application fulfilled the requirements of 34 U.S.C. § 371. Therefore, an increase in patent term adjustment for delay under 35 U.S.C. § 154(b)(1)(A)(i) and 37 C.F.R. § 1.702(a)(1) is not warranted.

B Delay

To the extent Applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 C.F.R. § 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 C.F.R. § 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicant Delay

Delay Under 37 C.F.R. § 1.704(b)

The petition asserts the period of Applicant Delay is 111 days. The petition states, with emphasis in the original,

> On 22 February 2008, the Office mailed a Notice of Missing Parts. Applicants' response was due on 22 April 2008, but was not filed until 12 August 2008. Thus Applicants' delay resulted in a debit of 111 days.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Applicants indicate a reply to the Notice to File Missing Parts was due on April 22, 2008, but was not filed until August 12, 2008, which was 111 days after the due date. However, as stated in 37 C.F.R. § 1.704(b), "The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

The period of delay under 37 C.F.R. § 1.704(b) is 82 days, which is the number of days beginning on May 23, 2008, the day after the date *three months after* the Office mailed the Notice to File Missing Parts, and ending on August 12, 2008, the date the reply was filed.

The Office did not enter a reduction in patent term adjustment under 37 C.F.R. § 1.704(b) when calculating the initial patent term adjustment. However, in view of the discussion above, an

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action or notice of allowance. *See* 37 C.F.R. § 1.705(b) and 35 U.S.C. § 154(b)(3)(B). A dispute as to the calculation of the 37 C.F.R. § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

82-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(b). Therefore, the Office has entered an 82-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b).

Delay Under 37 C.F.R. § 1.704(c)(8)

The Office entered a 23-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8) prior to calculating the initial patent term adjustment determination.

Applicants do not *explicitly* dispute the Office's entry of a 23-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8). However, Applicants *implicitly* dispute the reduction by asserting the total period of Applicant delay is 111 days consisting of 111 days of delay under 37 C.F.R. § 1.704(b).

Pursuant to 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Applicants filed a reply to a June 29, 2009 Office action on July 29, 2009. Applicants subsequently filed an information disclosure statement ("IDS") on August 21, 2009. The record fails to indicate the Office expressly requested the IDS and the IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d). The number of days beginning July 30, 2009, the day after the date a reply to the June 29, 2009 Office action was filed, and ending on August 21, 2009, the date the IDS was filed, is 23 days. Therefore, entry of a 23-day reduction under 37 C.F.R. § 1.704(c)(8) was warranted and proper.

Conclusion

The period of A Delay is 0 days.

Applicants' argument that the period of B Delay is at least 310 days is premature.

The Office has entered an 82-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b).

The total period of Applicant Delay is 105 days, which is the sum of 82 days of delay under 37 C.F.R. § 1.704(b) and 23 days of delay under 37 C.F.R. § 1.704(c)(8).

The period of A Delay is less than the period of Applicant Delay. The Office does not set forth negative balances of patent term adjustment when issuing a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b). Therefore, the Office properly notified Applicants the initial patent term adjustment is 0 days when the Office issued the Notice of Allowance.

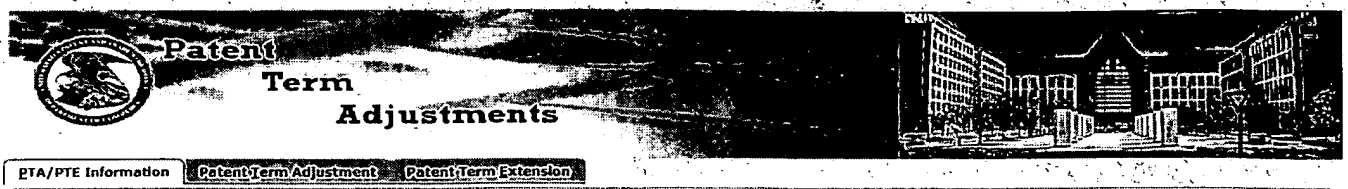
Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Director
Office of Petitions



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10591358 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10591358

Application Filing Date	08/12/2008	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	0
A Delays	0	PTO Manual Adjustment	-82
B Delays	0	Applicant Delay (APPL)	23
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
59	11/26/2010		P026	Adjustment of PTA Calculation by PTO		82	0
45	04/14/2010		MN/=.	Mail Notice of Allowance			0
44	04/09/2010		IREV	Issue Revision Completed			0
43	04/09/2010		N/=.	Notice of Allowance Data Verification Completed			0
42	04/09/2010		DVER	Document Verification			0
41	04/08/2010		EX.A	Examiner's Amendment Communication			0
40	04/08/2010		CNTA	Notice of Allowability			0
35	02/21/2010		FWDX	Date Forwarded to Examiner			0
34	01/20/2010		A...	Response after Non-Final Action			0
31	10/20/2009		MCTNF	Mail Non-Final Rejection			0
30	10/19/2009		CTNF	Non-Final Rejection			0
21	08/28/2009		FWDX	Date Forwarded to Examiner			0
26	08/21/2009		IDSC	Information Disclosure Statement considered			0
22	08/21/2009	07/29/2009	M844	Information Disclosure Statement (IDS) Filed		23	20
19	08/21/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
20	07/29/2009		ELC.	Response to Election / Restriction Filed			0
17	06/29/2009		MCTRS	Mail Restriction Requirement			0
16	06/29/2009		CTRS	Requirement for Restriction / Election			0
33	06/25/2009		RCAP	Reference capture on IDS			0
32	06/25/2009		M844	Information Disclosure Statement (IDS) Filed			0
25	06/25/2009		IDSC	Information Disclosure Statement considered			0
18	06/25/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
13	11/20/2008		PG-ISSUE	PG-Pub Issue Notification			0
12	09/18/2008		DOCK	Case Docketed to Examiner in GAU			0
11	08/29/2008		OIPE	Application Dispatched from OIPE			0
9	08/14/2008		PGPC	Sent to Classification Contractor			0
8	08/14/2008		FLRCPT.O	Filing Receipt			0
7	08/14/2008		M903	Notice of DO/EO Acceptance Mailed			0
10	08/12/2008		371COMP	371 Completion Date			0
5	08/12/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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JUN 06 2011

OFFICE OF PETITIONS

In re Application of :
Roderick Scott :
Application No. 10/591,418 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. 68449.000002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a timely response to the final Office action mailed November 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is granted.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/114,656.

The Office acknowledges receipt of $555 for a three months extension of time filed on May 26, 2011. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $555 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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WASHINGTON DC 20007

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of
Patrick Lenoir
Application No. 10/591,431
Filed: November 14, 2006
Attorney Docket No. 016782-0364

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)" filed December 10, 2010. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 322 days to 465 days.

The application for patent term adjustment is **DISMISSED**.

On September 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 322 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 143 days of PTA for the filing of an information disclosure statement on August 5, 2010 after the filing of a Request for Continued Examination.

Applicant's arguments have been considered, but not found to be persuasive. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

In this instance, the filing of the Information Disclosure Statement on August 5, 2010 is considered a failure to engage under 1.704(c)(8). The record does not support a conclusion that the IDS was expressly requested by the examiner and neither did the IDS include a 1.704(d) statement.

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[1] PALM records indicate that the Issue Fee was also received on December 10, 2010.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 322 days.

The record supports a conclusion that this application is not subject to a terminal disclaimer"

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111018

DATE : October 14, 2011

TO SPE OF : ART UNIT 3782

SUBJECT : Request for Certificate of Correction on Patent No.: 8011543

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/NATHAN J NEWHOUSE/
Supervisory Patent Examiner.Art Unit 3782

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/30/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10591597 Patent No.: 7853027

CofC mailroom date: 01/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

_____
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Curtis Kuntz/ SPE AU 2614

Formatted: French (France)

SPE Art Unit

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JAN 03 2012

OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of :
Boer et al. :
Application No. 10/591,781 : DECISION ON PETITION
Filed: September 6, 2006 :
Attorney Docket No. TS1409 US :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed on January 29, 2009. Applicants had an extendable two month period to submit the appeal brief. No extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is March 30, 2009. A Notice of Abandonment was mailed September 24, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the

entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 30, 2009. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be

accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).
Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

United States Patent and Trademark Office

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650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of :
Masterson et al. :
Application No.: 10/591,806 : DECISION
PCT No.: PCT/US2005/007936 :
Int. Filing Date: 08 March 2005 : ON
Earliest Priority Date: 08 March 2004 :
Attorney Docket No.: 34149-712.831 : PETITION
For: Apparatus For Electrically Mediated :
Delivery Of Therapeutic Agents :

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 30 November 2009.

DISCUSSION

In a Decision mailed on 30 September 2009, the renewed petition under 37 CFR 1.137(b) filed on 06 August 2009 was dismissed, without prejudice, because

> petitioner has filed a copy of the declaration filed on 03 June 2009, as well as a new declaration. Inspection of the new declaration reveals that it nominates (and is signed by) Steven Masterson only. 37 CFR 1.67(a)(2) provides that "Deficiencies or inaccuracies relating to fewer than all of the inventor(s) or applicant(s) (§§ 1.42, 1.43 or § 1.47) may be corrected with a supplemental oath or declaration *identifying the entire inventive entity* but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates." *See* MPEP 603. Since the new declaration does not name the entire inventive entity, it would not be appropriate to accept it at this time. Therefore, requirement (1) has not been satisfied.

In response, petitioner has provided a copy of the declaration signed by Mr. Masterson on "8/4/09" which now nominates the entire inventive entity. Petitioner characterizes the submitted documents as a "revised declaration by Mr. Masterson identifying the entire inventive entity on sequential pages, along with a copy of the previously-submitted declaration bearing the un-initialed change to Mr. Masterson's mailing address and the declarations of the other two inventors Mr. Bernard and Mr. Hannaman..." Particularly in view of this description, the declaration accompanying the petition appears to be a copy of an earlier-submitted declaration which has been "revised" by affixing thereto a sheet nominating the other two inventors.

MPEP 602.01 states (in part) that

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.

MPEP 605.04(a) explains (in part) that

> each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. >Where individual declarations are executed, they

must be submitted as individual declarations rather than combined into one declaration (by combining the signature pages).<

while MPEP 201.03 states (in part) that

each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

The declaration at issue appears to have been amended after it was signed, by attaching an additional page naming the inventors who were not nominated in the declaration at the time it was signed. In view of the policy considerations reflected by the above MPEP excerpts, it would not be appropriate to accept the "revised declaration" as submitted. It is recommended that applicants prepare and obtain Mr. Masterson's signature of a new declaration document naming the entire inventive entity and includng all of the required statements. For the above reasons, the "required reply" is not regarded as having been filed.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

DEC 13 2011

PCT LEGAL ADMINISTRATION

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of :
Masterson et al. :
Application No.: 10/591,806 : DECISION
PCT No.: PCT/US2005/007936 :
Int. Filing Date: 08 March 2005 : ON
Earliest Priority Date: 08 March 2004 :
Attorney Docket No.: 34149-712.831 : PETITION
For: Apparatus For Electrically Mediated :
Delivery Of Therapeutic Agents :

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 20 May 2011.

DISCUSSION

In a Decision mailed on 22 March 2011, the renewed petition under 37 CFR 1.137(b) filed on 30 November 2009 was dismissed, without prejudice, because

> The declaration at issue appears to have been amended after it was signed, by attaching an additional page naming the inventors who were not nominated in the declaration at the time it was signed. In view of the policy considerations reflected by the above MPEP excerpts, it would not be appropriate to accept the "revised declaration" as submitted. It is recommended that applicants prepare and obtain Mr. Masterson's signature of a new declaration document naming the entire inventive entity and includng all of the required statements. For the above reasons, the "required reply" is not regarded as having been filed.

In response, applicants have filed a new declaration. However, due to a recent policy change, it now would be appropriate to accept the declaration filed on 06 August 2009 for purposes of compliance with 37 CFR 1.497(a) and (b). Accordingly, all of the requirements of 37 CFR 1.137(b) now are deemed to have been satisfied.

DECISION

The petition is **GRANTED**.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **06 August 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Offices of James E. Eakin
P.O. Box 1250
Menlo Park CA 94026

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Dowlatabodi :
Application No. 10/591,810 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No. AIV-1001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2011, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned February 26, 2010 for failure to timely submit a proper reply to the final Office action mailed November 25, 2009. No petition for extension of time for reply was filed. Notice of Abandonment was mailed July 2, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2838 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS ANDRAS SHERMAN LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Vogele	:	
Application No. 10/591,821	:	ON PETITION
Filed: July 25, 2007	:	
Attorney Docket No. FIE1.PAU.02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3731 for further examination on the merits

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
WIMMER, Markus et al. :
Application No. 10/591,833 : DECISION ON PETITION
Filed: July 16, 2007 : TO WITHDRAW
Attorney Docket No. **2579.022US1** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 22, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

Therefore, as there is currently no statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SYNTHES USA, LLC**
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUAN CARLOS A. MARQUEZ
C/O STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314-1437

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Shinji Yuasa :
Application No. 10/591,947 : ON PETITION
Filed: September 8, 2006 :
Attorney Docket No. HIRA.0236

This is a decision on the petition, filed September 2, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2892 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria VA 22314-1437

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Shinji Yuasa	:	
Application No. 10/591,947	:	DECISION GRANTING PETITION
Filed: September 8, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HIRA-0236	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 10, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2892 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-4-11 Paper No.: _____

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,002 Patent No.: 7841972

CofC mailroom date: 3-3-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check drawings / claims

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Chris Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

H.B.
SPE

3743
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2011

TO SPE OF : ART UNIT 2872
SUBJECT : Request for Certificate of Correction for Appl. No. 10/592035 patent No.:7796314B2
C of C mailroom date:-04-13-11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

for Stephen Allen 2872

SPE Art Unit

PAGE 2/2 * RCVD AT 5/5/2011 3:28:15 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/5 * DNIS:2709942 * CSID: * DURATION (mm-ss):00-46

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,078	07/30/2007	David Lin	NL163-26 (20060879.ORJ)	6760

69638 7590 09/20/2011

KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY, MN 55422

EXAMINER	
WOOD, ELLEN S	

ART UNIT	PAPER NUMBER
1782	

MAIL DATE	DELIVERY MODE
09/20/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 2 0 2011

Mailed:

In re application of : DECISION ON
Lin : PETITION
Serial No. 10/592,078 :
Filed: March 9, 2004 :
For: **COMPOSITE FILM FOR PACKAGING FOODS AND THE PROCESS OF MAKING IT**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 to the Group Director to withdraw the Finality of the Office Action dated March 15, 2011. The Examiner issued an Advisory Action on August 31, 2011. On September 1, 2011, the instant petition was filed.

Claim 13 in the Amendment filed on July 29, 2010 recited "a substrate film provided with a micro-gap region of a size...". The Non-Final Office Action of September 16, 2010 did not include a rejection under 35 USC 112 to this statement. Applicant's amendment filed on December 22, 2010 incorporated previous claim 13 into claim 1, which included the statement "a substrate film provided with a micro-gap region of a size...".

It is noted that Applicant also references an interview with the Examiner on December 9, 2010 where agreement was reached concerning the wording of claims 2, 13 and 16; however, there is no record of an interview in the application history.

A review of the record shows that the statement "a substrate film provided with a micro-gap region of a size.." existed in claim language before the Amendment filed December 22, 2010, but was not commented upon by the examiner. Applicant's amendment is not seen to necessitate the new grounds of rejection.

DECISION

The petition is **GRANTED.**

The finality of the March 15, 2011 action is withdrawn. The period for response will continue run from the mail date of March 15, 2011.

Karen M. Young

Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

wk

Alan D. Kamrath
KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY MN 55422

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10592083
Filing Date	12-Feb-2007
First Named Inventor	Terence Bolton
Art Unit	3751
Examiner Name	JASON NIESZ
Attorney Docket Number	AIP-020
Title	COLOURING APPARATUS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Michael Eisenberg/
Name	Michael Eisenberg
Registration Number	50448

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 6,2011

In re Application of :

Terence Bolton

Application No : 10592083

Filed : 12-Feb-2007

Attorney Docket No : AIP-020

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 6,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

FEB 25 2011

OFFICE OF PETITIONS

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

In re Application of :
Umberto Afeltra :
Application No. 10/592,133 : ON PETITION
Filed: June 27, 2007 :
Attorney Docket No. 1-52625 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 23, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3726 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of :
Toshiyasu Higuma, et al. :
Application No. 10/592,137 : DECISION GRANTING PETITION
Filed: September 8, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1019519-000555 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed October 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3748 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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DEC 13 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,820,680 :
Williams et al. : DECISION ON REQUEST FOR
Issue Date: October 26, 2010 : RECONSIDERATION OF
Application No. 10/592,222 : PATENT TERM ADJUSTMENT
Filed: September 8, 2006 :
Attorney Docket No. 21615YP :
Title: HIV Integrase Inhibitors :

This is a decision on the petition filed on November 10, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eighty-two (1082) days.

The petition to correct the patent term adjustment to indicate one thousand eighty-two (1,082) days is **DISMISSED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 705 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 410 days (September 12, 2009 to October 26, 2010). The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of September 11, 2006, not September 9, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, September 11, 2006. Therefore, the patent term adjustment is 410 days, not 412 days.

The period of adjustment under 37 CFR 1.702(a) and the period of adjustment under 37 CFR 1.702(b) overlaps for 33 days (September 12, 2009 to October 14, 2009).

Patentees dispute the 3 day reduction for the submission of a 312 amendment pursuant 37 CFR 1.704 (c)(10). Patentees maintain they did not submit a 312 amendment. Instead patentees insist

the submission on September 1, 2010 was a response to a Notice to File Corrected Application Papers ("Notice") mailed August 10, 2010. Patentees state they replied timely and failure to do so would have resulted in the abandonment on the application.

Patentees' argument has been considered but is not persuasive. Patentees acknowledge submitting an amended specification after the mailing of the notice of allowance. The filing of an amended specification after the mailing of a notice of allowance is a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that an amended specification was filed after the mailing of the notice of allowance. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by three (3) days beginning on September 1, 2010 and ending on September 3, 2010 when a response was mailed.

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does

not distinguish between papers that are and are not required by the Office.

In view thereof, the patent is entitled to an overall adjustment of 1079 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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OCT 12 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent of Fields et al.	:	DECISION ON REQUEST
Patent No. 7,642,400	:	FOR RECONSIDERATION OF
Issue Date: January 5, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/592,289	:	and
Filed: July 23, 2007	:	NOTICE OF INTENT TO ISSUE
Docket No. 07039-522US1	:	CERTIFICATE OF CORRECTION
MMV-03-222	:	

This is a decision on the petitions filed on March 5, 2010 and supplemented on June 17, 2010, which are being treated as petitions under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred forty-seven (147) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred forty-seven (147) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on March 5, 2010. No additional fees are required.

The Office erroneously treated the March 5, 2010 petition under 37 CFR 1.705(d) as a Request for Recalculation of Patent Term Adjustment in View of Wyeth. The March 5, 2010 petition was captioned as a petition under 37 CFR 1.705(d), was accompanied by the $200.00 petition fee, and included an argument against a reduction based upon an action that purportedly took place after the mailing of the Notice of Allowance. As such, it was clearly not a Request for Recalculation of Patent Term Adjustment in View of Wyeth. The Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed April 20, 2010, and the subsequently mailed Notice Concerning Improper Calculation of Patent Term Adjustment Based Upon USPTO Improperly Measuring Reduction Period Under 37 CFR 1.704(c)(10), mailed May 17, 2010, are hereby vacated.

The "B" delay period is 119 days. In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is March 8, 2004. As early commencement was not requested, the

national stage commenced in this application on September 8, 2006. Thus, "B" delay is 119 days, counting the number of days beginning on the day after three years after the application's commencement date, September 9, 2009,and ends on January 5, 2010, the date of issuance. See 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b).

Patentees assert that the Office erred in entering a 99 day reduction, pursuant to 37 CFR 1.704(c)(10), for drawings purportedly filed on August 13, 2009, which was after the mailing of the Notice of Allowance on July 15, 2009.

A review of the PALM calculations for this application reveals that the initial determination of PTA of zero days was reduced by 99 days for the submission of drawings after the mailing of the notice of allowance. See 37 CFR 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings were filed on August 13, 2009. It is agreed that applicants did **not** fail to engage in reasonable efforts to conclude prosecution of the application.

In light of the above discussion, the correct patent term adjustment is 147 days, which is the sum of 50 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 119 of B Delay, reduced by 22 days of Applicant delay.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred forty-seven (147)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,642,400 B2

DATED : **January 5, 2010** **DRAFT**

INVENTOR(S) : Fields et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 147 days--

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PATENT & TRADEMARK LAW CENTER
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12702 VIA CORTINA
DEL MAR CA 92014

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OFFICE OF PETITIONS

In re Application of :
Freudenthal, et al. :
Application No. 10/592,411 : ON PETITION
Filed: September 11, 2006 :
Attorney Docket No. 3758-PAT :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 2, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed April 29, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on July 30, 2009. The Office mailed a Notice of Abandonment on December 4, 2009.

With the instant petition, petitioner has made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 3734 for consideration of the Amendment, filed December 2, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

13 AUG 2010

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QUARLES & BRADY
411 E. Wisconsin Avenue
Milwaukee WI 53202

In re Application of	:	
XU (deceased) et al.	:	
Application No.: 10/592,559	:	DECISION
PCT No.: PCT/SG2004/000055	:	
Int. Filing Date: 12 March 2004	:	
Priority Date: N/A	:	
Attorney's Docket No.: 117843.00003	:	
For: METHODS AND MOULDS FOR USE IN FABRICATING SIDE-PORTED MICRONEEDLES	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 10 February 2010, which was accompanied by a declaration of the inventors. The indication in this declaration that inventor Yuan XU is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/SG2004/000055, which designated the United States and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 September 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 September 2006.

On 12 September 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 November 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to

the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 12 March 2008 within the time period set therein.

On 06 January 2009, applicants submitted a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE USPTO COMMUNICATION."

On 20 May 2009, a decision was mailed granting applicants' petition and vacating the NOTIFICATION OF MISSING REQUIREMENTS mailed 12 March 2008 and the NOTIFICATION OF ABANDONMENT mailed 21 November 2008.

On 10 February 2010, applicants filed a submission including a declaration of inventors. The indication in this declaration that inventor Yuan XU is deceased has been treated as a request for status under 37 CFR 1.42.

On 13 May 2010 , the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that a new oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required because the declaration filed 10 February 2010 was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

DISCUSSION

The NOTIFICATION OF MISSING REQUIREMENTS mailed 13 May 2010 was mailed without applicants' request for status under 37 CFR 1.42 having been considered. Accordingly, that NOTIFICATION is hereby VACATED.

The submission filed 10 February 2010 has been reviewed and has been found in compliance with 37 CFR 1.42.

The declaration filed 10 February 2010 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 May is VACATED.

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

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PCT LEGAL ADMINISTRATION

BASELL USA INC.
NEWTOWN SQUARE CENTER
3801 WEST CHESTER PIKE, BLDG. B
NEWTOWN SQUARE PA 19073

In re Application of	:	
RESCONI et al.	:	
Serial No.: 10/592,563	:	
PCT No.: PCT/EP05/02481	:	
Int. Filing Date: 08 March 2005	:	DECISION
Priority Date: 12 March 2004	:	
Atty. Docket No.: FE 6166+6203	:	
For: PROCESS FOR POLYMERIZING 1-HEXANE	:	
OR HIGHER ALPHA-OLEFINS	:	

This is a decision on applicant's Petition to Correct Official Filing Receipt filed in the United States Patent and Trademark Office (USPTO) on 22 January 2009 in the above referenced application.

BACKGROUND

On 12 September 2006, prior to the thirty month deadline for filing a national stage application, applicant filed a transmittal letter requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee. Applicants also filed a declaration executed by the inventors.

On 12 March 2008, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and surcharge for filing the oath or declaration after thirty month period, was required.

On 4 August 2008, a Notification of Acceptance was mailed to applicant erroneously indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 18 July 2008 and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 July 2008.

DISCUSSION

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 12 September 2006. The date of completion of all 35 U.S.C. 371 requirements includes fulfillment of subsection (b), which states that the national stage shall commence with the expiration of the time limit under PCT Article 22(a) or 39(1)(a) of the PCT Treaty. The date of completion of all requirements of

35 U.S.C. 371 is 12 September 2006. The Notification of Acceptance (Form PCT/DO/EO/903) issued on 04 August 2008 which indicated this date as 18 July 2008 is incorrect; the date applicant fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 12 September 2006, not 18 July 2008 as indicated on the Notification. Thus the Notification of Missing Requirements mailed on 12 March 2008 and the Notification of Acceptance mailed on 04 August 2008 are hereby **VACATED.** The surcharge for filing the declaration after the thirty month period is refunded.

CONCLUSION

The Notification of Missing Requirements mailed on 12 March 2008 and the Notification of Acceptance (Form PCT/DO/EO/903) issued on 04 August 2008 are **VACATED**. The surcharge for filing the declaration after the thirty month period is refunded.

The application will be forwarded to the United States Designated/Elected Office for further processing. The Notification of Acceptance should indicate that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 12 September 2006 and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements on 12 September 2006. A Corrected Filing Receipt will be issued.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571)-273-0459

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BASELL USA INC.
NEWTOWN SQUARE CENTER
3801 WEST CHESTER PIKE, BLDG. B
NEWTOWN SQUARE PA 19073

In re Application of: RESCONI, Luigi, et al.
U.S. Application No.: 10/592,564
PCT No.: PCT/EP2005/002480
International Filing Date: 08 March 2005
Priority Date: 12 March 2004
Attorney Docket No.: FE 6166+6202 (US)
For: PROCESS FOR POLYMERIZING 1-HEXENE OR HIGHER ALPHA-OLEPHINS

DECISION
(37 CFR 1.181)

This decision is issued in response to the "Request Under 37 CFR 1.53 To Correct Official Filing Receipt" filed 22 January 2009, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present application. No petition fee is required.

BACKGROUND

On 08 March 2005, applicants filed international application PCT/EP2005/002480. The international application claimed a priority date of 12 March 2004, and it designated the United States. On 13 October 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 12 September 2006. The PCT Request (Form PCT/RO/101) filed by applicants to initiate the international application included a declaration of inventorship under PCT Rule 4.17(iv) that named all four applicant/inventors, and the Request was signed by each of the four applicant/inventors.

On 12 September 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 12 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 18 July 2008, applicant filed a response to the Notification Of Missing Requirements stating that the required declaration had been filed as part of the PCT Request during the international phase. A copy of the PCT Request form containing the PCT Rule 4.17(iv) declaration was included with this submission.

On 04 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 18 July 2008. Also on 04 August 2008, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 18 July 2008.

On 22 January 2009, applicants filed the "Request Under 37 CFR 1.53 To Correct Official Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition asserts that the declaration completing the requirement of 35 U.S.C. 371(c) was filed during the international phase and it requests that the date under 35 U.S.C. 371(c) be corrected accordingly.

DISCUSSION

A review of the application file confirms that the PCT Rule 4.17(iv) declaration was originally filed as part of the PCT Request during the international phase. Accordingly, applicants' 12 September 2006 submission of a request for entry into the national stage, accompanied by payment of the basic national fee, completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). The correct 35 U.S.C. 371(c) date for the present application is therefore 12 September 2006, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 04 August 2008, which incorrectly identified the 35 U.S.C. 371(c) dates (and the receipt date of the declaration) as 18 July 2008, is appropriately vacated. In addition, the filing receipt, which also incorrectly identified the 35 U.S.C. 371(c) date as 18 July 2008, is also appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 04 August 2008, are hereby **VACATED.** The inapplicable $130 surcharge for filing the declaration later than thirty months after the priority date will be refunded to Deposit Account No. 08-2336.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the issuance of (1) a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," the "Date Of Completion Of All U.S.C. 371 Requirements," and the filing date of the declaration as **12 September 2006**; and (2) a corrected filing receipt identifying the 35 U.S.C. 371(c) date as **12 September 2006**.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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34872
BASELL USA INC.
Newton Square Center
3801 West Chester Pike, Bldg. B
Newton Square, PA 19073

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NOV 18 2010

PCT LEGAL ADMINISTRATION

In re Application of :
RESCONI *et al* :
U.S. Application No.: 10/592,565 :
PCT No.: PCT/EP2005/002479 :
Int. Filing Date: 08 March 2005 :
Priority Date: 12 March 2004 :
Attorney Docket No.: FE 6166 (US) :
For: CATALYST SYSTEM FOR THE POLYMERIZATION OF OLEFIN :

DECISION

This decision is in response to the papers filed on 22 January 2009 which are treated under 37 CFR 1.181 and **GRANTED** as follows:

A declaration was filed in PCT/EP2005/002479 pursuant to PCT Rule 4.17(iv) with the PCT Request. As such, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements on the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and the "Filing or 371(c) Date" on the filing receipt mailed 07 August 2008 should be recorded as 12 September 2006, not 18 July 2008.

For this reason, the Form PCT/DO/EO/903 and filing receipt mailed 07 August 2008 are both **VACATED**.

This application is being forwarded to the DO/EO/US for mailing a corrected Form PCT/DO/EO/903 and filing receipt.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01-14-12

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/592619 Patent No.: 7960427

CofC mailroom date: 10-27-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK to Enter. /BF/

SPE Brandon J. Fetterolf **Art Unit** SPE AU 1628

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FOURTH FLOOR, FIRST NATIONAL TOWER
AKRON OH 44308-1456

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Pavel Hammer	:	
Application Number: 10/592,635	:	ON PETITION
Filing Date: 09/11/2006	:	
Attorney Docket Number:	:	
CAC.P0050	:	

This is a decision in reference to the petition styled under 37 CFR 1.47(b), filed on April 29, 2010, which is treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 in that it requires that the legal representative of a deceased named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

Applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

On September 11, 2006, the above-identified application was filed, accompanied by a declaration naming Pavel Hammer as the sole inventor.

On May 12, 2009, an non-final Office action was mailed requiring, *inter alia*, a new oath or declaration in compliance with 37 CFR 1.67(a).

On August 17, 2009 (certificate of mailing date August 12, 2009), a response was filed, which asserted, in part, that the sole inventor is deceased and that "[t]here will therefore be some delay in obtaining a new Declaration as his estate is being processed in the French courts."

On December 8, 2009, an Office communication was mailed stating that the reply filed on August 17, 2009, was not fully responsive to the prior Office action because a proper supplemental declaration had not been filed. Applicant was given a one (1)-month time period to reply. Extensions of time were available under 37 CFR 1.136(a).

On April 29, 2010, a reply, including a four (4) month extension of time under 37 CFR 1.136(a), and the subject petition, was filed.

Petitioner asserts that the representative of the deceased inventor's estate, Mrs. Marion Hammer, his widow, has refused to sign the supplemental declaration without compensation. In support, petitioners have provided a declaration signed by Jean Philippe Billarant, President of petitioner APLIX, a statement under 37 CFR 3.73(b), as well as a copy of the English translation of the letter from Mrs. Hammer to APLIX stating her refusal to sign the declaration on behalf of the deceased inventor.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

As the application bears an original Declaration executed by the sole inventor, the provisions of 37 CFR 1.47(b) do not apply. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As noted in 37 CFR 1.42:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Petitioners must therefore provide:

(1) proof that the non-signing inventor, or legal representative, thereof cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) a statement of the last known address of the non-signing inventor's legal representative;
(4) proof of proprietary interest, and
(5) proof of irreparable damage.

Petitioner must provide items (1), (2), and (3).

With regard to item (1), in order to provide a complete showing of a refusal to sign, petitioner should provide a copy of the original foreign-language letter from Mrs. Hammer to petitioner's counsel, indicating her refusal to sign.

With regard to item (2), the declaration must be signed on behalf of the legal representative of the deceased inventor. Accordingly, the declaration must name both the deceased inventor and the inventor's legal representative. A signature block including the mailing address, residency city and state or city and foreign country, and the citizenship of the legal representative must be provided. The declaration must be signed by an Officer of the corporation (president, vice president, secretary, treasurer, or chief executive officer) on behalf of and as agent for the legal representative of the non-signing inventor. If the declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. See MPEP 409.03(b).

The declaration is not acceptable because it does not identify the citizenship, mailing address, and residence (city and state or city and foreign country) of the legal representative of the deceased inventor. A new supplemental declaration containing the required information must be filed with a renewed petition.

With regard to item (3), the last known address of the legal representative of the deceased inventor must be provided. That address should be the last known address at which the legal representative customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing legal representative.

Lastly, the fee for a petition under 37 CFR 1.183 is $400.00. The petition fee of $200.00 previously paid will be credited towards the $400.00 fee due. The balance due will be charged to counsel's deposit account, as authorized in the subject petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed using the EFS-Web filing system of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Mar-11

EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FOURTH FLOOR, FIRST NATIONAL TOWER
AKRON OH 44308-1456

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Pavel Hammer	:	
Application Number: 10/592,635	:	ON PETITION
Filing Date: 09/11/2006	:	
Attorney Docket Number:	:	
CAC.P0050	:	

This is a decision on the request for reconsideration under 37 CFR 1.183, filed on February 7, 2011, which is being treated as a petition requesting waiver of 1.63 and 1.67 in that they require the signature of the legal representative of the deceased inventor on a supplemental declaration.

The petition is **GRANTED**.

Petitioners have supplied a supplemental declaration in compliance with 37 CFR 1.63 and 1.67 listing the deceased inventor and his legal representative. The declaration is signed by Mrs. Sandrine Pelletier, Directeur Général Délégué of assignee APLIX. Additionally, petitioners have provided a copy of the foreign language document by which the legal representative of the non-signing inventor refused to sign the declaration.

In view of the efforts recounted in the petition to obtain the signature of Marion Hammer, it is agreed that justice would be served by waiving the requirement for her signature on the supplemental declaration filed February 7, 2011.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

No additional fees are due.

The application is referred to Technology Center Art Unit 3677 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 8117964
Serial No. 10/592,646
Inventor(s) : Moreau
Issued : 02/21/12
For : PROCESS AND APPARATUS FOR PROVIDING IDENTITY MARKS ON SECURITY DOCUMENT

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee, when the correct name of the assignee was not provided in accordance with either section 3.81(a) or (b) (either no name or an incorrect name was provided in item 3 of the Issue Fee Transmittal, when the assignment had been recorded or submitted for recordation at the time the issue fee was paid, including after issuance of the patent.

A petition to correct the Assignee, under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

If, the petition under 37 CFR 1.183, is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

In view of the foregoing, your request is hereby denied.

RoChaun Hardwick
Decisions & Certificates
of Correction Branch
(571) 272-0470

CLIFFORD BROWNING
ONE INDIANA SQUARE SUITE 2800
INDIANAPOLIS, IN 46204
RMH

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,696	01/29/2007	Gregory Moore	10892US-PCT	2846

41324 7590 10/15/2010

CHRISTOPHER JOHN RUDY
209 HURON AVENUE, SUITE 8
PORT HURON, MI 48060

EXAMINER	
CHAUDHRY, SAEED T	

ART UNIT	PAPER NUMBER
1711	

MAIL DATE	DELIVERY MODE
10/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

OCT 15 2010

Mailed:
In re application of :
Moore et al. : DECISION ON
Serial No. 10/592,696 : PETITION
Filed: January 29, 2007 :
For: Apparatus And Method For Cleaning Beverage Lines

This is a response to a Petition filed under 37 CFR 1.181 on September 16, 2010 to withdraw a restriction requirement made final in the July 16, 2010 Office Action.

The Examiner found the following inventions or groups of inventions not linked to form a single general inventive concept under PCT Rule 13.1. Group I, claims 20-36, drawn to an apparatus for cleaning line and Group II, claims 37-39, drawn to a method for cleaning beverage line. The Examiner found that the apparatus as claimed can be used to practice another and materially different process such as changing paints in a line or mixing two liquids in the line. Applicants provisionally elected Group I, claims 20-36 with traverse.

Applicant traversed that there was unity of invention being present since mixing two liquids in a line is present in the method and apparatus. The Examiner found that the common technical feature of the two inventions (creating a pulsed flow of fluid into a conduit) is not considered a special technical feature because it is know in the art. The Examiner cited Hadgkiss (US 4,161,956) which disclosed a means for creating a pulsed flow into a conduit.

Applicants assert that since the IPEA did not find a lack of unity of invention, the Examiner has misapplied the correct standard of review in determining whether there is unity of invention. Applicants further assert that Hadgkiss was not cited under Section 102 or 103.

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The Examiner in reviewing a national stage application is not precluded from a determination that a lack of unity is lacking even though the International Preliminary Examination Authority (IPEA) did find unity of invention. The original lack of unity was proper on the claims as

originally filed. The Examiner has made an art rejection to the claims thereby demonstrating that the technical features claimed do not define a contribution over the prior art.

DECISION

The Petition is **DENIED**.

It is noted however, that if at such time a determination is made that the common technical feature is not disclosed by the prior art, withdrawal of said holding and rejoinder of the claims of Group II would be appropriate.

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

CHRISTOPHER JOHN RUDY
209 HURON AVENUE, SUITE 8
PORT HURON MI 48060

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
FEB 22 2012
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
BILZI et al	:	
Application No.: 10/592,701	:	
PCT No.: PCT/EP05/02789	:	
Int. Filing Date: 16 March 2005	:	PETITION UNDER
Priority Date: 17 March 2004	:	
Attorney Docket No.: 296039US0PCT	:	
For: Pharmaceutical Formulations For...	:	
Active Ingredient	:	37 CFR 1.181

This decision is in response to the "REQUEST TO CORRECT FILING DATE" filed on 29 December 2011, which is being treating as a petition under 37 CFR 1.181, requesting that the correct date of filing date be changed from 09 May 2007 to January 22, 2007.

BACKGROUND

On 13 September 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration was filed at such time.

On 22 January 2007, applicants filed an executed declaration.

On 09 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that a "translation of the application into English. Note a processing fee will be required if submitted later than 30 months from the priority date." The Notice stated that the declaration must be submitted within two months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

09 May 2007, applicants filed a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 USC 371." Applicants submitted a copy of the published International Application as a copy of the front page of the PCT publication, which was filed and published in English.

On 22 May 2007, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 05/09/2007, and a date of completion of all 35 USC 371 requirements is 05/09/2007.

On 07 June 2007, applicants filed a request for Corrected Notice of Acceptance.

On 29 December 2011, applicants filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing date, stating that the correct filing date is January 22, 2007, and not what is shown on the "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)" as 09 May 2007.

DISCUSSION

A review of the file indicates that on September 13, 2006 a copy of the international application (PCT/EP05/02789) had been communicated by the IB on that date, and no English translation was required. In addition, applicants filed an executed declaration on 22 January 2007. As result, 01/22/2007 is the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) and also the date of completion of all 35 USC 371 requirements.

DECISION

The petition under 37 CFR 1.181 is **GRANTED.**

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 22 May 2007 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 January 2007.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed : May 23, 2011
Patent No. : 7,889,866 B2
Ser. No. :10/592717
Issued February 15, 2011
Inventor(s) :Masugi, et al. .
Title : INFORMATION LEAKAGE PREVENTION APPPARATUS AND INFORMATION LEAKAGE PREVENTION METHOD

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

John S.. Pratt
Kilpatrick Townsend & Stockton LLP
Suite 2800, 1100 Peachtree St.
Atlanta, GA 30309

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

27 SEP 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: NAKAMURA, Yasuhiro
U.S. Application No.: 10/592,734
PCT No.: PCT/JP2005/003902
International Filing Date: 07 March 2005
Priority Date: 15 March 2004
Attorney Docket No.: 1254-0325PUS1
FOR: RECORDING/REPLAYING/EDITING DEVICE

DECISION
(37 CFR 1.181)

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 03 November 2008, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present application. No petition fee is required.

BACKGROUND

On 07 March 2005, applicant filed international application PCT/JP2005/003902. The application claimed a priority date of 15 March 2004 and designated the United States. On 22 September 2005, the International Bureau (IB) communicated a copy of the international application to the USPTO. The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 15 September 2006.

On 14 September 2006, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and an executed declaration. The Transmittal Letter included an express request to begin national examination procedures (35 U.S.C. 371(f)).

On 18 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 08 August 2008, applicants filed a response to the Notification Of Missing Requirements stating that an executed declaration had been filed with the original national stage application materials on 14 September 2006. A copy of the previously-filed declaration was included with this submission.

On 14 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C.

371 Requirements" as 08 August 2008. Also on 14 August 2008, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 08 August 2008.

On 03 November 2008, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition requests correction of the 35 U.S.C. 371(c) date set forth on the filing receipt from 08 August 2008 to 14 September 2006.

DISCUSSION

A review of the application file confirms that the declaration completing the requirements of 35 U.S.C. 371(c)(4) was first filed herein on 14 September 2006 with the original national stage application materials (including the payment of the basic national fee, the English translation of the international application, and the express request to begin national examination procedures pursuant to 35 U.S.C. 371(f)). The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" for the present application is therefore 14 September 2006.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 14 August 2008, which incorrectly identified the 35 U.S.C. 371(c) dates (and the filing date of the declaration) as 08 August 2008, is appropriately vacated. In addition, the filing receipt mailed herein, which incorrectly identified the 35 U.S.C. 371(c) date as 08 August 2008, is also appropriately vacated.

A corrected Notification Of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 14 September 2006.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 14 August 2008 are hereby **VACATED.**

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for processing in accord with this decision, including the issuance of (1) a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," the "Date Of Completion Of All U.S.C. 371 Requirements," and the filing date of the declaration as **14 September 2006**; and (2) a corrected filing receipt identifying the 35 U.S.C. 371(c) date as **14 September 2006**.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David A. Einhorn, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York NY 10111

MAILED
30 NOV 2010
PCT LEGAL ADMINISTRATION

In re Application of :
CHO, et al. :
U.S. Application No.: 10/592,747 : DECISION ON PETITION
PCT No.: PCT/KR2005/000842 :
Int. Filing Date: 23 March 2005 : UNDER 37 CFR 1.181
Priority Date: 24 March 2004 :
Attorney Docket No.: DE1693 :
For: BACILLUS SUBTILIS STRAIN HAVING :
ANTAGONISTIC ACTIVITY FOR :
CONTROLLING PLANT DISEASES :

This decision is in response to applicant's petition under 37 C.F.R. §1.181 to withdraw holding of abandonment" filed 23 September 2010 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 26 July 2010, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/922 mailed 03 December 2009 within the time period set therein and that above-identified application was abandoned as to the United States.

On 23 September 2010, applicant filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents,

indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant has provided a statement that the Form PCT/DO/EO/922 was never received, explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/922 had not been received and provided a signed statement describing the firm's docketing system. However, applicant has not included a copy of the docket record referenced in applicant's petition. As such, it is not possible to grant applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David A. Einhorn, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York NY 10111

MAILED

MAR 16 2011

PCT LEGAL ADMINISTRATION

In re Application of :
CHO, et al. :
U.S. Application No.: 10/592,747 : DECISION ON PETITION
PCT No.: PCT/KR2005/000842 :
Int. Filing Date: 23 March 2005 : UNDER 37 CFR 1.181
Priority Date: 24 March 2004 :
Attorney Docket No.: DE1693 :
For: BACILLUS SUBTILIS STRAIN HAVING :
ANTAGONISTIC ACTIVITY FOR :
CONTROLLING PLANT DISEASES :

This decision is in response to applicant's renewed petition under 37 C.F.R. §1.181 to withdraw holding of abandonment" filed 19 January 2011 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 30 November 2010, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 19 January 2011, applicant filed the petition considered herein.

DISCUSSION

As detailed in the decision mailed 30 November 2010, the Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant previously provided a statement that the Form PCT/DO/EO/922 was never received, explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/922 had not been received and provided a signed statement describing the firm's docketing system. However, applicant did not include a copy of the docket record referenced in applicant's petition. Applicant's present filing includes a copy of the docket record for the present application. However, this is insufficient for the granting of the renewed petition. Applicant should supply a copy of the law firm's docket for the time period in which the Form PCT/DO/EO/922 mailed 03 December 2009 would have been docketed if it had been received. This is necessary to insure that the form was not received and inadvertently docket to another one of the law firm's cases.

It is noted that applicant has asked that this petition be considered in the alternative under 37 CFR1.137(b). This action has not been taken at this time so as not to charge applicant the $810.00 petition and the belief that a docket record satisfying the remaining item can be supplied. However, should applicant wish to proceed pursuant to 37 CFR1.137(b) applicant need only instruct the USPTO in response to this decision.

CONCLUSION

For the reasons detailed above, applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David A. Einhorn, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York NY 10111

MAILED

JUN 28 2011

PCT LEGAL ADMINISTRATION

In re Application of :
CHO, et al. :
U.S. Application No.: 10/592,747 : DECISION ON PETITION
PCT No.: PCT/KR2005/000842 :
Int. Filing Date: 23 March 2005 : UNDER 37 CFR 1.181
Priority Date: 24 March 2004 :
Attorney Docket No.: DE1693 :
For: BACILLUS SUBTILIS STRAIN HAVING :
ANTAGONISTIC ACTIVITY FOR :
CONTROLLING PLANT DISEASES :

This decision is in response to applicant's renewed petition under 37 C.F.R. §1.181 to withdraw holding of abandonment filed 17 May 2011 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 16 March 2011, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 17 May 2011, applicant filed the petition considered herein. As authorized, a one-month extension of time fee will be charged to deposit account number 50-4581 so as to make the filing of the renewed petition timely.

DISCUSSION

As detailed in the decision mailed 16 March 2011, the Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a

search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant previously provided a statement that the Form PCT/DO/EO/922 was never received, explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/922 had not been received and provided a signed statement describing the firm's docketing system. However, applicant did not previously include a copy of the docket record referenced in applicant's petition. Applicant has supplied the docket record and it is therefore proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons detailed above, applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/909 mailed 26 July 2010 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Suda et al.	:	
Application No. 10/592,772	:	DECISION ON PETITION
Filed: May 5, 2007	:	PURSUANT TO
Attorney Docket No.: TOS-171-USA-PCT	:	37 C.F.R. § 1.137(B)
Title: METHOD FOR PRODUCING PROTEIN ADSORPTION-PREVENTING OCULAR LENS MATERIAL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 11, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 21, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and response was received. Accordingly, the above-identified application became abandoned on January 22, 2011. A notice of abandonment was mailed on May 26, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

The second and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The present petition is not grantable because the first requirement of Rule 1.137(b) has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[2] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable). The amendment that was submitted concurrently with this petition has been considered by the Examiner, and it has been determined that it fails to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

Any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R.

1 See Rule 1.137(d).
2 See M.P.E.P. § 711.03(c).

§ 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300: please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

cc: Donald E. Townsend
Suite 900
South Building
601 Pennsylvania Ave, N.W.
Washington, D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

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NOV 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Suda et al.	:	
Application No. 10/592,772	:	DECISION ON
Filed: May 5, 2007	:	RENEWED PETITION
Attorney Docket No.: TOS-171-USA-PCT	:	PURSUANT TO 37 C.F.R. § 1.137(B)
Title: METHOD FOR PRODUCING PROTEIN ADSORPTION-PREVENTING OCULAR LENS MATERIAL	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed October 14, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed October 21, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and response was received. Accordingly, the above-identified application became abandoned on January 22, 2011. A notice of abandonment was mailed on May 26, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on August 11, 2011, along with the petition fee, an amendment, and the proper statement of unintentional delay. The original petition was dismissed via the mailing of a decision on September 29, 2011, which indicated that the second and third requirements of Rule 1.137(b) have been satisfied, the fourth requirement of Rule 1.137(b) is not applicable since a terminal disclaimer is not required,[1] and that the first requirement of Rule 1.137(b) has not been satisfied: the amendment that was submitted concurrently with the original petition was considered by the Examiner, and it has been determined that it fails to place the application in condition for allowance.

With this renewed petition, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee. The amendment filed on August 11, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on August 11, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - the Office of Petitions cannot effectuate a change of status.

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1 See Rule 1.137(d).

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Donald E. Townsend
Suite 900
South Building
601 Pennsylvania Ave, N.W.
Washington, D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,779	06/05/2008	Thue Schwartz	006029.00020	4094

22907 7590 04/08/2011

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
ALLEN, MARIANNE P	

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
04/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APR 0 8 2011

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www.uspto.gov

BANNER & WITCOFF, LTD
1100 13th Street, NW
Suite 1200
Washington, DC 20005-4051

In re Application of	:	DECISION ON REQUEST TO
THUE SCHWARTZ	:	PARTICIPATE IN PATENT
Application No. 10/592,779	:	PROSECUTION HIGHWAY
Filed: June 5, 2008	:	PROGRAM AND PETITION
Attorney Docket No. 006029.00020	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed March 14, 2011, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is (a) a Paris Convention application which either (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the EPO, or (ii) validly claims priority under 35 U.S.C. 119(a)/365(a) to a PCT application that contains no priority claims, or (b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application (i) validly claims priority under 35 U.S.C. 365(b) to an application filed in the EPO, or (ii) validly claims priority under 35 U.S.C. 365(b) to a PCT application that contains no priority claims, or (iii) contains no priority claim, or (c) a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application (i) validly claims priority under 35 U.S.C. 365(b) to an application filed in the EPO or (ii) validly claims priority under 35 U.S.C. 365(b) to a PCT application that contains no priority claims or (iii) contains no priority claim;
(2) The EPO application(s) have at least one claim that was determined by the EPO to be allowable;
(3) All the claims in each U.S. application for which a request for participation in the PPH pilot program is made must sufficiently correspond or be amended to sufficiently correspond to the allowable claims in the EPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions (which are relevant to patentability) from each of the EPO application(s) containing the allowable claims that are the basis for the request;
(6) Applicant must submit a copy of the allowable claims from the EPO application(s);
(7) Applicant must submit a claim correspondence table in English; and

(8) Applicant must submit an information disclosure statement (IDS) listing the documents cited by the EPO examiner in the EPO Office action or in the positive EESR (unless such an IDS has already been filed in the U.S. application).

The request to participate in the PPH program and petition fails to comply with the requirement because:

The U.S. application does not satisfy any of the criteria set forth in (1) above.

Application No. 10/592,779 is a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371) of PCT/EP2005/002983. However, PCT/EP2005/002983 does not (i) validly claim priority under 35 U.S.C. 365(b) to an application filed in the EPO, or (ii) validly claim priority under 35 U.S.C. 365(b) to a PCT application that contains no priority claims, or (iii) contain no priority claim.

The U.S. application is not a Paris Convention application which either (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the EPO, or (ii) validly claims priority under 35 U.S.C. 119(a)/365(a) to a PCT application that contains no priority claims.

The U.S. application is not a so-called bypass application .

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be submitted via EFS-Web with the document description: Petition to make special under Patent Pros Hwy. Information regarding EFS-Web is available at http://www.uspto.gov/ebc/efs_help.html.

Telephone inquiries concerning this decision should be directed to Cecilia Tsang at 571-272-0562.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Cecilia Tsang
Supervisory Patent Examiner
TC 1600

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-AU (01-11)
Approved for use through 01/31/2012. OMB 0651-0058
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE IP AUSTRALIA (IPAU) AND THE USPTO

Application No:	10/592,833	Filing date:	July 11, 2008
First Named Inventor:	Philip Ross Pepper et al.		
Title of the Invention:	Water Heater And A Method Of Operating Same		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/AU2005/000286

The international filing date of the corresponding PCT application(s) is/are: March 1, 2005

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above-identified corresponding PCT application(s)**

☑ Is attached.

☐ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☑ Is attached.

☐ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

PTO/SB/20PCT-AU (01-11)
Approved for use through 01/31/2012. OMB 0651-0058
U.S.Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE IPAU AND THE USPTO

(continued)

Application No.:	10/592,833
First Named Inventor:	Philip Ross Pepper et al.

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☑ Is attached

☑ Has already been filed in the above-identified U.S. application on November 28, 2006

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on November 28, 2006

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
10	10	
11	11	
12	12	
13	13	
14	14	
15	15	
16	16	
17	17	
18	18	
19	19	
20	20	
21	21	
22	22	
23	23	
24	24	
25	25	
26	26	
27	27	
28	28	

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Calista J. Mitchell/	Date October 20, 2011
Name (Print/Typed) Calista J. Mitchell	Registration Number 63,944

PTO/SB/20PCT-AU (01-11)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE IPAU AND THE USPTO

(continued)

Application No.:	10/592,833
First Named Inventor:	Philip Ross Pepper et al.

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☑ Is attached

☑ Has already been filed in the above-identified U.S. application on November 28, 2006

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on November 28, 2006

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
29	29	
30	30	
31	31	
32	32	
33	33	
34	34	
35	35	
36	36	
37	37	
38	38	
39	39	
40	40	
41	41	
42	14	
43	15	
44	16	
45	17	
46	18	

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Calista J. Mitchell/	Date October 20, 2011
Name (Print/Typed) Calista J. Mitchell	Registration Number 63,944

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,833	07/11/2008	Philip Ross Pepper	89196	5831

22242 7590 10/21/2011
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER	
CAMPBELL, THOR S	
ART UNIT	**PAPER NUMBER**
3742	
MAIL DATE	**DELIVERY MODE**
10/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of	:	
PEPPER, PHILIP ROSS et al	:	DECISION ON REQUEST TO
Application No. 10/592,833	:	PARTICIPATE IN PATENT
Filed: Sep. 14, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. 89196	:	PILOT PROGRAM AND PETITION
For: WATER HEATER AND A METHOD OF OPERATING SAME	:	TO MAKE SPECIAL UNDER 37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(a), filed October 20, 2011, to make the above-identified application special.

The request and petition are DISMISSED.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the IPAU application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the IPAU application(s) containing the allowable/patentable claim(s); and
(6) Applicant must submit an IDS listing the documents cited by the IPAU examiner in the IPAU office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH pilot program and petition met all conditions except Item #4 above. However, the examiner issued an Office action on Sep. 20, 2011 and the applicant has filed a response on Oct. 20, 2011. Therefore, the petition cannot be granted.

Applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856. All other inquiries concerning the examination or status of the application should be directed to Examiner Campbell.

The petition is dismissed.

/Henry C. Yuen/

Henry C. Yuen
Special Programs Examiner
Technology Center 3700
Tel: 571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
LOMBANO, Frank et al. :
Application No. 10/592,835 : DECISION ON PETITION
Filed: September 14, 2006 : TO WITHDRAW
Attorney Docket No. **207548-00005** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 06, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John S. Paniaguas on behalf of all attorneys of record who are associated with customer No. 27160. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Frank Lombano at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed February 22, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FRANK LOMBANO**
28044 WHITTINGTON ROAD
MENIFEE, CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MAILED

NOV 09 2010

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
Li et al.	:	
Application No. 10/592,912	:	DECISION ON PETITION
Filed: December 14, 2007	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
2005577-0009	:	
Title: HERBAL THERAPY FOR	:	
THE TREATMENT OF ASTHMA	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 16, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 25, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on May 26, 2010. A Notice of Abandonment was mailed on September 22, 2010, subsequent to the filing of this petition.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

§ 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 See Rule 1.137(d).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 08 2010

OFFICE OF PETITIONS

GREER BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

In re Patent No. 7,793,188 :
Issue Date: September 7, 2010 :
Application No. 10/592,924 : NOTICE
Filed: September 14, 2006 :
Attorney Docket No. 032170116PCT

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/[signature]/ 1761

SPE 1761 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,767,620 B2
Ser. No. : 10/593,054
Inventor(s) : Whitnall et al.
Issued : Aug. 3, 2010
Title : HYBRID POROUS ORGANIC-METAL OXIDE MATERIALS
Docket No. : 15546NP
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:

Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:

(703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,797,266
Issue Date: September 14, 2010
Application No. 10/593,065
Filed: July 30, 2007
Attorney Docket No. 08178.0038

DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction, filed October 15, 2010, which is being treated as a Petition Under 37 CFR §3.81(b) to accept the omission of a second assignee's name. A completed Certificate of Correction Form was submitted with the petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to accept the omission of a second assignee's name on the previously submitted PTOL-85B and such error was a clerical error. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee is being charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,797,266.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/593,176	22 January 2008	IYODA ET AL.	1680/56

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 Tower Blvd.
Suite 1200
DURHAM, NC 27707

EXAMINER
DUC TRUONG

ART UNIT	PAPER
1765	20110607

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In view of the papers filed 05/23/11, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the deletion of Masahiro Takeuchi.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Duc Truong/
Primary Examiner, Art Unit 1765

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/26/2011

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/593176 Patent No.: 7985829 B2

CofC mailroom date: 10/18/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The correction to claim 9 is denied. The formula indicated is not in claim 9.

[signature]
SPE

1765
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,273	09/18/2006	Kjell Olsson	75804-236495	8685

26694 7590 09/30/2010
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER	
CHANG, LI WU	
ART UNIT	**PAPER NUMBER**
2129	
MAIL DATE	**DELIVERY MODE**
09/30/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of: Kjell Olsson
Application No. 10/593,273
Attorney Docket No. 75804-236495
Filed: September 18, 2006
For: DETECTION AND PREDICTION IN AN ELECTRONIC SYSTEM

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed August 1, 2008 requesting the Commissioner to invoke his supervisory authority to remove the current Examiner as the Examiner for the above referenced application due to the appearance of favoritism and/or loss of objectivity.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On May 8, 2008, a Non-Final Office action, treating all pending claims, was mailed. Specifically, Examiner rejected each of claims 20-46 either under 35 U.S.C. 102 or 35 U.S.C. 103, primarily relying on an article entitled "Why Do Now What Can Be Done Later," Scott Musman, et. al., In Proceedings of Spatial-Temporal Reasoning Workshop IJCA, 1995, pp. 191-198. Referred to as 'MC' in the Office Action.

(2) On August 1, 2008, the instant petition was filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests that Examiner Liwu Chang, the current Examiner, be removed as the Examiner of the instant Application.

Petitioner presents the following statements in support of the petition:

The primary reference relied upon in rejecting all pending claim, identified as "MC" was coauthored by 'Liwu Chang', the current Examiner of record for the instant application. Petitioner further states that Examiner's Supervisor stated that he believed the Examiner and the co-author are the same person. In addition, Petitioner contends that the vast majority of Examiner Chang's 47 page Non-Final Rejection focuses on MC's applicability to every claim of the instant application, and the Examiner also makes reference to two additional articles co-authored by a 'Li Wu Chang.'

Further, Petitioner states: According to 'The Summary of Ethics Rules For Special Government Employees 2005,' pg. 4, which is available on the USPTO's website and addresses USPTO employees, "the public must have confidence in the Government and the impartiality of its employees, [thus] it is important that you avoid situations that may give rise to an appearance of a conflict of interest based on your personal relationships. There may be a matter on which you are asked to work that will not create an actual financial conflict of interest, but may, because the matter involves someone with whom you have close ties, create an appearance of favoritism or loss of objectivity."

Petitioner further states that Examiner Chang has an improper personal interest in the examination of the instant application which threatens his objectivity. As example, petitioner points to the comments by the Examiner which allegedly reveal the Examiner's great appreciation of the MC article and its significance. Petitioner asserts that even when their research contribution is small, an individual's pride may induce them to forcefully defend their publication's conclusions.

Petitioner also states that further evidence of Examiner Chang's personal involvement in the prosecution of this case may be found in the Notice of References Cited. In the Notice of References Cited, the Examiner cites two additional articles co-authored by the Examiner. In fact, the majority of the prior art cited by the Examiner was also authored by the Examiner. In addition, the Examiner is not only defending the Examiner's own work, but the work of former colleagues. Thus, the Examiner has a personal relationship with each of the articles co- authors.

Thus, Applicant believe that the Examiner's personal interest in the instant application coupled with the relationship the Examiner's has with his co-authors gives rise to the appearance of favoritism or loss of objectivity.

ANALYSIS

MPEP 707.01 and 707.09 state in part:

707.01 Primary Examiner Indicates Action for New Assistant

After the search has been completed, action is taken in the light of the references found. Where the assistant examiner has been in the Office but a short time, it is the duty of the primary examiner to review the application

thoroughly. The usual procedure is for the assistant examiner to explain the invention and discuss the references which he or she regards as most pertinent. The primary examiner may indicate the action to be taken, whether restriction or election of species is to be required, or whether the claims are to be considered on their merits. If action on the merits is to be given, the >primary< examiner may indicate how the references are to be applied in cases where the claim is to be rejected, or authorize allowance if it is not met in the references and no further field of search is known.

...

707.09 Signing by Primary or Other Authorized Examiner

Although only the original is signed, the word "Examiner" and the name of the signer should appear on the original and copies.

...

1004 Actions Which Require the Attention of a Primary Examiner

...

1005 Exceptions to Partial Signatory Authority [R-2]

Examiners who are delegated partial signatory authority are expected to sign their own actions with the exception of the following actions which require the signature of the primary examiner:

...

At the outset, it is noted that the Examiner of record does not currently hold any signatory authority as required by MPEP 1004 and 1005, therefore all Office actions drafted by the examiner, including any position taken by the examiner regarding patentability requires the approval and signature of examiners with Signatory authority, in accordance with MPEP sections 707.01, 707.09, 1004 and 1005. In fact, the Office action mailed May 8, 2008 was reviewed and signed by a Supervisory Patent Examiner. Thus the Office action has already received an objective review of Examiner's position with respect to the patentatibility of claims in view of the document co-authored by the examiner of record.

In addition, Petitioner appears to believe that the examiner's personal interest in the instant application coupled with the relationship the Examiner's has with his co-authors gives rise to the appearance of favoritism or loss of objectivity. In support of the assertion regarding Examiner Chang's personal involvement in the prosecution of this case, petitioner points to the Notice of References Cited where the Examiner cites two additional articles co-authored by the Examiner, and further asserts that the majority of the prior art cited by the Examiner was also authored by the Examiner. However, petitioner has not provided any further explanation or evidence to establish the nature of the alleged personal interest of the examiner. Specifically, petitioner has not explained how examiner or his co-authors would personally gain from the outcome of the prosecution of the instant application, providing a basis for a conflict of interest as set forth in the 'Summary of Ethics Rules For Special Government Employees 2005'.

It is further noted that petitioner does not appear to dispute examiner's determination that the cited documents are relevant to the subject matter disclosed in the instant application. In fact, the citation of the documents only appears to establish the depth of knowledge the examiner possesses in the subject matter disclosed in those documents. Petitioner has not established how the mere citation of documents showing examiner's personal knowledge of subject matter relevant to the application amounts to favoritism or loss of objectivity as alleged. On the other hand, citation of any application of the pertinent documents during prosecution would actually be in conformance with the guidance on Citation of References as required by 37 CFR 1.104 and MPEP 707.05, stating in part:

707.05 Citation of References

37 CFR 1.104 Nature of examination.

.....

(d) Citation of references.

.....

(2) When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

.....
.....

During the examination of an application or reexamination of a patent, the examiner should cite appropriate prior art which is nearest to the subject matter defined in the claims. When such prior art is cited, its pertinence should be explained.

A review of the record indicates that Examiner has provided references including publications co-authored by the examiner, in accordance with the requirements of 37 CFR 1.104 and MPEP 707.05, and petitioner has not shown how such citations amount to a loss of objectivity according to the guidelines set forth in 'The Summary of Ethics Rules For Special Government Employees 2005'.

Further, even if the examiner of record were removed from the examination of the instant application, it is noted that Office policy requires a subsequent examiner to give full faith and credit to the search and action of the previous examiner, as stated in MPEP section 704.01 in part:

704.01 Search

...

PREVIOUS EXAMINER'S SEARCH

When an examiner is assigned to act on an application which has received one or more actions by some other examiner, full faith and credit should be given to the search and action of the previous examiner unless there is a clear error in the previous action or knowledge of other prior art. In general the second examiner should not take an entirely new approach to the application or attempt to reorient the point of view of the previous examiner, or make a new search in the mere hope of finding something.

....

Therefore, removal of the current examiner does not guarantee that the references authored by and applied by the current examiner in rejection of instant claims will not be considered relevant or used in a rejection by another examiner. If the references are deemed to be relevant to the subject matter of the instant application by another examiner assigned to the application, and if the evidence found in the references is determined to support a rejection of the claims under examination, applicants may continue to receive Office actions containing references to these documents and rejections relying upon these documents. If petitioner's statements are deemed to be sufficient to show a conflict of interest, then they would appear to establish conflict of interest for any examiner, since the application would be examined within the same Art Unit, and all of the examiners have personal contact with the current examiner. Thus maintaining the rejections in view of references co-authored by the current examiner would appear to create conflict of interest for any examiner by way of defending their colleague (examiner currently assigned to the application). Therefore petitioner has not established how removing the current examiner would alleviate the perceived conflict of interest based on the assertions in the petition.

Regarding petitioner's statement that Examiner Chang has an improper personal interest in the examination of the instant application; petitioner refers to comments by the Examiner which allegedly reveal the Examiner's great appreciation of the MC article and its significance. It is noted that petitioner has not provided any specifics of where such comments can be found on the record. A review of examiner's Office action did not reveal any comments made by the examiner to substantiate petitioner's notion of examiner's great appreciation of the MC article and its significance. In fact, the Office action mailed May 8, 2008 only cited evidence from the MC article and other references to support conclusions regarding rejections made in that Office action, and no additional comments from the examiner can be found regarding any of the references cited. Therefore petitioner has failed to provide any evidence of record demonstrating a loss of objectivity on the examiner's part.

Petitioner is further reminded that, should applicant believe that the documents coauthored by the current examiner and cited and/or used in rejection of claims are not relevant to the subject matter of the instant application and or the rejections, applicant has the option of pursuing those matters by way of petition to the Director to invoke Supervisory Authority to review under 37 CFR 1.181 , or an Appeal to the Board of Patent Appeals and Interference in accordance with 37 C.F.R. 41.31 (reproduced in part below), as appropriate.

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances.

§ 41.31 Appeal to Board.

(a) Who may appeal and how to file an appeal. (1) Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board

CONCLUSION

For the above stated reasons, the petition is DISMISSED.

The application is being forwarded to the examiner for consideration of the reply under 37 CFR 1.111 filed on October 8, 2008 in response to the non-final Office action.

Any inquiries related to this decision may be directed to Kakali Chaki at (571) 272-3719.

for

Wendy Garber, Director
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JAN 31 2011

OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of
OLSSON, Kjell
Application No. 10/593,273
Filed: September 18, 2006
Attorney Docket No. **75804-236495**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 13, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Jeffri A. Kaminski on behalf of all attorneys of record who are associated with customer No. 26694. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kjell Olsson at the address indicated below.

There is an outstanding Office action mailed October 01, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KJELL OLSSON**
DINBIS AB
SANINGSVÄGEN 17
JÄRFALLA , SWEDEN
S-175 52

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JAN 09 2012

OFFICE OF PETITIONS

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

In re Application of :
Robert K. Gieseler et al :
Application No. 10/593,355 : DECISION ON PETITION
Filed: April 23, 2007 : TO WITHDRAW
Attorney Docket No.: 021069.3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 16, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Marianne Fuierer on behalf of the practitioners of record associated with Customer Number 24239.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since a current correspondence address was not provided.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of :
Robert K. Gieseler et al :
Application No. 10/593,355 : DECISION ON PETITION
Filed: April 23, 2007 : TO WITHDRAW
Attorney Docket No. 021069.3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 13, 2012.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: R2184.0532/P532	Patent Number: 7,660,226
Filing Date (or 371(b) or (f) Date): 09-19-2006	Issue Date: 02-09-2010
First Named Inventor: Tetsuya Ogata	
Title: OPTICAL SYSTEM, OPTICAL PICKUP APPARATUS, AND OPTICAL DISK APPARATUS	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature Jennifer M McCue	Date August 6, 2010
Name (Print/Typed) Jennifer M. McCue	Registration Number 55,440

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 08/13/2010

Applicant	: Tetsuya Ogata	: DECISION ON REQUEST FOR
Patent Number	: 7660226	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/593,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **739** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH LIND & PONACK LLP
1030 15TH STREET NW
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,868,036	:	DECISION ON
Herold, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: January 11, 2011	:	AND NOTICE OF INTENT
Application No. 10/593,461	:	TO ISSUE
Filed: September 19, 2006	:	CERTIFICATE OF
Attorney Docket No. 2006_1381A	:	CORRECTION

This is a decision on the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed December 3, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected to ninety-eight (98) days.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred sixty-nine (169)** days.

On September 14, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above

identified application. The Notice stated that the patent term adjustment (PTA) to date was two hundred forty-seven (247) days. On December 3, 2010, Applicants timely[1] submitted the instant application for patent term adjustment. Applicants state that the patent term adjustment should have been calculated as ninety-eight (98) days. The application issued as Patent No. 7,868,036 with a patent term adjustment of two hundred fifty (250) days.

The Office initially determined a patent term adjustment of two hundred fifty (250) days based on an adjustment of two hundred fifty (250) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), eighty-seven (87) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), and seventy-one (71) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b), reduced by sixty-two (62) and thirty-one (31) days pursuant to 37 CFR 1.704(b), and sixty-eight (68) days pursuant to 37 CFR 1.704(c)(8).

Applicants point out that the eighty-seven (87) days of PTO delay accorded to the Office was incorrect. The Office mailed a final Office action on June 29, 2009. This Office action was mailed in reply to an Amendment filed on May 4, 2009, not December 3, 2008 as reflected in PALM. Accordingly, the final Office action was timely mailed within four months, and as such, no days of PTO delay should have been accorded. Furthermore, as the Amendment was filed on May 4, 2009, sixty-two (62) days of Applicant delay should have been accorded, because it was filed in response to an Office action mailed on December 3, 2008.

Lastly, a review of the file reveals that Applicants were assessed sixty-eight (68) days under 37 CFR 1.704(c)(10) for allegedly filing a "Refund Request" on November 5, 2010. However, there is no such request present in the application file. Accordingly, the 68 days of Applicant delay were improperly assessed and have been removed.

In view thereof, the correct determination of PTA at the time of issuance is **one hundred sixty-nine (169))** days (324 (253+71) days of PTO delay, reduced by 155 (62+62+31) days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred sixty-nine (169))** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,868,036

DATED: January 11, 2011

INVENTOR(S): Herold et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 250 days.

Delete the phrase "by 250 days" and insert - - by 169 days - -.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,544	09/23/2007	Yukimitsu Suda	TOS-172-USA-PCT	4499

27955 7590 11/26/2010

TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER	
REDDICK, MARIE L	
ART UNIT	**PAPER NUMBER**
1796	
MAIL DATE	**DELIVERY MODE**
11/26/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

NOV 26 2010

In re application of :
Suda et al. : DECISION ON
Serial No. 10/593,544 : PETITION
Filed: September 23, 2007 :
For: PROTEIN ADSORPTION PREVENTION EYE LENS MATERIAL AND METHOD FOR PRODUCING SAME

This is a decision on the request filed on November 1, 2010. The request is to remail the Final Office Action of February 18, 2010 and to reset the response period from the Office Action and withdraw the abandonment.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

A review of the petitioner's evidence indicates that the request has merit. The Petition is filed within the two months following the receipt of the Notice of Abandonment.

The Petition is **GRANTED**.

The Abandonment is withdrawn and the Office Action of February 18, 2010 will be remailed and the response period restarted.

/Gary Jones/
Director, Technology Center 1700
Chemical and Materials Engineering

Donald E. Townsend
TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Patent No. 8,012,964	:	DECISION ON REQUEST FOR
Kurimoto et al.	:	RECONSIDERATION OF
Issue Date: September 6, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/593,691	:	and
Filed: December 4, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 0020-5516PUS1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 4, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred four (404) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred two (404) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required for consideration of a request for reconsideration of patent term adjustment under 37 CFR 1.705(d) and will not be refunded. Patentee was not precluded from filing a further no fee candor letter or a terminal disclaimer. Such letter or terminal disclaimer would have been placed in the file of the application or patent without further review. See Treatment of Letters Stating That the USPTO's Patent Term Adjustment Determination Is Greater Than

What the Applicant or Patentee Believes Is Appropriate (75 FR 42079).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred four (404) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,012,964 B2

DATED : **September 6, 2011** **DRAFT**

INVENTOR(S) : Kurimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 512 days

Delete the phrase "by 512 days" and insert – by 404 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120417

DATE : April 17, 2012

TO SPE OF : ART UNIT 1622

SUBJECT : Request for Certificate of Correction on Patent No.: 8012964

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/ANDREW D KOSAR/
Supervisory Patent Examiner.Art Unit 1622

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 9, 2012

In re Application of :

Louise McCullough

Application No : 10593710

Filed : 09-Feb-2009

Attorney Docket No : P71492US0

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 9, 2012

The request is **APPROVED.**

The request was signed by Gerard P. Norton (registration no. 36621) on behalf of all attorneys/agents associated with Customer Number 85938 . All attorneys/agents associated with Cusotmer Number 85938 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	FASgen, Inc.
Name2	
Address 1	UMB Research Park, Building One
Address 2	800 W. Baltimore St., Suite 150
City	Baltimore
State	MD
Postal Code	21201
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10593710
Filing Date	09-Feb-2009
First Named Inventor	Louise McCullough
Art Unit	1649
Examiner Name	ROBERT HAYES
Attorney Docket Number	P71492US0
Title	NOVEL METHOD OF NEUROPROTECTION BY PHARMACOLOGICAL INHIBITION OF AMP-ACTIVATED PROTEIN KINASE

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 85938

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	FASgen, Inc.
Address	UMB Research Park, Building One 800 W. Baltimore St., Suite 150
City	Baltimore
State	MD
Postal Code	21201
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Gerard P. Norton/
Name	Gerard P. Norton
Registration Number	36621

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LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

MAILED

NOV 24 2010

PCT LEGAL ADMINISTRATION

In re Application of :
NUNO, et al. :
Application No.: 10/593,717 : DECISION ON PETITION
PCT No.: PCT/JP2005/005880 :
Int. Filing Date: 29 March 2005 : UNDER 37 CFR 1.181
Priority Date: 30 March 2004 :
Atty Docket No.: 0121/0059 :
For: ELECTRONIC SERVICE MANUAL :
GENERATION METHOD...ARE RECORDED :

This is a decision on applicant's "PETITION UNDER 37 CFR 1.181 REQUEST FOR CLARIFICATION (PCT LEGAL)" filed 15 September 2010 in the United States Patent and Trademark Office (USPTO).

On 21 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by among other items, payment of the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 05 June 2007, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

On 15 September 2010, applicant filed the present petition seeking clarification as the USPTO had issued an Office Action based on examination of the original 32 claims of the underlying international application while applicant had filed a PCT Article 34 amendment amending the claims to 28 claims. The petition indicates that applicant was further informed that the USPTO in it's capacity as a national stage office under 35 U.S.C. 371 always examines the original claims in an international application and that "what takes place in the PCT application has no bearing on the US application."

Applicant is correct that pursuant to the Manual of Patent Examining Procedure (MPEP) 1893.01(a)(3):

Amendments to the international application that were properly made under PCT Article 34 during the international preliminary examination phase (i.e., Chapter II) will be annexed by the International Preliminary Examining Authority to the international preliminary examination report (IPER) and communicated to the elected Offices. See PCT Article 36, PCT Rule 70.16, and MPEP § 1893.03(e).

However, applicant is advised that in the present application the U.S. examiner did examine the correct set of claims. MPEP 1893.01(a)(3) further states that:

Amendments made under PCT Article 34 to the international application after commencement and entry into the U.S. national phase (see MPEP § 1893.01) will not be considered in a U.S. national stage application. However, applicants may still amend the U.S. national stage application by way of a preliminary amendment submitted in accordance with 37 CFR 1.115 and 37 CFR 1.121.

In the present case, an examination of the International Preliminary Report on Patentability Chapter II (Form PCT/IPEA/409) was not completed by the examining authority until 05 October 2006 and not issued until 10 November 2006; after commencement into the U.S. National stage. Further, while applicant included a copy of the PCT Article 34 amendment on 21 September 2006; this copy was not in the form of a proper preliminary amendment pursuant to 37 CFR 1.115 and 37 CFR 1.121.

In conclusion, applicant is correct that a timely filed PCT Article 34 amendment; annexed in a Form PCT/IPEA/409 prior to commencement in the U.S. National stage will result in the amended claims being examined in the United States. Unfortunately, in the present case the examining authority did not issue the report until the thirty month period had expired.

For the reasons above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

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HUNTSMAN ADVANCED MATERIALS AMERICAS LLC
10003 WOODLOCH FOREST DRIVE
THE WOODLANDS, TX 77380

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Ranjana C. Patel, et al.
Application No. 10/593,746
Filed: September 22, 2006
Attorney Docket No.: HAM 830025

This is a decision in response to the petition, filed June 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 13, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 14, 2010. A Notice of Abandonment was mailed on June 9, 2010. On June 21, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the response filed June 22, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 8,043,685 B2
Ser. No. : 10/593,747
Inventor(s) : Yoshinari et al.
Issued : Oct. 25, 2011
Title : SHEET HAVING ELASTIC PROPERTY AND SLIP PROPERTY, AND SOLVENT DISPENSING CONTAINER USING THE SHEET
Docket No. : CHUGAI-1(FP370US)
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Borealis Technical Limited
23545 NW Skyline Blvd
North Plains OR 97133-9205

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Edelson, et al. :
Application No. 10/593,750 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 12060.US.PCT.CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed July 12, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 13, 2010. A Notice of Abandonment was mailed on October 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

This application is being referred to the Office of Data Management for consideration of the drawings filed on November 15, 2010.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 2,2011

In re Application of :

Hideaki Hara

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10593802

Filed : 21-Sep-2006

Attorney Docket No : 129429

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 2,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10593802
Filing Date	21-Sep-2006
First Named Inventor	Hideaki Hara
Art Unit	2882
Examiner Name	EDWARD GLICK
Attorney Docket Number	129429
Title	EXPOSURE APPARATUS AND DEVICE FABRICATION METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of :
Bovin et al. :
Application No. 10/593,829 : ON PETITION
Filed: January 12, 2007 :
Attorney Docket No. 5366-7 :

This is a notice regarding your request, May 4, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Bovin et al.	:	
Application No. 10/593,829	:	ON PETITION
Filed: January 12, 2007	:	
Attorney Docket No. 5366-7	:	

This is a decision on the petition under 37 CFR 1.181, filed May 19, 2011, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Notice of Allowance, mailed January 31, 2011, which set a statutory period for reply of three (3) months. A reply was due on or before May 2, 2011. A Notice of Abandonment was mailed on May 16, 2011.

Petitioner states that the reply was in fact timely filed. Petitioner states, "As evidenced by the attached USPTO acknowledgement post card receipt dated May 2, 2011 (Monday), indicates that the Issue Fee, Publication Fee and fee for Patent copies in the amount of $1822.00 (large entity rate) was paid on May 2, 2011."

A review of the application shows receipt of the Issue Fee Transmittal, along with a Notice with Regard to Small Entity Status, on May 2, 2011. The Notice includes an itemization of the deficiency payment and including the $1510.00 issue fee, $300.00 publication and $12.00 patent copies fee. USPTO financial records corroborate the payment of $4237.00 cited in the Notice. Accordingly, in view of the above, the requisite issue and publication fees were timely paid.

The holding of abandonment is hereby withdrawn and the application restored to pending status. A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY
DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. of Akaike et al. :
Patent No. 7,892,835 :
Issue Date: February 22, 2011 : DECISION ON REQUEST
Application No. 10/593,831 : FOR RECONSIDERATION OF
Filed: September 22, 2006 : PATENT TERM ADJUSTMENT
Attny Docket No. 69719.000003 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed April 22, 2011. Patentees request that the patent term adjustment indicated in the patent be corrected from four hundred eighty-one (481) days to four hundred eighty-five (485) days.

The petition is dismissed.

On February 22, 2011, the above-identified application matured into U.S. Patent No. 7,892,835. The instant request for reconsideration filed April 22, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 481 days.

Patentees dispute the period of adjustment of 407 days for Office delay in mailing at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application. Patentees contend the period of reduction should be 410 days. In addition, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is calculated three years from the application's 371(c) date to the day a Request for Continued Examination (RCE) was filed.

With respect to patentees' request for reconsideration of the 14 month calculation, consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

On October 20, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 262 days. This determination was based in part on the period of adjustment of 409 days associated with the Office's mailing of a first Office action on January 5, 2009. PALM records indicate that the issue fee payment was received in the Office on January 13, 2011. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended January 13, 2011. The 14 month issue should have been timely raised on application for patent term adjustment under § 1.705(b). It is not possible to raise the issue for the first time on application for patent term adjustment under 37 CFR 1.705(d).

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the 371(c) date. The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is March 23, 2004. Thirty months from that date is September 23, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, September 25, 2006, which is the beginning of the Three Year Delay period. The period is terminated by the

filing of a Request for Continued Examination (RCE). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on September 26, 2009, the day after three years after the application's commencement date, and ends on May 2, 2010, the day before the RCE was filed, and is 219 days. See 35 U.S.C. 154(b)(1)(B)(i). No change will be made to the B delay period.

In view thereof, the patent term adjustment indicated in the patent remains four hundred eighty-one (481) days, which is 409 days of A delay plus 219 days B delay, minus 147 days of Applicant delay.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DOCKET CLERK
COWAN LIEBOWITZ & LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of :
Smith, et al. :
Application No. 10/593,836 : ON PETITION
Filed: June 15, 2007 :
Attorney Docket No. KILBU P-92 :

This is in response to petition to revive under 37 CFR 1.137(b), filed August 3, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action, mailed January 5, 2011, which set a shortened statutory period for reply of three months. Applicants filed an RCE on July 1, 2011, made timely by obtaining a three month extension of time. However, the RCE lacked a submission. As such, the application became abandoned on July 6, 2011. The Office mailed a Notice of Abandonment on July 14, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a submission for the previously filed RCE.

The application is being forwarded to Group Art Unit 3781 for consideration of the RCE, filed July 1, 2011, and the submission, filed August 3, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-1-11

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/543,857 Patent No.: 7524395

CofC mailroom date: 1-25-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Nadine Norton

Nadine Norton
SPE

1713
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED

JAN 17 2012

OFFICE OF PETITIONS

Seiji Kashioka
19743 Vista Hermosa Dr
Walnut CA 91789

In re Application of :
Seiji Kashioka :
Application No. 10/593,889 : DECISION ON PETITION
Filed: September 23, 2006 : UNDER 37 C.F.R. § 1.137(B)
Title: METRONOME RESPONDING TO :
MOVING TEMPO :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed on December 22, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 24, 2011, which set a shortened statutory period for reply of three months. An after-final amendment was received on August 23, 2011, and an advisory action was mailed on September 22, 2011. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no further responses were received. Accordingly, the above-identified application became abandoned on August 25, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information

where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted a portion of the petition fee and the proper statement of unintentional delay. Petitioner has further submitted an amendment.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is presently set forth in 37 C.F.R. § 1.17(m) as being $930 for an other than large entity. With this petition, Petitioner included $810. Moreover, the electronic file does not contain a general authorization to charge any fee deficiencies to a Deposit Account.

The payment of the required petition fee *in full* is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B), which sets forth, *in toto*:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived** (emphasis added).
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

> The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a), was unavoidable.

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner must submit an additional $120 ($930 less the $810 already submitted) if he wishes for the Office to consider this petition under the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300: please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[5]

Paul Shanoski
Senior Attorney
Office of Petitions

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 12 2012

OFFICE OF PETITIONS

Seiji Kashioka
19743 Vista Hermosa Dr
Walnut CA 91789

In re Application of :
Seiji Kashioka :
Application No. 10/593,889 : DECISION ON RENEWED PETITION
Filed: September 23, 2006 : UNDER 37 C.F.R. § 1.137(B)
Title: METRONOME RESPONDING TO :
MOVING TEMPO :

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed on January 27, 2012, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 24, 2011, which set a shortened statutory period for reply of three months. An after-final amendment was received on August 23, 2011, and an advisory action was mailed on September 22, 2011. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no further responses were received. Accordingly, the above-identified application became abandoned on August 25, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in

37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on December 22, 2011, along with a portion of the petition fee, the proper statement of unintentional delay, and an amendment.

The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on January 17, 2012 which indicated the petition fee was required in full before the matter could be treated on the merits.

With this renewed petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has included the remainder of the petition fee. The amendment that was included with the original petition pursuant to 37 C.F.R. § 1.137(b) has been considered by the Examiner. A communication from the Examiner has been included with this decision.

The first, second, and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 27, 2012 can be processed in due course.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Miscellaneous Office Communication

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/593,889	23 September, 2006	KASHIOKA, SEIJI	

Seiji Kashioka
19743 Vista Hermosa Dr
Walnut, CA 91789

EXAMINER	
ANDREW R. MILLIKIN	
ART UNIT	PAPER
2832	20120212

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Amendment dated 27 January 2012 is OK to enter upon revival.

/ANDREW R MILLIKIN/
Examiner, Art Unit 2832

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110219

DATE : February 19, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7611733

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROM DIRECTORS OFFICE

OCT 20 2011

TECHNOLOGY CENTER 3700

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re application of
KORNERUP, GRETE , et al.

Serial Number: 10/594,048
Filed: August 20, 2007

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **INFUSION SET**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Donald Hajec, Director
Technology Center 3700
571-272-2975

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,780,792 :
Application No. 10/594,121 :
Filed: November 28, 2006 : ON PETITION
Issued: August 24, 2010 :
Attorney Docket No. 1328-35 :

This is a decision on the petition filed April 28, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee, as well as the middle names of the two inventors, on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of
Akio Sugihara et al
Application No. 10/594,127
Filed: September 25, 2006
Attorney Docket No. Q97391

ON PETITION

This is a decision on the petition, filed January 7, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 16, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Application of :
Akio Sugihara et al :
Application No. 10/594,127 : ON PETITION
Filed: September 25, 2006 :
Attorney Docket No. Q97391

This is a decision on the petition, filed May 13, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 6, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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13 AUG 2010

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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of	:	
MUHAKOSO et al.	:	
Serial No.: 10/594,161	:	
PCT No.: PCT/JP06/307703	:	
Int. Filing Date: 12 April 2006	:	DECISION
Priority Date: 14 April 2005	:	
Atty. Docket No.: MAT-8897US	:	
For: PLASMA DISPLAY PANEL	:	

This is a decision on applicant's "Petition under 37 CFR 1.182 For Correction of Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 23 June 2010 in the above referenced application. It is also responsive to applicant's "Request to Correct Filing Receipt" filed 17 July 2008. Applicant requests issuance of a new Notification of Acceptance under 35 U.S.C. 371.

BACKGROUND

On 26 September 2006, prior to the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee and a declaration executed by the inventors. The thirty month deadline for filing the national stage application would not expire until midnight on 14 October 2007.

On 25 June 2008, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 14 October 2007 and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 October 2006.

DISCUSSION

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 26 September 2006. The date of completion of all 35 U.S.C. 371 requirements includes fulfillment of subsection (b), which states that the national stage shall commence with the expiration of the time limit under PCT Article 22(a) or 39(1)(a) of the PCT Treaty. The date of completion of all requirements of 35 U.S.C. 371 is 14 October 2007. The Notification of Acceptance (Form PCT/DO/EO/903) issued on 25 June 2008 which indicated this date as 14 October 2007 is correct; however, the

date applicant fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 26 September 2006, not 26 October 2006 as indicated on the Notification. Thus the Notification of Acceptance is hereby **VACATED.**

CONCLUSION

The Notification of Acceptance (Form PCT/DO/EO/903) issued on 25 June 2008 is **VACATED**.

A new Notification of Acceptance will be issued indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 14 October 2007 and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements on 26 September 2006. A Corrected Filing Receipt will also be issued per applicant's request.

The application will be forwarded to the United States Designated/Elected Office for further processing including the issuance of a corrected Notification of Acceptance and Filing Receipt in accord with this decision.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571)-273-0459

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FEB 07 2011

OFFICE OF PETITIONS

Pillsbury Winthrop Shaw Pittman LLP
Attn: Docketing Department
P.O. Box 10500
McLean, Virginia 22102

In re Application of	:	
PFIZENMAIRE ET AL.	:	DECISION GRANTING PETITION
Application No. 10/594,189	:	UNDER 37 CFR 1.137(b)
Filed: 13 July 2007	:	
Atty. Docket No. 040045-0357801	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 17 May 2010, to revive the above-identified application.

The petition is **GRANT.**

The application became abandoned for failure to reply in a timely manner to the Non-final Office Action mailed 8 May 2009 ("outstanding Office action"), which set a shortened statutory period of reply of one (1) month. No reply was received, and five (5) months' extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on 9 November 2009, with notification mailed 20 January 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1175.00 extension of time fee submitted with the petition on 17 May 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Technology Center Art Unit 1647 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JAN 27 2011

OFFICE OF PETITIONS

In re Application of :
Anthony L. Smith et al :
Application No. 10/594,319 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. 032968-0133 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2011, to revive the above-identified application. This is also a decision on the petition to expedite filed January 13, 2011 under 37 CFR 1.182.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed May 11, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3655 for appropriate action by the Examiner in the normal course of business on the reply received January 13, 2011.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 15 2010

OFFICE OF PETITIONS

BASF AKTIENGESELLSCHAFT
CARL-BOSCH STRASSE 38, 67056 LUDWIGSHAFEN
LUDWIGSHAFEN 69056 DE GERMANY

In re Application of :
Beat Michael AEBLI et al. :
Application No. 10/594,379 : DECISION ON PETITION
Filed: September 26, 2006 :
Attorney Docket No. LA/1-23038/A/PCT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 04, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 05, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of January 04, 2010 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-4231.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVID M. LAPRAIRIE**
HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK, MI 48067-2557

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AUG 05 2010

OFFICE OF PETITIONS

JOSEPH J. CRIMALDI
ROETZEL & ANDRESS
222 S. MAIN ST.
AKRON, OH 44308

In re Application of	:	
Masselin et al.	:	DECISION ON PETITION
Application No. 10/594,468	:	TO WITHDRAW
Filed: December 17, 2007	:	FROM RECORD
Attorney Docket No. PAI10350P1US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 6, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 39905 was revoked by the assignee of the patent application on March 16, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Akimasa Tanaka :
Application No.: 10/594,619 : ON PETITION
Filed: June 19, 2007 :
Attorney Docket No.: 46884-5516 (232174) :

This is a decision on the petition, filed August 17, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 16, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Magnus PELZ, et *al.* :
Application No. 10/594,645 : DECISION ON PETITION
Filed: September 28, 2006 : UNDER 37 CFR 1.181
Attorney Docket No. **P/1228-214** :

This is a decision on the petition, filed September 3, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the notice of non-compliant amendment mailed December 16, 2009, which set one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 26, 2011.

Petitioner asserts that the Office action dated December 16, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries related to this decision may be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Technology Center technical support staff of Art Unit 3748 for re-mailing the Office action of December 16, 2009. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

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BIRCH STEWART
KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

AUG 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,888,891 :
Issue Date: 15 February, 2011 :
Application No. 10/594,680 : ON PETITION
Filed: 28 September, 2006 :
Attorney Docket No. 0020-5520PUS1 :

This is a decision on the petition filed on 16 May, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment (change of name) on 6 January, 2011, and the location of recordation as Reel/Frame 025597/0280.

Petitioner requests issuance of a certificate of correction the identification of the Assignees to "**NATIONAL CEREBRAL AND CARDIOVASCULAR CENTER (Osaka (JP)**" **and** "**MOLECULAR IMAGING LABORATORY, INC, (Kobe-shi (JP)**" of the substance/form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Patent No. 7,888,891
Application No. 10/594,680

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 7TH AVENUE
14TH FLOOR
NEW YORK, NY 10018

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SEP 17 2010

OFFICE OF PETITIONS

In re Application of
Stephen William Eason, et al
Application No. 10/594,730
Filed: October 30, 2006
Attorney Docket No. 478.1083

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before June 12, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 12, 2010. Accordingly, the date of abandonment of this application is June 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TECHNOLOGY LAW, PLLC
3595 N. SUNSET WAY
SANFORD MI 48657

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Application: :
Tomalia et al. :
Application No. 10/594,776 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. DNT-7US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 17, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,785	09/17/2007	Yingru Wu	76935/JPW/YC	7111

23432 7590 07/22/2011
COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

EXAMINER	
BAUM, STUART F	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 22 2011

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of:	:
Wu et al.	:
Serial No.: 10/594,785	: PETITION DECISION
Filed: September 17, 2007	:
Attorney Docket No.: **76935/JPW/YC**	:

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on January 31, 2011, requesting that the requirement for restriction of October 1, 2010 be withdrawn.

BACKGROUND

In view of the claim agreements between applicant and the examiner, this application is being prepared for allowance.

DECISION

The petition is **DISMISSED AS MOOT in view of the allowance of the claims.**

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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MYERS WOLIN, LLC
100 HEADQUARTERS PLAZA
NORTH TOWER, 6TH FLOOR
MORRISTOWN, NJ 07960-6834

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of :
Cheng Tao, et al. :
Application No. 10/594,862 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No.: THOM 1698 (PA040012) :

This is a decision in response to the petition, filed July 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 9, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2481 for appropriate action by the Examiner in the normal course of business on the amendment received July 14, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,888	05/07/2008	Martin Wahlers Larsen	36731-000028/US/NPB	5626

30593 7590 04/04/2012

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
BELCHER, HERMAN A	

ART UNIT	PAPER NUMBER
2448	

MAIL DATE	DELIVERY MODE
04/04/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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David Cho
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of: LARSENT, M.W.
Application No. **10/594,888**
Filed: September 29, 2006
Atty Docket No. 36731-000028/US/NPB
Title: FILTER AND A METHOD OF FILTERING ELECTRONIC MESSAGES

DECISION ON PETITION FOR SUSPENSION UNDER 37 C.F.R. § 1.103(a)

This is a decision on petition for suspension of action by Office filed **March 14, 2012** under 37 CFR § 1.103(a) for a period of six (6) months. This request is accompanied by a showing of good and sufficient cause for the suspension of action, as well as the fee set forth in §1.17(g).

This petition is **DISMISSED.**

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

In this case, Applicant states as cause "determine the commercialibility of example embodiments of the present invention" and "to accumulate and prepare the necessary evidence for proper presentation to the Examiner for consideration." Applicant's cause have been fully considered, Instant application claims priority to provisional application 60/557,405 filed March 30, 2004. However, Applicant fails to show how the time from earliest filing date March 30, 2004 to the present (approximately eight (8) years) is not sufficient time to determine the commercialibility of example embodiments of the present invention and to accumulate and prepare the necessary evidence for proper presentation to the Examiner for consideration. Thus, the cause presented is not deemed "good and sufficient".

For the reasons above mentioned this petition is ***dismissed***.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Christopher Grant, Quality Assurance Specialist, can be reached at (571) 272-7294.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

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Rader, Fishman & Grauer PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, MI 48304-0610

In re Application of:
BLANK et al.
U.S. Application No.: 10/594,912
PCT Application No.: PCT/EP2005/051409
International Filing Date: 29 March 2005
Priority Date: 29 March 2004
Attorney's Docket No.: 66682-0001
For: FASTENING ELEMENT FOR FASTENING TO A BASE BODY AND METHOD FOR FASTENING SAID FASTENING ELEMENT

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371" filed 22 March 2010, treated herein as a petition under 37 CFR 1.182 to treat the present application as a national stage for the above captioned international application, and not for the international application indicated on the originally filed Transmittal Letter. Deposit Account No. 18-0013 will be charged the required petition fee.

BACKGROUND

On 29 September 2006, applicants filed a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee, a preliminary amendment, and an application data sheet. The submission was assigned U.S. application number 10/594,912.

The materials filed 29 September 2006 included a Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission that identified the application as a U.S. national stage of PCT/EP2005/054109 and an application data sheet that identified the application as a national stage of PCT/EP2005/054109.

Based on the international application number listed on the first page of the Transmittal Letter and application data sheet, the present application file was established as a national stage of PCT/EP2005/054109.

On 22 January 2010, the USPTO mailed a Notification Of Missing Requirements indicating that the application was a national stage of PCT/EP2005/054109 and that an oath and translation of international of the international application were required.

On 22 March 2010, applicants filed "Response to Notification of Missing Requirements under 35 U.S.C. 371."

DISCUSSION

As noted above, the first page of the Transmittal Letter filed by applicants to initiate this national stage application identified the submission as a national stage of PCT/EP2005/054109. The present submission filed by applicants on 22 March 2010 confirms that the listing of PCT/EP2005/054109 on the original application materials was incorrect, and that the application was intended as a national stage of PCT/EP2005/051409. Because the present application was created as a national stage of PCT/EP2005/054109 based on applicants' original submission, correction of the application to indicate that it is a national stage of PCT/EP2005/051409 requires a petition under 37 CFR 1.182. The present response to the Notification of Missing Requirements has been treated as such a petition. Applicants have authorized a charge to Deposit Account No. 18-0013 for required fees, based on this authorization, Deposit Account No. 18-0013 will be charged the required $400 petition fee.

The present submission satisfies the requirements for a grantable petition to correct the inadvertent error in the international application number identified during the initial filing process. Accordingly, the materials filed herein on 29 September 2006 will be treated as having been directed to international application PCT/EP2005/051409.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is GRANTED.

The materials filed herein on 29 September 2006 will be treated as the U.S. national stage of PCT/EP2005/051409.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298

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OFFICE OF PETITIONS

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Patent No. 7,741,080
Issued: June 22, 2010
Application No. 10/594,969
Filed: March 14, 2007
Attorney Docket No. 68600.000002

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed August 13, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty five(285) days to four hundred sixty-one (461) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that the period should be calculated as 319 days. Applicant also disputes the failure to issue a patent within three years of the actual filing date of the above-identified patent in accordance with 37 C.F.R. § 1.702(b) and argues that the period should be 269 days.

Applicant's arguments have been considered, but not found to be persuasive.

The period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 149 days calculated from March 14, 2007, the 371 completion date. The delay pursuant to 37 CFR 1.702(b) is 263 days based on a national stage commencement date under 35 U.S.C. 371(f) of October 2, 2009, not September 26, 2009, three years from the filing day of the application. As such, the patent term adjustment of two hundred eighty-five (285) days (149 "A delay days" plus 263 "B delay days" minus 127 "Applicant delay days"), as indicated in the patent, is properly reflected.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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MAR 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,741,080
Issued: June 22, 2010
Application No. 10/594,969
Filed: March 14, 2007
Attorney Docket No. 68600.000002

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1,705(d)", filed September 30, 2010. Applicants request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty five (285) days to two hundred eighty-eight (288) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

On August 13, 2010, patentee filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) arguing that the patent term adjustment period should be 461 days and not 285 as indicated on the patent . On August 30, 2010, the Office mailed a decision dismissing the petition under 37 CFR 1.705(d) on the basis that delay pursuant to 37 CFR 1.702(b) is 263 days based on a national stage commencement date under 35 U.S.C. 371(f) of October 2, 2009.

Comes now petitioner arguing that the number of days from the beginning of the "B period" (September 30, 2009, i.e., three years from the 371(b) date) to the end of the "B period" (June 22, 2010, i.e., the day the '080 patent issued) is 266 days.

Patentees argument has been considered but is not persuasive.

Patentees are advised that in an international application, the over 3 year pendency period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). In this instance, the national stage commencement date is Monday, October 2, 2006 (not September 30, 2006, the date used by patentees for this calculation). The priority date of this application is March 31, 2004. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-

month period. Further, as the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, October 2, 2006. Thus, the over 3 year period is 263 days, counting the number of days beginning on October 2, 2006 and ending on June 22, 2010, the date of issuance of the patent.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

As such, the patent term adjustment is 285 days as previously indicated. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

United States Patent and Trademark Office

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MAR 21 2011

PCT LEGAL ADMINISTRATION

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

In re Application of :
Schneider et al. :
Application No.: 10/595,096 : DECISION
PCT No.: PCT/EP2004/008226 :
Int. Filing Date: 23 July 2004 : ON
Priority Date: 27 August 2003 :
Attorney Docket No.: PAT-01151/BC1-0226 : PETITION
For: Method For Producing Chromophore And/Or :
Effect-Producing Multilayer Varnishes :

The petition to revive under 37 CFR 1.137(b) filed on 11 December 2009 in the above-captioned application is hereby **DISMISSED, without prejudice,** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee. No terminal disclaimer is required. The required reply (an oath or declaration compliant with 37 CFR 1.497(a) and (b)) has not been provided, for the following reasons.

Inspection of the executed declaration filed on 11 December 2009 reveals that it nominates "Patricia Kloppenborg" in lieu of "SCHNEIDER, Patricia" named in the published international application. MPEP 605.04(b) states in part that

> *Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

In that the requested change clearly represents more than the correction of a typographical or transliteration error, a formal petition under 37 CFR 1.182 would be required in order for the change to be accepted. Any such petition should be accompanied by a first-hand statement, preferably by the inventor herself, stating the relevant facts. *See also* MPEP 1893.01(e).

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this Decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3283

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 24 2011

PCT LEGAL ADMINISTRATION

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

In re Application of
Kloppenborg et al.
Application No.: 10/595,096
PCT No.: PCT/EP2004/008226
Int. Filing Date: 23 July 2004
Priority Date: 27 August 2003
Attorney Docket No.: PAT-01151/BC1-0226
For: Method For Producing Chromophore And/Or Effect-Producing Multilayer Varnishes

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.182 filed on 22 August 2011, which is also being treated as a renewed petition under 37 CFR 1.137(b).

DISCUSSION

Petition Under 37 CFR 1.182

In a Decision mailed on 21 March 2011, applicants were advised (*inter alia*) that

> Inspection of the executed declaration filed on 11 December 2009 reveals that it nominates "Patricia Kloppenborg" in lieu of "SCHNEIDER, Patricia" named in the published international application... In that the requested change clearly represents more than the correction of a typographical or transliteration error, a formal petition under 37 CFR 1.182 would be required in order for the change to be accepted. Any such petition should be accompanied by a first-hand statement, preferably by the inventor herself, stating the relevant facts...

In response, applicants have filed the instant petition under 37 CFR 1.182, which introduces evidence relating to the inventor's name change. Specifically, petitioner has provided a statement signed by Patricia Kloppenborg, who asserts that she was an inventor of the instant application and that her surname was changed from Schneider as a result of marriage. Based on the totality of the evidence now of record, it would be appropriate to accept the inventor's statements, and consequently to accept the declaration filed on 11 December 2009 for purposes of compliance with 37 CFR 1.497(a) and (b). The petition fee is being charged to Deposit Account no. 06-1130, per the authorization included in the petition.

Petition Under 37 CFR 1.137(b)

In the Decision mailed on 21 March 2011, the petition under 37 CFR 1.137(b) filed on 11 December 2009 was dismissed, without prejudice, because the required reply (an oath or declaration compliant with 37 CFR 1.497(a) and (b)) had not been provided. In view of the foregoing discussion of the petition under 37 CFR 1.182, the required reply now is regarded as having been filed on 11 December 2009 and, as such, all of the requirements for relief under 37 CFR 1.137(b) now have been satisfied.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED.**

This application is being returned to the Office of Patent Application Processing, including changing its status in PALM from abandoned to pending. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **11 December 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS MI 49503

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,717,131	:	DECISION ON REQUEST
Creswell et al.	:	FOR CERTIFICATE
Issue Date: May 18, 2010	:	OF CORRECTION
Application No. 10/595,281	:	and
Filed: November 22, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 70038-006	:	CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. § 1.322," filed June 4, 2010, requesting correction of the patent term adjustment indicated in the patent from "by 689 days" to "by 550 days." This request is treated as a renewed petition under 37 CFR 1.705(b).

The renewed petition under 37 CFR 1.705(b) is **GRANTED to the extent indicated herein**.

By decision mailed April 14, 2010, the initial application for patent term adjustment was granted to accord this application a patent term adjustment of 147 days at the time of the mailing of the notice of allowance. Pursuant to that decision, periods of adjustment for Office delay of 177 days and reduction for applicant delay of 30 days were entered. This was to correct this application to include calculation of a patent term adjustment rather than the calculation of patent term extension mailed with the notice of allowance. See Determination of Patent Term Extension mailed March 18, 2009.

At issuance, the error in processing the application as being entitled to patent term extension rather than adjustment was again corrected. Periods of adjustment of 177 days and 30 days entered on petition were again entered. Given this duplicate

correction, the patent issued with 147 days of additional patent term. This 147 days has been removed.

It is further noted that the patent as issued included 8 days of applicant delay accrued after the mailing of the notice of allowance.

In view thereof, the correct revised patent term adjustment is five hundred forty-two (542) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred forty-two **(542)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,717,131 B2

DATED : **May 18, 2010** **DRAFT**

INVENTOR(S) : Creswell et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 689 days

Delete the phrase "by 689 days" and insert – by 542 days--

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SEP 03 2010

OFFICE OF PETITIONS

K&L Gates LLP
1900 MAIN STREET, SUITE 600
IRVINE CA 92614-7319

In re Patent No. 7,622,107	:	DECISION ON REQUEST FOR
HORWITZ et al.	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/595,385	:	NOTICE OF INTENT TO ISSUE
Filed: April 13, 2006	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 1951326-00019:		

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred thirty-five (335) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **three hundred eighty (380) days**.

The Office agrees with patentee that the provisions of 35 U.S.C. 154(b) related to adjustment of patent term apply as this is an international application filed after May 29, 2000. Accordingly, the Office concurs that patentees are entitled to a period of adjustment of 365 days, pursuant to 37 CFR 1.702(a)(1), for the mailing of the Restriction Requirement on June 12, 2009, 14 months and 365 days, after the fulfillment of the requirements of 35 U.S.C. 371 on April 13, 2006. A period of adjustment for Office delay of 365 days will be entered. Accordingly, A delay is 365 days.

The Office also agree that patentee should have been assessed a delay of 30 days, pursuant to 37 CFR 1.704(b), for the filing of a reply on May 29, 2009, three months and 30 days after the mailing of the final Office action. A period of reduction of 30 days will be entered. Accordingly, applicant delay is 30 days.

Lastly, patentee is entitled to a period of adjustment pursuant to 37 CFR 1.702(b). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on April 14, 2009, and ends on May 28, 2009, the day before the RCE was filed, and is 45 days. See 35 U.S.C. 154(b)(1)(B)(i). Accordingly, B delay is 45 days.

The patent term adjustment is 380 days (365 days of A delay + 45 days of B delay - 30 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The requisite $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred eighty (380) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,107 B2

DATED : Nov. 24, 2009 **DRAFT**

INVENTOR(S) : HORWITZ et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 380 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 03 2010

OFFICE OF PETITIONS

FOX ROTHSCHILD LLP
997 LENOX DRIVE, BLDG. #3
LAWRENCEVILLE, NJ 08648

In re Application of :
Soo-Kyung KIM :
Application No. 10/595,425 : ON PETITION
Filed: April 18, 2006 :
Attorney Docket No. 74448.00003/P31590 :
USA

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 24, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1634 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: FRANK T. CARROLL
FOX ROTHSCHILD LLP,
2000 MARKET STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,431	01/03/2007	Gerhard Tivig	2003P00775WOUS	9506

38107 7590 11/22/2011

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
BITAR, NANCY	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
11/22/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vera.kublanov@philips.com
debbie.henn@philips.com
marianne.fox@philips.com

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR NY 10510

In re Application of:
TIVIG, GERHARD et al
Application Serial No.: 10/595,431
Filed: April 19, 2006
For: **METHOD OF AUTOMATICALLY DISPLAYING MEDICAL MEASUREMENT DATA**

DECISION
ON PETITION

This is a decision on the petition requesting the withdrawal of the final action, filed December 23, 2009, which is treated as a petition pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed October 28, 2009 final and requests withdrawal of finality of the Office action.

PERTINENT BACKGROUND INFORMATION

A non-final Office action was mailed on March 30, 2009 rejecting claims 2-6, 12, 14-22 and 24-26.

Applicant filed an amendment and request for reconsideration on June 29, 2009 wherein claims 5, 12, 15, 22 and 24 were amended. Claims 27 and 28 were added.

On October 28, 2009, the Examiner issued a Final Office action rejecting claims 2-6, 12, 14-22 and 24-28.

On December 23, 2009 petition requesting the examiner to withdraw the final action was filed.

On March 04, 2010, a non-final office action was mailed. The non-final office action indicated it was made in response to applicant's request for reconsideration of the final office action.

DECISION

The issue of whether or not the examiner properly made final the office action on October 28, 2009 became moot with examiner mailing a non-final office action on March 04, 2010.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

An Appeal Brief has since been filed on July 22, 2011. The application has been forwarded to the examiner for appropriate action responsive to the Appeal Brief filed July 22, 2011.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 20,2011

In re Application of :

James Larrick

Application No : 10595453

Filed : 28-Apr-2006

Attorney Docket No : 1953233-00008

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed June 20,2011

The request is **APPROVED**

The request was signed by Louis C. Cullman (registration no. 39645) on behalf of all attorneys/agents associated with Customer Number 48423 . All attorneys/agents associated with Customer Number 48423 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 21127 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10595453
Filing Date	28-Apr-2006
First Named Inventor	James Larrick
Art Unit	1617
Examiner Name	CARLOS AZPURU
Attorney Docket Number	1953233-00008
Title	Gamma-tocopherol therapy for restenosis prevention

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 48423

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 21127

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Louis C. Cullman/
Name	Louis C. Cullman
Registration Number	39645

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MAR 31 2011

PCT LEGAL ADMINISTRATION

March Fischmann & Breyfogle LLP
8055 E. Tufts Avenue, Suite 450
Denver CO 80237

In re Application of	:	
HIEL et al.	:	DECISION ON PETITIONS
Application No.: 10/595,459	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No.: 50486-00003	:	UNDER 37 CFR 1.78(a)(6)
For: ALUMINUM CONDUCTOR	:	
COMPOSITE CORE REINFORCED CABLE	:	
AND METHOD OF MANUFACTURE	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference two of the prior-filed applications: 10/691,447 filed October 22, 2003 and 10/692,304 filed October 23, 2003. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c). (The amendment filed December 19, 2007 is also not acceptable for the same reason.)

Accordingly, before the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and either an Application Data Sheet (complying with 37 CFR 1.76(b)(5)) or a proper amendment (complying with 37 CFR 1.121) deleting the incorporation by reference statement, are required.

Applicant is advised that while it is not improper for the present application to directly claim benefit under 35 U.S.C. 120 to international application PCT/US03/12520, applicant may wish to consider including the corresponding U.S. national stage application number in the benefit claim to eliminate any appearance of a lack of copendency.

The petition fee has been paid.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT

Attn: Office of PCT Legal Administration
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Attn: Office of PCT Legal Administration
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By EFS: Selecting the document description "Petition for review and processing by the PCT Legal Office"

Any questions concerning this matter may be directed to Daniel Stemmer at (571)-272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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JUN 21 2011

PCT LEGAL ADMINISTRATION

David F. Dockery
March Fischmann & Breyfogle LLP
8055 E. Tufts Avenue, Suite 450
Denver CO 80237

In re Application of:	:	DECISION ON
HIEL et al	:	
Application No.: 10/595,459	:	PETITIONS
Int. Filing Date: 22 October 2004	:	
Atty Docket No.: 50486-00003	:	UNDER
For: ALUMINUM CONDUCTOR COMPOSITE CORE REINFORCED CABLE AND METHOD OF MANUFACTURE	:	37 CFR § 1.78(a)(3) and (a)(6)

This is in response to applicants' "RENEWED PETITION TO CORRECT DOMESTIC PRIORITY CLAIM UNDER 35 U.S.C. 120 - 37 C.F.R. 1.78(a)(3) and 1.78(a)(3)" filed on 28 April 2011 which has been treated as a petition under 37 C.F.R. 1.78(a)(3) and 1.78(a)(6).

The petition is DISMISSED.

The present application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional

The petition complies with the requirements of items (2) - (3),

For item (1), the amendment to the specification filed on 28 of April 2011 is improper. Under 37 CFR 1.121(b)(1)(ii), the full text of any replacement paragraph with markings should show all the changes relative to the previous version of the paragraph. The amendment, however, underlined changes that had already been made in the previous version of the paragraph.

Accordingly, having found that the instant petition for acceptance of unintentionally delayed claims for the benefit of priority under 35 U.S.C. §119(e) and §120 to the prior-filed applications failed to satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6), the petition is dismissed.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

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DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,825,090 :
Ghigo et al. : DECISION ON REQUEST FOR
Issue Date: November 2, 2010 : RECONSIDERATION OF
Application No. 10/595,485 : PATENT TERM ADJUSTMENT
Filed: September 6, 2007 : AND NOTICE OF INTENT
Attorney Docket No. : TO ISSUE CERTIFICATE OF
290494.122US1 : CORRECTION
Title: USE OF GHRELIN AND :
UNACYLATED GHRELIN COMPOSITIONS :
FOR TREATING INSULIN RESISTANCE :

This is a decision on the petition filed on November 4, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by an additional five hundred eight (508) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred eight (508) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred eight (508) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,825,090 B2

DATED : November 2, 2010 **DRAFT**

INVENTOR(S) : Ghigo et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 151 days

Delete the phrase "by 151 days" and insert – by 508 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville NJ 08648

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Marvin Ward et al. :
Application No. 10/595,504 :
Filed: June 9, 2008 :
Attorney Docket No. **5261-105US//P28363-A USA** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed June 29, 2010.

The request is **NOT APPROVED**.

The request still cannot be approved because the requested change in the correspondence address is still considered improper.

As stated in the previous decision mailed June 17, 2010, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville NJ 08648

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Marvin Ward et al. :
Application No. 10/595,504 :
Filed: June 9, 2008 :
Attorney Docket No. **5261-105US//P28363-A USA** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed September 9, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Perry M. Fonseca on behalf of all attorneys of record who are associated with Customer Number 20802.

All attorneys/agents associated with Customer Number 20802 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee Speedus Corp. at the address list listed in the request.

There is no outstanding Office action mailed that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: SPEEDUS CORP.
1 DAG HAMMARSKJOLD BLVD
FEEHOLD, NJ 07728

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/595,504	06/09/2008	Marvin Ward	5261-105US//P28363-A USA

CONFIRMATION NO. 1700

20802
FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville, NJ 08648

POWER OF ATTORNEY NOTICE

OC000000043731505

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1307
PARDES HANNA 37111 IL ISRAEL

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Zvi Barzilai	:	
Application No. 10/595,524	:	DECISION ON PETITION
Filed: April 26, 2006	:	
Attorney Docket No. **142 06 01 NP US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2011 and supplemented on March 2, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 22, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 23, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1783 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

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62 WILLIAM STREET, 6TH FLOOR
NEW YORK NY 10005

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,591,793 :
Issue Date: September 22, 2009 :
Application No. 10/595,593 : DECISION ON PETITION
Filed: March 28, 2006 :
Attorney Docket No. SC-IAT-107 :

This is a decision on the Petition For Correct Of Assignee Name, filed September 17, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Tokyo University of Agriculture and Technology"

to:

--Tokyo University of Agriculture and Technology TLO Co., Ltd.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), and the requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,591,793.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/14/2011

TO SPE OF : ART UNIT 1787

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/595789 Patent No.: 7615287 B2

CofC mailroom date: 1/10/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Request for Certificate of Correction with certified translation of paragraphs [0024] and [0028] and claim 5 of PCT Application No. PCT/2004/017680, and additional evidence filed January 10, 2011 is accepted. The requested correction does not introduce new matter or change scope. /D. S. Nakarani/, Primary Examiner, Art Unit 1787

/Callie E. Shosho/ 1787

SPE **Art Unit**

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1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of :
Schermanz et al. :
Application No. 10/595,795 : DECISION ON PETITION
Filed: August 15, 2006 :
Attorney Docket No. 16785.1 :

This is a decision on the petition under 37 CFR 1.181, filed August 30, 2011, to withdraw the holding of abandonment.

On December 22, 2010, the Office mailed a non-final Office Action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application became abandoned on March 23, 2011. A Notice of Abandonment was mailed on August 3, 2011.

In the present petition, petitioners asserted that they filed a timely response to the non-final Office Action via facsimile transmission on April 22, 2011. In support of the assertion, petitioners submitted copies of the transmittal, a 9 page reply in the form of an amendment and an authorization to charge the Deposit Account for any necessary fees including an extension of time fee, and the sending unit's report confirming transmission. The transmittal bears a certificate of facsimile transmission dated April 22, 2011.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the reply is considered timely filed on April 22, 2011, with the request for an extension of time for response within the first month (and fee). See 37 CFR 1.8 and 1.136(a). Accordingly, the petition is **granted**. The holding of abandonment is hereby withdrawn. The application will be restored to pending status in view of the fact that a response was timely filed with a certificate of facsimile on April 22, 2011.

The $130.00 one-month extension of time fee will be charged to the Deposit Account as authorized.

This matter is being referred to Technology Center Art Unit 1731.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/21/11

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/595,819 Patent No.: 7862809

CofC mailroom date: 09/16/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Hardwick
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Sue Liu/ — **SPE**

1653 — **Art Unit**

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :
Warren Thomas Johnson :
Application No. 10/595,841 : DECISION ON PETITION
Filed: May 15, 2006 :
Attorney Docket No. 2003P87067WOUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 9, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on January 21, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received January 21, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20//10

TO SPE OF : ART UNIT 1795 (1700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/595,856 Patent No.: 7,771,871

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White. LPE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

SPE _____ ART UNIT 1726

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-24-12

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/595981 Patent No.: 7885550

CofC mailroom date: 02-13-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved In Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

Art Unit 2613

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 12/19/10

Patent No. : 7764589 B2
Patent Issued : 07/27/10
Docket No. : **2006_0786A**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington DC 20005-1503

LMN

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OFFICE OF PETITIONS

DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

In re Application of	:	
Norman A. GARDNER, et al	:	
Application No. 10/596,028	:	DECISION ON PETITION
Filed: May 25, 2006	:	TO WITHDRAW
Attorney Docket No. D8357-00030	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the correspondence address provided for future communications from the Office is not proper since the assignee indicated has not been made of record under 37 C.F.R 3.71.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: LASERLOCK TECHNOLOGIES, INC.
C/O NORMAN GARDNER
837 LINDY LANE
BALA CYNWYD PA 19004-1333

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Norman A. GARDNER, et al :
Application No. 10/596,028 : DECISION ON PETITION
Filed: May 25, 2006 : TO WITHDRAW
Attorney Docket No. D8357-00030 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Stephen P. Gribok on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: LASERLOCK TECHNOLOGIES, INC.
837 LINDY LANE
BALA CYNWYD PA 19004-1333

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/596,028	05/25/2006	Norman A. Gardner	D8357-00030

CONFIRMATION NO. 1849

8933
DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

POWER OF ATTORNEY NOTICE

OC000000044005103

Date Mailed: 10/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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P.O. BOX 770
Church Street Station
New York NY 10008-0770

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AUG 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,405,070 :
Issue Date: July 29, 2008 :
Application No. 10/596,068 : DECISION ON PETITION
Filed: May 26, 2006 :
Attorney Docket No. 20345/0204389-US0 :

This is a decision on the Renewed Petition Under 37 CFR 1.183 And Request For Certificate of Correction Pursuant To 37 CFR 1.322, filed on March 2, 2009, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was previously submitted on October 23, 2008.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"SK Corporation"

to:

--SK Holdings Co., Ltd.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 previously submitted on October 23, 2008.

There is, however, no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,405,070.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: PIP0118PUSA	Patent Number: 7665401
Filing Date (or 371(b) or (f) Date): Jun-01-2006	Issue Date: 2-Feb-2010
First Named Inventor: BALLANTINE, ROGER	
Title: SHOCK TUBE INITIATOR	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /John E Nemazi/	Date 13-Aug-2010
Name (Print/Typed) John E. Nemazi	Registration Number 30,876

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 08/19/2010

Applicant	: Roger Ballantine	: DECISION ON REQUEST FOR
Patent Number	: 7665401	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/596,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **876** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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FEB 01 2012

OFFICE OF PETITIONS

In re Application of	:	
Bartholomaus et al.	:	ON PETITION FOR
Application No. 10/596202	:	RECONSIDERATION OF
Filing or 371(c) Date: 06/02/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
512100-2056	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PETITION AND STATEMENT UNDER 37 C.F.R. § 1.705(b), filed January 5, 2012. Applicant requests an adjustment of the patent term to indicate a total Patent Term Adjustment of 1041 days, not 515 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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SUITE 400
ALEXANDRIA VA 22314

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Jeffrey A. SCHUSTER et al. :
Application No. 10/596,207 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,776,007 :
Filed: August 21, 2007 :
Attorney Docket No. ZGNX-112

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/30/2011

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/596207 Patent No.: 7760762

CofC mailroom date: 3/23/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

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_____ 3762
SPE **Art Unit**

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THADDIUS J. CARVIS
102 NORTH KING STREET
LEESBURG, VA 20176

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of :
Frank Lehnert :
Application No. 10/596,263 : ON PETITION
Filed: June 7, 2006 :
Attorney Docket No.: BELIMO P1013 US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 10, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 2, 2011. On February 10, 2011, the present petition was filed. A Notice of Abandonment was subsequently mailed on February 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Paulus Mathias Hubertus Mechtildus Antonius :
Gorissen, et al. : DECISION GRANTING PETITION
Application No. 10/596,336 : UNDER 37 CFR 1.313(c)(2)
Filed: June 9, 2006 :
Attorney Docket No. 2069.078US1

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 24, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2434 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Rhee et al. :
Application No. 10/596,412 :
Filed: June 13, 2006 :
Attorney Docket No. TRIUS.002NP :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the request filed January 12, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from one hundred thirty-eight (138) days to eight hundred sixty-four (864) days.

The petition is **granted to the extent indicated herein.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 254 days. A copy of the updated PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on December 24, 2009, advising Applicants a patent term adjustment to date of 138 days. The 138-day patent term adjustment determination was the result of:

1. A 206-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(1),
2. A 56-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8), and
3. A 12-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b).

Applicants request the patent term adjustment be corrected to 864 days. Applicants assert the patent term adjustment should:

1. Include a 864-day, not 206-day, increase in patent term adjustment under 37 C.F.R. § 1.703(a)(1),
2. *Not* include a 56-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8),
3. *Not* include a 12-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b).

Applicants timely filed this application for patent term adjustment prior to payment of the issue fee.

37 C.F.R. § 1.703(a)(1)

Pursuant to 37 C.F.R. § 1.703(a)(1), the period of adjustment of patent term due to examination delay includes:

> The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

The application was filed June 13, 2006. The Office issued an action under 35 U.S.C. § 132 on March 6, 2008, which is 14 months and 206 days after Applicants fulfilled the requirements of 35 U.S.C. § 371. Based on the prior facts, the Office determined the period of adjustment under 37 C.F.R. § 1.703(a)(1) is 206 days.

Applicants state the period of adjustment under 37 C.F.R. § 1.703(a)(1) is greater than 206 days because all the Office actions under 35 U.S.C. § 132 issued in this case, including the March 6, 2008 Office action, were vacated.

Group Directors in Technology Centers have the authority to vacate Office actions. Examiners and Quality Assurance Specialists do not have the authority to vacate Office actions. A Group Director only vacated one Office action in this case. Specifically, on October 8, 2009, the Office issued a decision signed by a Group Director vacating the Office action issued August 13, 2009.

The Interview Summary Form issued December 7, 2009, states the March 6, 2008 Office action "is hereby vacated." However, the form is signed by a Quality Assurance Specialist ("QAS"), not a Group Director. As previously stated, a QAS lacks the authority to vacate an Office action. Therefore, the March 6, 2008 Office action was not vacated.

Since the March 6, 2008 Office action was not vacated, the proper period of adjustment under 37 C.F.R. § 1.703(a)(1) is 206 days.

37 C.F.R. § 1.704(c)(8)

Applicants contend the Office's entry of a 56-day reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(8), as a result of the information disclosure statement ("IDS') filed July 6, 2009, was improper.

Pursuant to 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days,

if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The Office issued a non-final Office action on February 11, 2009. Applicants filed an amendment on May 11, 2009. Applicants filed an information disclosure statement ("IDS") without a statement under 37 C.F.R. § 1.704(d) on July 6, 2009, which is 56 days after Applicants filed the May 11, 2009 reply. Based on the prior facts, the Office entered a 56-day reduction under 37 C.F.R. § 1.704(c)(8).

Applicants assert the IDS was not filed after a "reply" because, as a result of the Office vacating the February 11, 2009 Office action, the amendment cannot be considered a "reply" to the February 11, 2009 Office action.

The Interview Summary Form issued December 7, 2009, states the February 11, 2009 Office action "is hereby vacated." However, the form is signed by a Quality Assurance Specialist ("QAS"), not a Group Director. A QAS lacks the authority to vacate an Office action. Therefore, the February 11, 2009 Office action was not vacated.

37 C.F.R. § 1.704(b)

37 C.F.R. § 1.704(b) provides for a reduction in patent term adjustment when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request.

The Office mailed a non-final Office action on January 29, 2009. The Office mailed a new non-final Office action on February 11, 2009. Applicants filed a reply on May 11, 2009. The Office entered a 12-day reduction under 37 C.F.R. § 1.704(b) because the May 11, 2009 reply was filed three months and 12 days after the Office issued the January 29, 2009 Office action.

Applicants assert the entry of the 12-day reduction was improper because the Office action mailed January 29, 2009, was vacated. Although the Office does not agree the January 29, 2009 Office action was "vacated," the Office does agree entry of the 12-day reduction was improper.

The February 11, 2009 Office action restarted the time period for reply. As a result, the three-month period of time under 37 C.F.R. § 1.704(b) began February 11, 2009. The May 11, 2009 reply was filed within three months of the Office issuing the February 11, 2009 Office action. Therefore, a reduction under 37 C.F.R. § 1.704(b) is unwarranted.

37 C.F.R. § 1.703(a)(2)

A review of the record indicates the Office should have entered a 104-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(2).

Pursuant to 37 C.F.R. § 1.703(a)(2), the period of adjustment of patent term due to examination delay includes:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Applicants filed a reply to an Office action on May 11, 2009.

Although the Office issued an Office action on August 13, 2009, a decision vacating the Office action was issued on October 8, 2009. The decision was signed by Remy Yucel, a Group Director in Technology Center 1600.

The Office issued a Notice of Allowance on December 24, 2009, which is four months and 104 days after the date Applicants filed the May 11, 2009 reply.

In view of the prior discussion, a 104-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(2).

Conclusion

The patent term adjustment at the time of mailing of the notice of allowance is 254 days, which is the sum of 206 days of delay under 37 C.F.R. § 1.703(a)(1) and 104 days of delay under 37 C.F.R. § 1.703(a)(2) reduced by 56 days of delay under 37 C.F.R. § 1.704(c)(8).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA/PTE Information

Application Number*: 10596412 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10596412

Application Filing Date	06/13/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	206
A Delays	206	PTO Manual Adjustment	116
B Delays	0	Applicant Delay (APPL)	68
C Delays	0	Total PTA (days)	254

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
119	09/13/2010		P028	Adjustment of PTA Calculation by PTO	116	0	
97	12/24/2009		MN/=.	Mail Notice of Allowance		0	
96	12/18/2009		IREV	Issue Revision Completed		0	
95	12/18/2009		DVER	Document Verification		0	
94	12/18/2009		N/=.	Notice of Allowance Data Verification Completed		0	

93	12/18/2009		CNTA	Notice of Allowability		0
92	12/07/2009		EML_NTR	Email Notification		0
91	12/07/2009		EML_NTR	Email Notification		0
90	12/07/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
89	12/07/2009		MM327	Mail Miscellaneous Communication to Applicant		0
88	12/02/2009		M327	Miscellaneous Communication to Applicant - No Action Count		0
85	11/19/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
83	10/20/2009		MAPCA	Mail Appeals conf. Rej. withdrawn		0
84	10/19/2009		FWDX	Date Forwarded to Examiner		0
82	10/16/2009		APCA	Pre-Appeals Conference Decision - Rejection Withdrawn		0
79	10/14/2009		EML_NTR	Email Notification		0
78	10/08/2009		MPTGR	Mail-Petition Decision - Granted		0
77	10/07/2009		PTGR	Petition Decision - Granted		0
81	09/14/2009		AP.C	Request for Pre-Appeal Conference Filed		0
80	09/14/2009		N/AP	Notice of Appeal Filed		0
76	09/14/2009		PET.	Petition Entered		0
75	09/04/2009		EML_NTR	Email Notification		0
74	09/04/2009		MCTAV	Mail Advisory Action (PTOL - 303)		0
73	08/31/2009		CTAV	Advisory Action (PTOL-303)		0
72	08/28/2009		FWDX	Date Forwarded to Examiner		0
71	08/27/2009		A.NE	Amendment after Final Rejection		0
70	08/13/2009		ELC_RVW	Electronic Review		0
69	08/13/2009		EML_NTF	Email Notification		0
68	08/13/2009		MCTFR	Mail Final Rejection (PTOL - 326)		0
67	08/11/2009		CTFR	Final Rejection		0
87	07/06/2009	05/11/2009	M844	Information Disclosure Statement (IDS) Filed	56	61
86	07/06/2009		M844	Information Disclosure Statement (IDS) Filed		0
64	07/06/2009		IDSC	Information Disclosure Statement considered		0
63	07/06/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
62	06/24/2009		FWDX	Date Forwarded to Examiner		0
66	06/01/2009		IDSC	Information Disclosure Statement considered		0

65	06/01/2009		IDSC	Information Disclosure Statement considered		0
59	06/01/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
58	06/01/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
61	05/11/2009	04/29/2009	A...	Response after Non-Final Action	12	52
60	05/11/2009		XT/G	Request for Extension of Time - Granted		0
57	02/11/2009		MM327	Mail Miscellaneous Communication to Applicant		0
56	02/06/2009		M327	Miscellaneous Communication to Applicant - No Action Count		0
55	02/06/2009		RRESP	Restart Response of action		0
54	01/29/2009		ELC_RVW	Electronic Review		0
53	01/29/2009		EML_NTF	Email Notification		0
52	01/29/2009		MSRNF	Mail Supplemental Non-Final Action		0
51	01/23/2009		SRNF	Supplemental Non-Final Action		0
48	12/16/2008		EML_NTR	Email Notification		0
47	12/16/2008		MNRES	Mail Notice of Restarted Response Period		0
46	12/11/2008		NRES	Letter Restarting Period for Response (i.e. Letter re: References)		0
50	10/31/2008		IDSC	Information Disclosure Statement considered		0
49	10/31/2008		M844	Information Disclosure Statement (IDS) Filed		0
45	10/31/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
43	09/23/2008		EML_NTR	Email Notification		0
42	09/23/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
44	09/15/2008		LET.	Miscellaneous Incoming Letter		0
41	09/11/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
40	08/04/2008		ELC_RVW	Electronic Review		0
39	08/04/2008		EML_NTR	Email Notification		0
38	08/04/2008		EML_NTF	Email Notification		0
37	08/04/2008		MW/AC	Mail Notice of Withdrawn Action		0
36	08/04/2008		MCTNF	Mail Non-Final Rejection		0
35	07/30/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
34	07/25/2008		EML_NTR	Email Notification		0

33	07/25/2008		PA..	Change in Power of Attorney (May Include Associate POA)		0
32	07/22/2008		C.AD	Correspondence Address Change		0
31	07/16/2008		CTNF	Non-Final Rejection		0
30	07/16/2008		FWDX	Date Forwarded to Examiner		0
29	07/16/2008		W/AC	Letter Withdrawing / Vacating Office Action		0
28	06/23/2008		MCTNF	Mail Non-Final Rejection		0
27	06/19/2008		CTNF	Non-Final Rejection		0
24	04/22/2008		FWDX	Date Forwarded to Examiner		0
23	03/19/2008		ELC.	Response to Election / Restriction Filed		0
22	03/06/2008	08/13/2007	MCTRS	Mail Restriction Requirement	206	10
21	02/28/2008		CTRS	Requirement for Restriction / Election		0
20	12/11/2007		DOCK	Case Docketed to Examiner in GAU		0
19	08/10/2007		A.PE	Preliminary Amendment		0
18	07/06/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
14	07/05/2007		PG-ISSUE	PG-Pub Issue Notification		0
11	04/18/2007		OIPE	Application Dispatched from OIPE		0
8	03/27/2007		M903	Notice of DO/EO Acceptance Mailed		0
9	03/26/2007		PGPC	Sent to Classification Contractor		0
26	08/31/2006		IDSC	Information Disclosure Statement considered		0
17	08/31/2006		M844	Information Disclosure Statement (IDS) Filed		0
13	08/31/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
25	06/13/2006		IDSC	Information Disclosure Statement considered		0
16	06/13/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
15	06/13/2006		M844	Information Disclosure Statement (IDS) Filed		0
12	06/13/2006		WIDS	Information Disclosure Statement (IDS) Filed		0
10	06/13/2006		371COMP	371 Completion Date		0
2	06/13/2006		L194	Cleared by OIPE CSR		0
1	06/13/2006		IEXX	Initial Exam Team nn		0

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OFFICE OF PETITIONS

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2040 MAIN STREET
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IRVINE, CA 92614

In re Patent of Jae K. Rhee et al.	:	DECISION ON REQUEST
Patent No. 7,816,379	:	FOR RECONSIDERATION OF
Issue Date: October 19, 2010	:	PATENT TERM ADJUSTMENT
Application No. 10/596,412	:	AND NOTICE OF INTENT TO
Filing Date: June 13, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. TRIUS.002NP	:	CORRECTION

This is a decision on the request filed October 6, 2010, and supplemented on December 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand one hundred sixty-three (1,163) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand one hundred sixty-three (1,163) days is **GRANTED**.

Background

The instant application is the national stage of International Application No. PCT/KR04/03327, and fulfilled the requirements of 35 U.S.C. § 371 on June 13, 2006.

The Office issued a non-final Office action on March 6, 2008.

Applicants filed a reply on March 19, 2008.

The Office issued a second non-final Office on June 23, 2008. The Office action inadvertently set a shortened statutory period for reply of one month instead of three months.

An August 4, 2008 interview summary form prepared by the examiner summarizes a July 30, 2008 telephonic conference between Patent Examiner Patricia Morris, Supervisor Patent Examiner Janet Andres, and Attorney Joseph Mallon. The interview summary form states,

> SPE Andres confirmed that the response time for the action mailed 23 June 2008 should have been three months, not one month as was indicated in the Office Action Summary. The time has further been reset so that a response is due on 11/04/08.

An information disclosure statement ("IDS") was filed October 31, 2008. The IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d) and the record fails to indicate the examiner expressly requested the IDS.

The Office issued a third non-final Office action on December 16, 2008. The cover page of the Office action states it is "[r]esponsive to communication(s) filed on 1[9] March 2008." The December 16, 2008 Office action is substantively the same as the June 23, 2008 Office action except the December 16, 2008 Office action states, "The previous Office action mailed on June 23, 2008 is hereby vacated."

The Office issued a fourth Office action on January 29, 2009, prior to Applicants filing a reply to the December 16, 2008. The fourth Office action states, "Julie Burke, SPRE has directed that the restriction requirement be rewritten to include claims 17, 21 and 22 with claims 18-22 based on an alleged conversation with applicants."

The Office issued a fifth Office action on February 11, 2009. The Office action states,

> The previous office action mailed 29 January 2009 is hereby vacated. A new action on the merits follows.... On consideration, the restriction requirement among groups XII-XIV set forth in the office action of 6 March 2008 is withdrawn. Claims 17-22 and 36-46 are rejoined and are under examination in this office action.

Applicants filed an amendment on May 11, 2009

Applicants filed an IDS on June 1, 2009. Applicants also filed an IDS on July 6, 2009. Neither IDS includes a statement under 37 C.F.R. § 1.704(d). The record does not indicate the examiner expressly requested Applicants file either IDS.

The Office issued a final Office action on August 13, 2009.

Applicants filed an amendment on August 27, 2009.

The Office issued an Advisory Action on September 4, 2009.

Applicants filed a petition, Notice of Appeal, and a Pre-Appeal Brief Request for Review on September 14, 2009. The petition included an objection to a new restriction requirement set forth in the August 13, 2009 Office action.

The Office issued a decision in response to the petition on October 8, 2009. The decision states,

> The final Office action mailed 13 August 200[9] is hereby vacated.
>
> Because the final Office action has been vacated, the amendment filed 27 August 2009 will be entered.

> A pre-appeal conference will be held shortly to discuss the rejections of record over claims 51 and 52.
>
> The application will be forwarded to the examiner for preparation of an Office action on all pending claims consistent with this decision.

The Office issued a Notice of Panel Decision from Pre-Appeal Brief Review on October 20, 2009. The notice states, "The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed."

The Office issued an Interview Summary form on December 17, 2009, which summarizes a November 19, 2009 telephonic interview between Quality Assurance Specialist ("QAS") Julie Burke and representatives Joseph Mallon and Carolyn Favoriton. The Interview Summary form states, with emphasis added,

> **Applicant called to clarify the status of several actions in terms of potential Patent Term Adjustment**. The Office has mailed out a series of Office actions, **vacated** from the record for the following reasons.
>
> The Restriction Requirement mailed 3/6/08 is hereby **vacated**....
>
> The Office action mailed 6/23/08 was **vacated** by the Office action mailed 12/16/0[8]....
>
> The Office action mailed 12/16/0[8] is hereby **vacated**....
>
> The Office action mailed 1/29/09 was **vacated** by the Office action mailed 2/11/09....
>
> The Supplemental Office action mailed 2/11/09 is hereby **vacated** as incomplete....
>
> The final Office action mailed 8/13/09 was **vacated** in the petition decision mailed 10/08/09.
>
> [T]he advisory action mailed 9/4/09 ... was improper and is hereby **vacated** from the record....
>
> Finally, the Notice of Appeal filed on 9/14/09 is considered untimely under 37 CFR 41.31(a) because the claims have not been rejected twice on the merits.... Applicants are encouraged to request a refund of the fees paid for filing the Notice of Appeal.
>
> The Office regrets the delays and inconvenience which occurred during prosecution of this application and **hopes this helps simplify the processing of Applicants PTA adjustments**.

On an uncertain date, an unknown individual annotated several entries in the Office's electronic file for the application by adding the phrase "vacated from record." The annotated entries are

associated with Office actions issued March 6, 2008; June 23, 2008; December 16, 2008; January 29, 2009; February 11, 2009; August 13, 2009; and September 14, 2009.

The Office issued a Notice of Allowance on December 24, 2009. The Notice of Allowance included a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) advising Applicants of a patent term adjustment to date of 138 days.

A petition under 37 C.F.R. § 1.705(b) was filed January 12, 2010. The petition requested the initial determination of patent term adjustment be corrected from 138 days to 864 days.

Applicants submitted the issue fee on March 5, 2010.

The Office issued a decision in response to the January 12, 2010 petition on September 14, 2010. The decision stated the correct patent term adjustment, as of the issuance date of the Notice of Allowance, was 254 days, which is the sum 206 days of delay under 37 C.F.R. § 1.703(a)(1) and 104 days of delay under 37 C.F.R. § 1.703(a)(2) reduced by 56 days of delay under 37 C.F.R. § 1.704(c)(8).

The application issued as Patent No. 7,816,379 on October 19, 2010. The patent sets forth a patent term adjustment determination of 646 days.

The instant petition was filed October 6, 2010, and supplemented on December 20, 2010.

Analysis

The petition asserts the correct patent term adjustment is 1,163 days.

In view of specific facts and circumstances in this case, the Office is persuaded the proper patent term adjustment is 1,163 days. Therefore, the Office will issue a certificate of correction setting forth a patent term adjustment of 1,163 days.

The instant decision is based on the *specific* facts and circumstances of the instant case. In other words, similar facts and circumstances may result in a substantially different decision in view of the discussion set forth below.

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment of the application under 35 U.S.C. § 133. In other words, the vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." 35 U.S.C. § 132(a). The mere fact an examiner or other USPTO employee, upon further reflection determines an Office action, a rejection, an objection, or a requirement in an

Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there are situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these are extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application.

Conclusion

The Office has considered all the facts and circumstances in this case and is persuaded the proper patent term adjustment is 1,163 days.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by one thousand one hundred sixty-three (1,163) days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,816,379 B2
APPLICATION NO.	:	10/596,412
DATED	:	October 19, 2010
INVENTOR(S)	:	Jae K. Rhee et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 646 days.

Delete the phrase "by 646 days" and insert -- by 1163 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,424	06/06/2007	Jeroen Adrianus Johannes Thijs	2003P02902WOUS	6445

24737 7590 11/22/2011

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
JAMA, ISAAK R	
ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
11/22/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

vera.kublanov@philips.com
debbie.henn@philips.com
marianne.fox@philips.com

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P. O. Box 3001
BRIARCLIFF MANOR NY 10510

In re Application of:
THIJS, JEROEN ADRIANUS JOHANNES et al
Application Serial No.: 10/596,424
Filed: June 13, 2006
For: **EMERGENCY RESPONSE DEVICE FOR SUMMONING A RESPONDER AND ROUTING SAID RESPONDER TO A VICTIM**

DECISION
ON PETITION

This is a decision on the petition requesting the withdrawal of the final action, filed April 01, 2010, which is treated as a petition pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed February 01, 2010 final and requests withdrawal of finality of the Office action.

PERTINENT BACKGROUND INFORMATION

A non-final Office action was mailed on July 07, 2009 rejecting claims 2-4, 6-11, and 13-20.

Applicant filed an amendment and request for reconsideration on October 10, 2010 wherein claims 3, 4, 8-10, 14-17, 19, and 20 were amended. Clams 1, 2, 5, and 12 were cancelled. Claims 21-23 were added.

On February 01, 2010, the Examiner issued a Final Office action rejecting claims 3, 4, 6-11, and 13-23

On April 01, 2010, a petition requesting the examiner to withdraw the final action was filed.

On June 30, 2010, a non-final office action was mailed. The non-final office action indicated it was made in response to applicant's request for reconsideration of the final office action.

DECISION

The issue of whether or not the examiner properly made final the office action on February 01, 2010 became moot with examiner mailing a non-final office action on June 30, 2010.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

An Pre-Appeal Brief Review Decision has since been mailed on September 29, 2011. The decision was made to reopen prosecution. The application has been forwarded to the examiner for appropriate action responsive to the Pre-Appeal Brief review Decision mailed September 29, 2011.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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M/S EVR 1-C-1
Plano, TX 75024

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FEB 11 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
Fedor Maas	:	
Application No.: 10/596,461	:	
PCT No.: PCT/NL2003/000889	:	
Int. Filing Date: 15 December 2003	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: P18140-US1	:	
or: PROVIDING A VALUE...	:	
IN A SECOND NETWORK	:	37 CFR 1.181

This decision is responsive to applicant's "RENEWED PETITION UNDER 37 CFR 1.181" filed 07 November 2008.

BACKGROUND

In a decision from this Office on 24 September 2008, the petition filed on 18 July 2008 was dismissed. The decision stated that applicant had not met the requirements under MPEP section 711.03(c) to establish non-receipt of an Office action.

On 07 November 2008, applicants filed a renewed petition accompanied with a copy of the master docket record listing all the replies with a due date of March 26, 2007.

DISCUSSION

A review of petition reveals that applicants have complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received or docketed for a reply date of two(2) months from the date of mailing of the Notice of Missing Requirements.

Petitioner has submitted copies of their docketing system showing all replies docketed for a date of two (2) months of March 26, 2007 from the 26 January 2007 mail date of the Notification. Accordingly, this showing overcomes the presumption that applicants did receive the Notice mailed on 26 January 2007 and the withdrawal of abandonment of the above application is appropriate.

Consequently, petitioner has now met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 14 July 2008 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,736,742	:	DECISION ON REQUEST
Thomas, et al.	:	FOR
Issue Date: June 15, 2010	:	RECONSIDERATION OF
Application No. 10/596,574	:	PATENT TERM ADJUSTMENT
Filed: June 16, 2006	:	and
Atty Docket No. ESSR:117US	:	NOTICE OF INTENT TO ISSUE
10607658	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and eighteen (918) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and eighteen (918) days is **GRANTED**.

Patentees' argument relative to the entry of 120 days of reduction to the patent term adjustment for the filing of foreign priority papers has been considered and is well taken. Patentees' maintain the reduction under 37 CFR 1.704(c)(10) should be 14 days, rather than 120 days.

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in
>
> which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

In this instance, it is undisputed that patentee filed the foreign priority papers after the mailing of the notice of allowance. It is noted that the period of reduction to the patent term adjustment for the filing of foreign priority papers is 14 days, beginning on the date the foreign priority papers were filed, December 17, 2009, ending on the date the acknowledgement of the foreign priority papers was mailed, December 30, 2009. Accordingly, the period of reduction to the patent term adjustment of 120 is being removed and a period of reduction of 14 days entered.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and eighteen days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,736,742 B2

DATED : Jun. 15, 2010

INVENTOR(S) : Thomas et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (812) days

Delete the phrase "by 812 days" and insert – by 918 days--

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In re Application of :
Johan Nystrom et al :
Application No. 10/596,619 : ON PETITION
Filed: June 19, 2006 :
Attorney Docket No. P18772US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2011, to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

The record shows that a final Office action was mailed on October 28, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 28, 2011. Since a reply was received on December 13, 2010, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is unnecessary.

In view of the above, the $1620 petition fee submitted with this petition is being credit to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PLANO, TX 75024

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Application of
Johan Nystrom et al
Application No. 10/596,619
Filed: June 19, 2006
Attorney Docket No. P18772US1

ON PETITION

CORRECTED DECISION

This is a decision on the petition filed September 1, 2011 and resubmitted on September 20, 2011 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 28, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained.

The decision mailed September 12, 2011 is hereby vacated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to Technology Center AU 2617 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

MAY 20 2011

OFFICE OF PETITIONS

MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE OR 97070-7777

In re Application of	:	
Bini ELHANAN et al.	:	ON PETITION
Application No. 10/596,693	:	
Filed: January 30, 2007	:	
Atty. Docket No.: 10673-REG1/RAD	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed March 14, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED.**

The application went abandoned for failure to timely reply to the final Office action mailed June 8, 2010. A two (2) month extension of time under 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed January 5, 2011.

Petitioner asserts that a reply to the Office action mailed June 8, 2010, in the form of a Notice of Appeal was timely filed.

A grantable petition under 37 CFR 1.181 requires evidence that an appropriate reply was timely mailed or filed. A review of the written record indicates that a Notice of Appeal was timely filed on November 8, 2010. Accordingly, as a reply was timely filed, the Notice of Abandonment mailed January 5, 2011 is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 2123.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : 4/13/2011

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/596231 Patent No.: 7871998 B2

CofC mailroom date: 4/4/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: Amdt to column 126 is defective(a) Line numbers are incorrect. the correct line numbers are 54-55 a) Term C1-6alkyl1a should be C1-6alkyl1 The Amdt to column 127 is defective because the line numbers are incorrect. The correct line numbers are 65-67.

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 15, 2011

Paul K. Legaard
Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, PA 19312

Patent No: 7,871,998 B2
Application No: 10/596,731
Applicant: Susanne Alenfalk, et al.
Issued: January 18, 2011
Title: **DIPHENYLAZETIDINONE DERIVATIVES POSSESSING CHOLESTEROL ABSORPTION INHIBITORY ACTIVITY**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

The errors complained of in your request cannot be corrected per the examiner "amendment to column 126 is defective because line numbers are incorrect. The correct lines are 54-55, Term C16alkylS should be C1-6alkylS". "The amendment to column 127 is defective because the line numbers are incorrect. The correct line numbers are 65-67".

In view of the foregoing your request in these matters are hereby **denied**.

Further correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	10596742
Filing Date	11-Feb-2008
First Named Inventor	Joachim Klee
Art Unit	1762
Examiner Name	EDWARD CAIN
Attorney Docket Number	08563-0187-U1
Title	DENTAL ROOT CANAL FILLING MATERIAL

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

○ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/David A. Zdurne/
Name	David A. Zdurne
Registration Number	58630

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : September 22,2011

In re Application of :

Joachim Klee

Application No : 10596742

Filed : 11-Feb-2008

Attorney Docket No : 08563-0187-U1

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 22,2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 24, 2010

TO SPE OF : ART UNIT 2111
SUBJECT : Request for Certificate of Correction for Appl. No/10/596744 pat. 7624220

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: Claims as issued are correct and in agreement with applicant's amendment of July 2, 2009. Issued claim 9 corresponds to claim 32 as filed and issued claim 10 corresponds to claim 31 as filed.

/Mark Rinehart/ AU2111

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sidney L. Weatherford
6300 Legacy, MS EVR 1-C-11
Plano, TX 75024

Date Mailed : March 29, 2012
Serial No. : 10/596744
Patent No. : 7,624,220 B2
Patent Issued :November 24, 2009
Inventor(s) :Halbe Hageman
Title : MULTISECTIONAL BUS IN RADIO BASE SATION AND METHOD OF USING SUCH A RADIO BASE STATION

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the alleged error(s) noted in your request: Claims as issued are correct and in agreement with applicant's amendment of July 2, 2009. Issued claim 9 corresponds to claim 32 as filed and issued claim 10 corresponds to claim 31 as filed.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)756-1540
FAX 571-270-9942

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCNEES WALLACE & NURICK, LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

MAILED

FEB 03 2012

OFFICE OF PETITIONS

In re Application of :
Klee, et al. : DECISION ON PETITION
Application No. 10/596,747 :
Filed: May 8, 2007 :
Atty. Dkt. No.: 08563-0188-U1 :

This decision is in response to the petition under 37 CFR 1.137(b), filed January 20, 2012.

The petition is **GRANTED**.

This application became abandoned October 16, 2009 for failure to timely submit a proper reply in response to the non-final Office action mailed July 15, 2009. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 1, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This application is being forwarded to Group Art Unit 1796 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

CC: ZDURNE,DAVID
DENTSPLY International
221 West Philadelphia Street
Suite 60
York, PA 17401

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Serge Jose Do Camo :
Application No. 10/596,772 :
Filed: June 27, 2007 :
Attorney Docket No. **21203-002US1** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 17, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ALKIMIYA CABINET MICHELE DAUDENS**
2A Avenue de la Dame Blanche
Le Plessis-Trevise 94420

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON P.C. (BO)
P.O. Box 1022
Minneapolis, MN 55440-1022

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Serge Jose Do Camo	:	
Application No. 10/596,772	:	DECISION ON PETITION
Filed: June 27, 2007	:	TO WITHDRAW
Attorney Docket No. 21203-002US1	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Timothy A. French on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Serge Jose Do Camo at the address indicated below.

There is an outstanding Office action mailed January 26, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Serge Jose Do Carmo**
9, rue du petit Noyer
Le Clos Notre, Pontault-Combault
F-773-40 FR FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/596,772	06/27/2007	Serge Jose Do Camo	21203-002US1

CONFIRMATION NO. 1326

26161
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

POWER OF ATTORNEY NOTICE

OC000000046284349

Date Mailed: 03/02/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/26/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/21/10

TO SPE OF : ART UNIT: 1735 Attn: KERNS KEVIN P

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/596781 Patent No.: 7806165

CofC Mailroom date: 12/15/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

Jessica Ward — **SPE**

1735 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

MAY 12 2011

OFFICE OF PETITIONS

In re Application of :
Steffan Soderlund :
Application No. 10/596,862 : DECISION ON PETITION
Filed: June 27, 2006 :
Attorney Docket No. 616562000800 :

This is a decision on the petition, filed April 4, 2011, requesting withdrawal of the holding of abandonment in the above-identified application under the provisions of 37 CFR 1.181 (a).

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before October 4, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice) mailed July 2, 2010. A Notice of Abandonment was subsequently mailed on October 19, 2010. On April 4, 2011, the present petition was filed, wherein petition requests that the abandonment be withdrawn..

Petitioner asserts that the Notice of Allowance and the Notice of Abandonment were not received, since the Office mailed the communications to wrong correspondence address. Petitioner explains that a proper change of correspondence address was filed in this application on May 11, 2009; however, the Office continued to mail correspondence to the prior correspondence address. In support, petitioner submits a copy of the firm's docket report showing evidence of non-receipt.

A review of the written record confirms an irregularity in the mailing of the Notice of July 2, 2010. In this regard, a Power of Attorney or Revocation of Power of Attorney with a new Power of Attorney and Change of Correspondence Address (Power) was filed on May 11, 2009, which is prior to the mailing of the Notice of July 2, 2010. For some unknown reason, the Power was not processed to reflect the change of attorney and correspondence address. Consequently, the Notice of July 2, 2010 was mailed to an incorrect address.

In view of the above, the Notice of Abandonment mailed October 19, 2010 is hereby vacated and the holding of abandonment withdrawn.

The Power has been processed and the Notice of Acceptance of Power of Attorney is attached.

This application is being referred to the Technology Center AU 3714 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of July 2, 2010. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/596,862	06/27/2006	Staffan Soderlund	464.1030USN

CONFIRMATION NO. 1474

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

POA ACCEPTANCE LETTER

OC000000047467660

Date Mailed: 05/03/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/22/2011

TO SPE OF : ART UNIT 3651 Crawford Gene (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/596906 Patent No.: 7793769

CofC mailroom date: 12/29/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER
SPE

3651
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE, SUITE 1400
CLEVELAND, OH 44114

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Ching-Shih CHEN, et *al.* :
Application No. 10/597,022 : DECISION GRANTING PETITION
Filed: June 18, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **22727/04418** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 8, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 11, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253

This application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

MAILED
DEC 09 2011
OFFICE OF PETITIONS

In re Application of
Ching-Shih Chen
Application No. 10/597,022
Filed: June 18, 2007
Attorney Docket No. 22727/04418

: DECISION
: AMENDING INVENTORSHIP

This is a decision on the petitions filed November 23, 2011, which are being treated under 37 CFR §§ 1.183, and 1.48(a), to waive the statement requirement of 37 CFR 1.48(a)(2).

The petitions are **GRANTED.**

Petitioner has shown that the Lu Qiang has refused to provide the statement required from each person being deleted as an inventor from the above-identified application. It is agreed that under the extraordinary circumstances of this application, justice would be served by waiver of the requirements of 37 CFR 1.48(a)(2).

In view of the papers filed November 23, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the deletion of Lu Qiang.

This application is being referred to art unit 1622 for further processing in the normal course of business.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/597,022	06/18/2007	1622	1780	22727/04418	25	1

CONFIRMATION NO. 4927

CORRECTED FILING RECEIPT

24024
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

OC00000005137232B

Date Mailed: 12/09/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ching-Shih Chen, Upper Arlington, OH;

Assignment For Published Patent Application

THE OHIO STATE UNIVERSITY RESEARCH FOUNDATION, Columbus, OH

Power of Attorney: The patent practitioners associated with Customer Number 24024

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/40211 12/01/2004
which claims benefit of 60/526,348 12/02/2003

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 06/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/597,022**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

ZN2+-CHELATING MOTIF-TETHERED SHORT-CHAIN FATTY ACIDS AS A NOVEL CLASS OF HISTONE DEACETYLASE INHIBITORS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Application of :
Montanti :
Application No. 10/597,024 : DECISION
Filed/Deposited: 7 July, 2006 :
Attorney Docket No. 51900-MONTANTI-004 :

This is a decision on the papers filed on 28 June, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner does not appear to have satisfied the requirements under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 29 April, 2010, with reply due absent an extension of time on or before 29 July, 2010.

The application went abandoned by operation of law after midnight 29 July, 2010.

The Office mailed the Notice of Abandonment on 10 November, 2010.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no proper reply—Petitioner filed an filed an amendment after final, which the Examiner thusfar has refused to enter and Petitioner, as one registered to practice before the Office, knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of :
Montanti :
Application No. 10/597,024 : DECISION
Filed/Deposited: 7 July, 2006 :
Attorney Docket No. 51900-MONTANTI-004 :

This is a decision on the papers filed on 29 November, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 29 April, 2010, with reply due absent an extension of time on or before 29 July, 2010.

The application went abandoned by operation of law after midnight 29 July, 2010.

The Office mailed the Notice of Abandonment on 10 November, 2010.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay; but no proper reply—Petitioner filed an filed an amendment after final, which the Examiner thusfar has refused to enter and Petitioner, as one registered to practice before the Office, knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance. The petition was dismissed on 29 August, 2011.

On 29 November, 2011, Petitioner submitted a request and fee for extension of time and re-advanced the petition (pointed to the previously submitted fee therefor) accompanied by a request for continued examination and fee, with a submission pursuant to 37 C.F.R. §1.114 in the form of an amendment, and once again made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3636 for further processing in due course.

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of :
David A. Fish :
Application No. 10/597,096 : ON PETITION
Filed: July 11, 2006 :
Attorney Docket No. GB040020US1 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 23, 2011.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is due on renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed July 12, 2010. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned on August 13, 2010. The mailing of this decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks requirement (1) above.

Applicant has not submitted a reply to the July 12, 2010 Notice of Non-Compliant Amendment. Office records indicate that Applicant filed a partial, one page reply on February 16, 2011.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 13 2011

OFFICE OF PETITIONS

In re Application of	:	
David A. Fish	:	
Application No. 10/597,096	:	ON PETITION
Filed: July 11, 2006	:	
Attorney Docket No. GB040020US1	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed April 4, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed July 12, 2010. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned on August 13, 2010. Applicant filed a petition to revive under 37 CFR 1.137(b) on February 23, 2011. However, the petition was dismissed in a decision mailed on March 30, 2011. The petition was dismissed because applicants did not submit a complete reply to the Notice of Non-Compliant Amendment.

With the instant petition, applicant has submitted a complete reply to the Notice of Non-Compliant Amendment. The other requirements for a grantable petition were previously satisfied with the petition filed on February 23, 2011.

The application is being forwarded to Group Art Unit 2629 for consideration of the Amendment filed April 4, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WesternGeco L.L.C.
Kevin McEnaney, IP Dept
10001 Richmond Avenue
HOUSTON TX 77042-4299

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of :
Kenneth E. Welker, et al. :
Application No. 10/597,227 : DECISION ON PETITION
Filed: July 17, 2006 :
Attorney Docket No. 14.0250-PCT-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $,1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.
Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3663 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WILLIAMS, MORGAN & AMERSON**
10333 Richmond, Suite 1100
Houston, TX 77042

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/11/12

TO SPE OF : ART UNIT: 2473

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/597,229 Patent No. 7,990,876

CofC mailroom date 1/4/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Kwang B. Yao/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit
2473	

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 08/03/2010

Applicant	: Dong Hwal Lee	: DECISION ON REQUEST FOR
Patent Number	: 7668045	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/597,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **484** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 28, 2011

TO SPE OF : ART UNIT 2828 SPE Jessica Stultz

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/597,300 Patent No.: 7,889,776 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the abstract be amended as requested by applicant?

See COCIN dated 03-18-2011

Antonio Johnson
Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: Ok to enter new abstract **SPE**

/Jessica Stultz/ Art Unit 2828

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/12/11

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/597,303 Patent No. 7,673,649

CofC mailroom date 3/29/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XX ☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Stephen Hepperle/ — **SPE**

3753 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of :
Josephus Hubertus Eggen, et al. :
Application No. 10/597,323 : ON PETITION
Filed: July 20, 2006 :
Attorney Docket No.: US040048US2 :

This is a decision in response to the petition, filed March 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to an Office communication mailed July 9, 2010. A Notice of Abandonment was subsequently mailed on March 8, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2626 for consideration by the Examiner in the normal course of business on the response filed March 10, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UTAH OFFICE
222 South Main Street
Suite 1930
SALT LAKE CITY UT 84101

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Patent of Andrus et al.	:	LETTER REGARDING
Patent No. 7,714,161	:	PATENT TERM ADJUSTMENT
Issue Date: May 11, 2010	:	AND NOTICE OF INTENT TO
Application No. 10/597,335	:	ISSUE CERTIFICATE OF
Filed: July 21, 2006	:	CORRECTION
Atty Docket No. 49506-12	:	

This is a decision on the petition filed on June 9, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-two (532) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-two (532) days is **granted to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred thirty-three (533) days.

On May 11, 2010, the above-identified application matured into U.S. Patent No. 7,714,161 with a revised patent term adjustment of 492 days. On June 9, 2010, patentees submitted the instant petition.

Patentees assert the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office failed to properly calculate a reduction for the

amendment filed on February 26, 2010, after a notice of allowance was mailed on December 1, 2009.

A review of the application history reveals patentees are correct. A Notice of Allowance was mailed on December 1, 2009. On February 26, 2010, patentees filed an amendment under 37 CFR 1.312. On March 1, 2010 patentees filed a completed Issue Fee Transmittal, the issue fee, and publication fee.

The filing of the February 26, 2010 is a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 34 days, counting the number of days in the period beginning on February 26, 2010, the date the amendment under 37 CFR 1.312 was filed, and ending on March 31, 2010, the date an Office communication mailed in response to the amendment under § 1.312 was mailed. Accordingly, the period of reduction of 75 days is being removed and a period of 34 days is being entered in connection with the amendment under § 1.312, filed February 26, 2010.

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred thirty-three (533) days**, which is 356 days of A delay + 356 B delay - 118 [21 + 63 + 34]days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty-three (533)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,714,161 B2

DATED : **May 11, 2010** **DRAFT**

INVENTOR(S) : Andrus et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 492 days

Delete the phrase "by 492 days" and insert – by 533 days--

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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

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DEC 03 2010

OFFICE OF PETITIONS

In re Application of :
Bonjouklian, et al. :
Application No. 10/597,359 : ON APPLICATION FOR
Filed: July 21, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. **X-16603** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" filed March 31, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is seven hundred and eighty-three (783) days, not zero(0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.[1] Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

[1] It is noted that the Office records indicate the subject application is eligible for Patent Term Extension, rather than Patent Term Adjustment. In fact, the application is eligible for Patent Term Adjustment, not Patent Term Extension.

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **granted**.

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

On February 1, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants timely filed the instant application for patent term adjustment[3].

Applicants maintain that the adjustment to the patent term adjustment under 73 CFR 1.702(a)(1) is 601 days. Applicants' argument has been considered and is well taken. A review of the record reveals that the USPTO action pursuant to 37 CFR 1.702(a)(1) was mailed on May 26, 2009, fourteen months, and six hundred and one days after the date the application fulfilled the requirements under 35 USC 371. **Accordingly, the patent term should be adjusted by 601 days.**

The fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b) will be charged to deposit account 05-0840.

The application will be directed to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to the patent issuance) will include the adjustment of the 601 days any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded. **Petitioner is cautioned that any petition under 37 CFR 1.705(d) and/or request to accord patent term adjustment consistent with this decision must be filed within two months of the date of issuance of the patent and must be accompanied by the fee required by 37 CFR 1.18(e).**

---

[3] The issue fee was paid on March 31, 2010. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) prior to the payment of the fee set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Edward M. Medof et al. :
Application No. 10/597,373 : DECISION ON PETITION
Filed: August 3, 2007 : TO WITHDRAW
Attorney Docket No. **200512.00047** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 9, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCCARTER & ENGLISH, LLP
BOSTON
265 Franklin Street
Boston MA 02110

MAILED
FEB 29 2012
OFFICE OF PETITIONS

In re Application of :
Hsia et al. :
Application No. 10/597,378 : ON APPLICATION FOR
Filed: August 21, 2008 : PATENT TERM ADJUSTMENT
Atty Docket No. 117732-01601 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.705(B) filed February 3, 2012. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand and twenty-eight (1029) days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : **7832656**
Ser. No. : **10/597513**
Inventor(s) : **MATTEUCCI, LUCA_ _**
Issued : **11/16/2010**
Title : **FLUID INJECTOR AND METHOD FOR MANUFACTURING A FLUID INJECTOR**
Docket No. : **78857.105672**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) on the Face of the Patent, Item 73, the Assignee is printed in accordance with the Issue Fee Payment received on 10-5-10. Also, the Assignee on the filing receipt dated 7-16-08 is different from the requested correction.

In view of the foregoing, your request, in this matter, is hereby denied.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

KING & SPALDING LLP
401 CONGRESS AVE., SUITE 3200
AUSTIN, TEXAS 78701

OL

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Commissioner for Patents
United States Patent and Trademark Office
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FEB 27 2012
OFFICE OF PETITIONS

DR. MARK M. FRIEDMAN
Moshe Aviv Tower, 54th Floor, 7 Jabotinsky St.
Ramat Gan 52520 IL ISRAEL

In re Application of	: DECISION ON REQUEST TO
Karni VOLOVEKSKY et al.	: PARTICIPATE IN PPH PROGRAM
Application No. 10/597,561	: AND PETITION TO MAKE SPECIAL
Filed: July 14, 2008	: UNDER 37 CFR 1.102(a)
Atty. Docket No.: 26/832	:

For: SUPER-RESOLUTION IMAGE PROCESSING

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed December 29, 2011 to make the above-identified application special.

The petition and request are **DENIAL**.

A grantable request to participate in the PPH (patent prosecution highway) program and petition to make special require:

(1) the U.S. application is a Paris Convention application which either validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the Israeli Patent Office (IL) or claims priority to a PCT application that contains no priority claims. Alternatively, it can be a national stage application under the PCT which validly claims priority to an application filed in IL that contains no priority claims;

(2) applicant must submit a copy of the allowable/patentable claim(s) from the IL application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IL application(s);

(4) examination of the U.S. application has not begun;

(5) applicant must submit a copy of all the office actions from each of the IL application(s) containing the allowability/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and

(6) applicant must submit an IDS listing the documents cited by the IL examiner in the IL office action along with copies of documents except U.S. patents or U.S. patent application publications.

Requirements (1) to (3) and (5) to (6) above are considered to have been met. However, the request to participate in the PPH program and petition to fail to meet requirement (4).

Regarding requirement (4), as a non-final Office action was mailed February 3, 2012, the examination of the application has begun, and thus the request and petition cannot be granted.

Telephone inquiries concerning this decision should be directed to Robert DeWitty, Petition Attorney, Office of Petitions at 571-272-8427.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Anthony Knight
Director
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE A. ROLSTON
45 SHEPPARD AVE EAST
SUITE 900
TORONTO ON M2N5W-9 CA CANADA

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Application of :
VACCARI, et al :
Application No. 10/597,680 : ON PETITION
Filed: April 27, 2007 :
Attorney Docket No. 1367U101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed October 13, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

With respect to item (3): The instant petition fails to contain the required statement of unintentional delay under the provisions of 37 CFR 1.137(b). 37 CFR 1.137(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsection (II) (C) and (D).] Since the petition filed September 19, 2011, did not include the proper statement of unintentional delay, the petition cannot be granted.

Petitioner should consider using the petition Form PTO/SB/64 (Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)) on the United States Patent and Trademark website at www.uspto.gov.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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GEORGE A. ROLSTON
45 SHEPPARD AVE EAST
SUITE 900
TORONTO ON M2N5W-9 CA CANADA

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DEC 12 2011

OFFICE OF PETITIONS

In re Application of :
VACCARI. et al :
Application No. 10/597,680 : DECISION ON PETITION
Filed: April 27, 2007 :
Attorney Docket No. 1367U101 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2010. A Notice of Abandonment was mailed May 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOVARTIS INSTITUTES FOR
BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Hersperger et al. :
Application No. 10/597,753 : ON APPLICATION FOR
Filed: September 20, 2006 : PATENT TERM ADJUSTMENT
Docket No. 33647-US-PCT :

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER C.F.R. 1.705(b)," filed September 20, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is five hundred thirty-eight (538) days, not four hundred fifty-two (452) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **five hundred thirty-eight (538) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 452 days.

Applicants dispute the period of adjustment of 482 days for Office delay in mailing at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application. Applicants contend the period of adjustment should be 568 days. Applicants argue that September 20, 2006 is the completion date and should be the date from

which the 14 month period is calculated. The Office calculated the 14 month period from December 14, 2006.

Applicants are correct. The date of completion of all 35 U.S.C. 371 requirements is relevant for purposes of patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)(II) and 37 CFR 1.702(a)(1) when the Office has failed to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than 14 months after the date on which the requirements under 35 U.S.C. 371 were fulfilled. This date is the latest of:

(A) the date of submission of the basic national fee;
(B) the date of submission or communication of the copy of the international application;
(C) the date of submission of the translation of the international application if the international application is not in the English language;
(D) the date of submission of an oath or declaration of the inventor in compliance with 35 U.S.C. 371(c)4)
(E) the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date;
(F) if a request for early processing has not been requested prior to 30 months from the priority date, the date of submission of any translation of the annexes to the international preliminary examination report if the translation of the annexes are filed within the time period set in a Notification of Missing Requirements requiring either an English translation of the international application or an oath or declaration; and
(G) the date of submission of any surcharge for submitting the oath or declaration later than 30 months form the priority date.

The date of completion in this application is September 20, 2006. It is the date that applicants filed an oath or declaration and paid the surcharge for late submission of the oath/declaration. A review of financial records for this application reveals that $130.00 was charged to applicants' deposit account on accounting date September 26, 2006. The mailroom date for the payment was September 20, 2006. The payment of the surcharge is the latest of the above-listed events. Therefore, the completion date is September 20, 2006 and entry of a period of adjustment of 538 days (beginning on November 21, 2007, which is the date after 14 months after the

date of completion, to June 10, 2009, the date a restriction requirement was mailed) is warranted. The 482 day period of adjustment is being removed and a 538 day period of adjustment is being entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **five hundred thirty-eight (538) days** (568 days of Office delay - 30 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: updated PAIR screen for Application No. 10/597,753

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

Patent Guidance and General Info
- Codes, Rules & Manuals
- Employee & Office Directories
- Resources & Public Notices

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10/597,753 CHEMOKINE RECEPTOR ANTAGONISTS

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Patent Term Adjustment

Filing or 371(c) Date:	09-20-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	482
A Delays:	482	PTO Manual Adjustments:	86
B Delays:	0	Applicant Delays:	30
C Delays:	0	Total PTA Adjustments:	538

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
83	11-19-2010	Adjustment of PTA Calculation by PTO	86		0
72	06-21-2010	Mail Notice of Allowance			0
71	06-14-2010	Issue Revision Completed			0
70	06-14-2010	Notice of Allowance Data Verification Completed			0
69	06-14-2010	Case Docketed to Examiner in GAU			0
68	06-07-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
67	06-07-2010	Document Verification			0
66	06-07-2010	Examiner's Amendment Communication			0
65	06-07-2010	Notice of Allowability			0
64	06-02-2010	Examiner Interview Summary Record (PTOL - 413)			0
55	04-08-2010	Information Disclosure Statement considered			0
50	04-20-2010	Letter Requesting Interview with Examiner			0
49	04-22-2010	Date Forwarded to Examiner			0
48	04-19-2010	Response after Non-Final Action			0
47	04-08-2010	Electronic Information Disclosure Statement			0
46	04-20-2010	Mail Examiner Interview Summary (PTOL - 413)			0
45	04-15-2010	Examiner Interview Summary Record (PTOL - 413)			0
44	04-08-2010	Information Disclosure Statement (IDS) Filed			0
43	02-03-2010	Mail Non-Final Rejection			0
42	01-27-2010	Non-Final Rejection			0
41	11-20-2009	Date Forwarded to Examiner			0
40	11-18-2009	Response after Non-Final Action			0
	10-20-				

39	2009	Mail Non-Final Rejection			0
38	10-20-2009	Non-Final Rejection			0
32	08-07-2009	Information Disclosure Statement considered			0
29	08-07-2009	Electronic Information Disclosure Statement		30	27
28	08-13-2009	Date Forwarded to Examiner			0
27	07-08-2009	Response to Election / Restriction Filed			0
26	08-07-2009	Information Disclosure Statement (IDS) Filed			0
25	06-10-2009	Mail Restriction Requirement	482		8
24	06-08-2009	Requirement for Restriction / Election			0
20	01-12-2008	Case Docketed to Examiner in GAU			0
19	12-19-2007	Correspondence Address Change			0
18	10-11-2007	IFW TSS Processing by Tech Center Complete			0
12	07-05-2007	PG-Pub Issue Notification			0
9	04-18-2007	Application Dispatched from OIPE			0
8	12-14-2006	371 Completion Date			0
6	03-28-2007	Notice of DO/EO Acceptance Mailed			0
4	03-27-2007	Sent to Classification Contractor			0

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC) .*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

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NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

In re Patent of Hersperger et al.: DECISION ON
Patent No. 7,858,781 : REQUEST FOR
Issued: December 28, 2010 : RECONSIDERATION OF
Application No. 10/597,753 : PATENT TERM ADJUSTMENT
Filed: September 20, 2006 :
Docket No. 33647-US-PCT :

This is a decision on the petition under 37 CFR 1.705(d), filed January 10, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two (1002) days.

The petition is **DISMISSED.**

Patentees argue the Office incorrectly calculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentees argue the B Delay calculation should begin three years after the September 20, 2006 date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Patentees argue the B Delay is 464 days.

The Office does not concur.

As stated in MPEP 1893.03(b), in pertinent part, "For most legal purposes, the filing date is the PCT international filing date. Exceptions to this general rule include the following:

> (C) Patent term adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) when the USPTO has failed to issue a patent within three years of the "actual filing date" of an application. In this situation, the "actual filing date" is the date the national stage commenced under 35 U.S.C. 371(b) or (f).

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000). See MPEP § 2730.

The priority date of this application is February 11, 2004. The national stage commenced thirty months later, on August 11, 2006. Thus, "B" delay is 504 days, counting the number of days beginning on August 12, 2009 and ending on December 28, 2010, the date of issuance. *See* 1.703(b).

In view of the above, the correct patent term adjustment remains 1042 days, which is the sum of 568 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 504 of B Delay, and reduced by 30 days for Applicant delay.

The $200.00 fee set forth in 37 CFR 1.18(e) for filing a petition under 37 CFR 1.705(d) will be charged to deposit account no. 50-4409. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450

Stiennon & Stiennon
612 W. Main Street
St.e 201
P.O. Box 1667
Madison, Wisconsin 53701

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JAN 21 2011

OFFICE OF PETITIONS

In re Application of :
Kari RAISANEN et al. : DECISION GRANTING PETITION
Application No. 10/597,915 : UNDER 37 CFR 1.181
Filed: 28 August 2006 :
Atty Docket No. Metso-64

This is a decision on the petition under 37 CFR 1.181, filed 11 June 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner, within the meaning of 37 CFR 1.113, to the final Office action mailed 25 November 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was received, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 25 February 2010.

A grantable petition to withdraw holding of abandonment under 37 CFR 1.181 based on failure to receive an Office action requires: (1) a Statement from the Practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner asserts the Abandonment effective 25 February 2010 be withdrawn as Petitioner never received the final Office action mailed 25 November 2009. The present Petition includes Statements that the Office action was not received, further supported by a statement of physical examination of the file folder. Applicant has also provided a copy of the docket record at three months' past the mailing date of the Office action. It is concluded that Petitioner never received the non-final Office action mailed 25 November 2009.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be referred to Technology Center Art Unit 1791 for re-mailing of the final Office action of 25 November 2009.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WATERS TECHNOLOGIES CORPORATION
34 MAPLE STREET – LG
MILFORD MA 01757

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Application of	:	
Russell Keene	:	
Application No. 10/597,990	:	DECISION DISMISSING PETITION
Filed: August 15, 2006	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. W-359-02 (WAT-005US)	:	

This is a decision on the petition filed March 8, 2012, which is being treated as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed as moot** for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 3, 2012, with the issue fee being due on or before May 3, 2012. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 3753 for appropriate processing of the RCE and for consideration of the IDS concurrently filed March 8, 2012.

/Irvin Dingle/
Irvin Dingle
Petition Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of :
Berthold Just et al :
Application No. 10/598,012 : ON PETITION
Filed: August 15, 2006 :
Attorney Docket No. PRINZ S5094

This is a decision on the petition, filed October 28, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 15, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
2050 MAIN STREET, SUITE 600
IRVINE CA 92614

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of :
POWELL, Michael R. et al. :
Application No. 10/598,139 : DECISION ON PETITION
Filed: May 16, 2007 : TO WITHDRAW
Attorney Docket No. **37929-32201** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED

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OFFICE OF PETITIONS

In re Application of
Herbert E. Schwartz
Application No. 10/598,223
Filed: August 22, 2006
Attorney Docket No. 3124.006A

: DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed October 4, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed January 5, 2010 (an advisory action was mailed on September 21, 2010). A Notice of Abandonment was mailed on November 12, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner states that: The basis for this Petition is that the Office Action made Final mailed January 5, 2010 was not so-identified on its cover page. As a result, despite the Applicant's representative sophisticated system of Office Action review and docketing and the Applicant's bona fide attempt to advance this application to allowance, the Applicant's representative was unaware of the July 5, 2010 six-month deadline to avoid abandonment."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

While it is true that the Office Action Summary cover sheet of the Final Office Action mailed January 5, 2010, indicated in box 2b that "This action is non-final", instead of box 2a to state that "This action is **FINAL**", the applicant was made aware in the body of the Office action on page 7 (seven) in the Conclusion in **bold** in paragraphs 13 (thirteen) and 14 (fourteen), "**THIS ACTION IS MADE FINAL**". Therefore, applicant knew that the Office action mailed January 5, 2010 was a final Office action. Further, applicant responded to the Office action on May 5, 2010, to show that a review of the Office action had been made by applicant. In order to have responded to the Office action mailed January 5, 2010, applicant had to recognize page 7(seven) of the Office action.

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 1.33 and 37 CFR 1.137(a).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee or $810.00 at the small entity rate.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HESWLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of :
Herbert E. Schwartz :
Application No. 10/598,223 : DECISION ON PETITION
Filed: August 22, 2006 :
Attorney Docket No. 3124.006A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE, and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed January 5, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3774 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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CHURCH & DWIGHT CO., INC.
LAW DEPT. - PATENTS
469 NORTH HARRISON STREET
PRINCETON NJ 08543-5297

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Patent No. 8,062,722	:	
Blum et al.	:	DECISION ON REQUEST FOR
Issue Date: November 22, 2011	:	RECONSIDERATION OF
Application No. 10/598,366	:	PATENT TERM ADJUSTMENT
Filed: December 20, 2006	:	AND NOTICE OF INTENT
Atty Docket No. 53000 PCT US	:	TO ISSUE CERTIFICATE OF
Title: CONDOM WITH WARMTH IMPARTING LUBRICANT	:	CORRECTION

This is a decision on the petition filed on January 23, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-seven (847) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **six hundred nine (609)** days.

The calculation of delay pursuant to 37 CFR 1.702(b) in this international application should have been based on a national stage commencement date of August 28, 2006, the date of expiration of the 30-month period pursuant to 35 U.S.C. 371(b). The priority date of this application is February 26, 2004. The application transmittal confirms that patentee did not make an express request to begin national examination procedure under 371(f). Further, as August 26, 2006, the date of the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day.

See PCT Rule 80.5. Accordingly, the commencement date is Monday, August 28, 2006.

Moreover, the period beginning on August 29, 2009, the day after the three-year date, and ending on January 3, 2011, the day before the date of filing of a request for continued examination (RCE) is 493 days. However, the period consumed by appellate review, whether successful or not, is also excluded from the calculation of "B" delay. See 35 U.S.C. 154(b)(1)(B)(ii). This period is calculated as 214 days from the filing of a notice of appeal on June 4, 2010 to the mailing of the notice of allowance on July 13, 2011 (considering the intervening filing of a request for continued examination on January 4, 2011). As the period beginning on the date of filing of the RCE is already not included in "B" delay, the period excluded for appellate review ends with the filing of a RCE. Accordingly, the patent term adjustment is increased by (493 - 214) 279 days for B delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred nine (609)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,062,722 B2

DATED : **November 22, 2011** **DRAFT**

INVENTOR(S) : Blum et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 330 days

Delete the phrase "by 330 days" and insert – by 609 days--

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Paper No.

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Application of :
Palay et al. :
Patent No. 7,868,873 : ON APPLICATION FOR
Issue Date: 01/11/2011 : PATENT TERM ADJUSTMENT
Application Number: 10/598,460 :
Filing Date: 08/31/2006 :
Attorney Docket Number: :
940131.413USPC :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed on March 7, 2011. Patentees request that the patent term adjustment be increased from 582 days to 947 days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-five (945) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-five (945) days is **GRANTED to the extent indicated herein**

On January 11, 2011, the subject application issued as U.S. Patent No. 7,868,873, with a patent term adjustment of 582 days. On March 7, 2011, the subject request for reconsideration was timely filed.

Patentees assert entitlement to a period of adjustment of 383 days pursuant to 37 CFR 1.705(b).

The "B" delay period is 382 days, not 383 days as asserted by patentee. 37 CFR 1.702(b) states that the period of adjustment

under 35 U.S.C. 154(b) is the period beginning three years after the date on which an application was filed under 35 U.S.C. 111(a), or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. This application was filed pursuant to 35 U.S.C. 371(b), not under 35 U.S.C. 111(a).

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of October 2, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. *See* PCT Rule 80.5. Accordingly, the commencement date is Monday, October 2, 2006. Thus, the period of delay is 382 days, counting the number of days beginning on October 3, 2009, the day after the date three years after the date the national stage commenced, and ending on October 19, 2010, the day before the date a request for continued examination was filed.

Further, 37 CFR 1.703(a)(1) states that the period of adjustment for Office delay is the number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. The fourteen month period under § 1.703(a)(1) is calculated from the date of the fulfillment of the requirements of 35 U.S.C. 371.

The priority date in this application is April 1, 2004. Applicants did not file an express request under 35 U.S.C. 371(f). Accordingly, the date which is 30 months from the priority date is October 1, 2006. As October 1, 2006, fell on a Sunday, the commencement date is shifted to October 2, 2006. *See* PCT Rule 80.5. Additionally, as applicants completed all 35 U.S.C. 371 requirements on filing the national stage prior to commencement, the completion date is also shifted to October 2, 2006.

Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) is the period beginning on December 3, 2007, the day after the date fourteen months after the date of completion of all requirements under 35 U.S.C. 371. An office action was mailed on July 14, 2009, fourteen months and 590 days after the date after the date after the application completed the requirements

of 35 U.S.C. 371. The period of adjustment under 37 CFR 1.702(a)(1) is therefore 590 days rather than 591 days. The 591 day period of adjustment for Office delay will be removed and a 590 day period will be entered.

The patent term adjustment at the time of issuance of the patent is 945 days (590 days of Office delay + 382 days of three years delay - 0 overlapping days - 27 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred forty-five **(945)** days.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,868,873 B2

DATED : **Jan. 11, 2011** **DRAFT**

INVENTOR(S) : Palay et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 582 days.

Delete the phrase "by 582 days" and insert – by 945 days--

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PATTON BOGGS LLP/ JOHNSON & JOHNSON
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Application :
Lee Terry Bacheler et al. :
Application No. 10/598,479 : DECISION ON APPLICATION
Filed: August 316, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
026038.0265PTUS

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.705(b)filed August 30, 2011. Applicant requests that the determination of patent term adjustment be corrected from 712 to 1471 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 8, 2010

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/598493 Patent No.: 7656874

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Magdalene Talley

_____
Certificates of Correction Branch
(571)272-0XXX

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____ **SPE_/Aung S. Moe/___ Art Unit (2474)__**

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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

In re Patent of Agejas-Chicharro et al. :
Patent No. 7,915,424 :
Issue Date: March 29, 2011 : DECISION ON REQUEST
Application No. 10/598,512 : FOR RECONSIDERATION OF
Filing Date: September 1, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. X16538 :

This is a decision on the petition filed May 31, 2011. The petition is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred seventy (870) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed.**

The patent issued on March 29, 2011, with a patent term adjustment of 649 days.

The patent term adjustment on the patent does not include any increase for delay under 37 C.F.R. § 1.703(e) ("C Delay").

Patentees argue the patent term adjustment should include a 221-day increase for C Delay.

37 C.F.R. § 1.703(e) states,

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is

> used in 35 U.S.C. 154(b)(1)(A)(iii), a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii), and a final decision in favor of the applicant under § 1.703(e). A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

The Board of Patent Appeals and Interferences did not issue a decision or remand the application to the examiner in this case. Instead, the examiner issued a Notice of Allowance in response to the submission of an Appeal Brief. Therefore, an increase in patent term adjustment for C Delay is unwarranted.

In view of the prior discussion, the patent term adjustment remains 649 days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 Fed. Reg. 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under 37 C.F.R. § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement set forth in 35 U.S.C. § 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Mueller :
Application No. 10/598,628 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No. 07420.25183 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned July 25, 2009 for failure to timely submit a proper reply to the final Office action mailed April 24, 2009. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was submitted. The reply filed July 24, 2009 failed to place the application in condition for allowance, as indicated in the Notice of Abandonment mailed February 16, 2010. A petition under 37 CFR 1.137(b) was filed March 3, 2010 and dismissed June 7, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3752 for consideration of the request for continued examination and submission (previously filed amendment).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,684	09/08/2006	Serge Kurowski	Q96003	8969

23373 7590 04/12/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
WOOD, KIMBERLY T	

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
04/12/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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APR 1 1 2011

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of : DECISION ON THE PETITION
Serge Kurowski : REQUESTING WITHDRAWAL
Application No. 10/598,684 : OF FINALITY
Filed: September 8, 2006
For: DEVICE FOR SUPPORTING A ROTATING FRAME OF A FILTRATION INSTALLATION

This is a decision on applicant's petition under 37 CFR 1.181, filed April 4, 2011, that requests withdrawal of the finality of the first Office action mailed February 4, 2011.

The petition is **GRANTED**.

A review of the file reveals that a non-final Office action that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112, 2nd paragraph was mailed on August 23, 2010. The applicant responded with an amendment on November 23, 2010. A Final rejection that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112 2nd paragraph mailed February 4, 2011. An after-final response to the above-noted Office action was received on April 4, 2011. The instant petition was also filed on April 4, 2011.

Applicant's petition argues that the finality of the Office action of February 4, 2011 is premature due to the fact that the examiner raised new rejections on claimed subject matter that was effectively unamended in the preceding amendment dated November 23, 2010. The applicant argues that adding new rejections under 112 2nd paragraph on subject matter that was present in the claims as originally filed would preclude the holding that these new rejections were necessitated by the applicant's amendment and would mandate a non-final Office action. Applicant's petition points out at least 3 separate instances of language that was not indicated as being indefinite in the non-final Office action of August 23, 2010, was unaltered in the amendment of November 23, 2010, and was indicated as being indefinite in the Final Office action of February 4, 2011.

Applicant's arguments are well-taken. The examiner not pointing out the indefiniteness of the above noted examples cannot now make new rejections and make such an Office action final. Contrary to the examiner's Office action these newly raised indications of indefiniteness were not necessitated by amendment. The examiner providing the stipulation in the non-final Office action of putting the applicant on notice that "...the examiner may not have pointed out each and every example of

indefiniteness...applicant is required to review all the claim language to make sure the claimed invention is clear and definite", cannot serve as license to raise new rejections of indefiniteness under 112, 2nd paragraph and indicate them as necessitated by amendment. For this reason the finality of the rejection was premature.

The finality of the action mailed February 4, 2011, but not the action itself, is hereby withdrawn. As a result the after-final amendment of April 4, 2011 is entered as a matter of right. The application will be forwarded to the examiner of record for treatment on the merits of the now entered amendment of April 4, 2011.

The petition to withdraw the finality of the February 4, 2011 Office action is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Quality Assurance Specialist, Steven Meyers at (571) 272-6611.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

Snm/snm: 4/10/11

SM

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER CO 80264

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Sophie LOTERSZTAJN, et al	:	
Application No. 10/598,736	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
EPLDUB090536USAF/903002US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2010.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Gregory W. O'Connor and the attorneys associated with Customer No. 45346, has been revoked by the assignee of the patent application on September 30, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/DCG/
/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/598,736	07/19/2007	Sophie Lotersztajn	EPLDUB090536USAF/ 903002US

CONFIRMATION NO. 9624

45346
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET, SUITE 3000
DENVER, CO 80264

POWER OF ATTORNEY NOTICE

OC000000043846422

Date Mailed: 10/05/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/598,736	07/19/2007	Sophie Lotersztajn	EPLDUB090536USAF/ 903002US

CONFIRMATION NO. 9624

97464
Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

POA ACCEPTANCE LETTER

OC000000043846450

Date Mailed: 10/05/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FEB 11 2011

PCT LEGAL ADMINISTRATION

Mark F. Smith
905 Ohio Pike
Cincinnati OH 45245

In re Application of: WEISS, Kenneth, L., et al.
U.S. App. No.: 10/598,764
Filing Date: September 11, 2006
Attorney's Docket No.: WKI-002PAT
For: AUTOMATED NEUROAXIS (BRAIN AND SPINE) IMAGING WITH ITERATIVE SCAN PRESCRIPTIONS, ANALYSIS, RECONSTRUCTIONS, LABELING, SURFACE LOCALIZATION AND GUIDED INTERVENTION

DECISION ON PETITIONS
(37 CFR 1.182 and 1.78(a)(3))

This decision is issued in response to applicants "Petition Under 37 C.F.R. § 1.182 To Treat Application Under 35 U.S.C. § 111" filed May 21, 2010 and the "Petition To Accept Unintentionally Delayed Claim For The Benefit Of A Prior-Filed International Application Under 37 CFR 1.78(3)" filed February 03, 2011. Applicants have paid the required petition fee and surcharge.

BACKGROUND

On March 11, 2005, applicants filed international application PCT/US2005/008311. The international application claimed a priority date of March 11, 2004, and it designated the United States. The deadline for entering the national stage in the United States and for payment of the basic national fee was thirty months from the priority date, i.e., September 11, 2006. The published international application was titled "Automated Spine Survey Iterative Scan Technique (Assist)" and it included 12 numbered claims and 19 numbered Figures.

On September 11, 2006, applicants filed materials to initiate the present application using the EFS-Web electronic filing system. The submission included a description, claims, drawings, abstract and a fee payment (including payment of the U.S. basic national fee). The specification was titled "Automated Neuroaxis (Brain and Spine) Imaging With Iterative Scan Prescriptions, Analysis, Reconstructions, Labeling, Surface Localization And Guided Intervention" and it included 44 numbered claims and 21 numbered figures. The submission was expressly identified by applicants as the U.S. national stage under 35 U.S.C. 371 of PCT/US05/08311.

On April 17, 2007, a filing receipt was issued that identified the application as "a 371 of PCT/US05/08311." Despite the lack of a preliminary amendment to enter the revised set of

claims filed on 11 September 2006, the filing receipt indicated that the application contained 44 claims, and applicant was charged claims fees based on the inclusion of 44 claims.

On July 28, 2009, the United States Designated/Elected Office (DO/EO/US) issued a "Notification Of Acceptance" indicating that the requirements for national stage entry under 35 U.S.C. 371(c) had been satisfied as on 21 November 2006.

On January 28, 2010, a non-final Office action was mailed. The Office action examined the revised set of 44 claims filed on September 11, 2006.

On May 21, 2010, applicants filed the "Petition Under 37 C.F.R. § 1.182 To Treat Application Under 35 U.S.C. § 111" considered herein.

On August 18, 2010, a final Office action was issued.

On February 03, 2011, applicants filed the "Petition To Accept Unintentionally Delayed Claim For The Benefit Of A Prior-Filed International Application Under 37 CFR 1.78(3)" also considered herein, with accompanying materials.

DISCUSSION

1. Petition Under 37 CFR 1.182 To Convert The Application To A Filing Under 35 U.S.C. 111(a)

As evidenced by the Electronic Acknowledgement Receipt, at the time the present application was filed, applicants clearly identified the application as the "U.S. National Stage under 35 USC 371" of PCT/US05/08311. In the present petition under 37 CFR 1.182, applicants request that the application instead "be treated as an application under 35 U.S.C. § 111 claiming priority from a previously filed PCT application."

The petition argues that the application as filed included conflicting instructions as to whether the application was to be treated as a national stage filing under 35 U.S.C. 371 or a U.S. application filed under 35 U.S.C. 111(a), which would support treating the application under 35 U.S.C. 111(a) (see MPEP section 1893.03(a)). As applicants point out, the application as filed had a title that differed from the international application and it included a specification, claims, and drawings that were not identical to the published international application (applicants did not include with the September 11, 2006 submission a proper preliminary amendment for entry of the changes included in the revised materials). However, a review of the September 11, 2006 submission finds no specific instruction that conflicted with applicants' express instruction, entered via the EFS-Web filing system, that the application was a national stage application filed under 35 U.S.C. 371.[1] Pursuant to the policy set forth in the MPEP, the application was therefore properly treated upon filing as a national stage filing under 35 U.S.C. 371.

[1] The failure to properly amend an international application upon national stage entry is not considered a conflicting instruction, nor is the indication that the application "claims the benefit of" the international application, as such a claim is not an effective claim of domestic priority under 35 U.S.C. 120. See MPEP section 201.11(III)(A)).

Petitions to convert an application filed as a national stage application under 35 U.S.C. 371 to a U.S. application filed under 35 U.S.C. 111(a) are not granted as a matter of course. Rather, a grantable petition must include a showing of sufficient cause to justify such conversion (i.e., the loss of patent rights or the lack of an alternative remedy). With respect to the showing of sufficient cause to justify the conversion, the present petition states that the revised specification, claims, and drawings filed on September 11, 2006 "includes substantial materials that was not found in the PCT priority application." Applicants argue that, because the added subject matter is part of the present application file and the application has published, the failure to treat the present application as a filing under 35 U.S.C. 111(a) (and thereby accord the new subject matter disclosed herein a September 11, 2006 filing date) could bar applicants from obtaining patent protection for the new technology included in the disclosure filed on September 11, 2006.

It is noted that the claims examined herein, most of which are subject to allowance in the final Office Action mailed August 18, 2010, are the revised set of 44 claims filed on September 11, 2006 (as subsequently amended by applicants), not the original set of 12 claims contained in the international application.

Under the circumstances present here, it is determined that sufficient cause exists to justify conversion of the present application from an application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a), with the description (34 pages), claims (5 pages including 44 numbered claims), drawings (28 pages including Figures 1-21), and abstract (1 page) filed herein on September 11, 2006 constituting the original specification and claims for the application.

Applicants' petition under 37 CFR 1.182 requests, however, not only that the application be treated as an application filed under 35 U.S.C. 111(a), but also that the application be treated as an application "claiming priority from a previously filed PCT application." Because the application as filed did not include an acceptable benefit claim under 35 U.S.C. 120 directed to international application PCT/US05/08311, the relief requested in the petition under 37 CFR 1.182 also requires a grantable petition under 37 CFR 1.78(a)(3) to add to the present application an unintentionally delayed benefit claim directed to the international application. Accordingly, the petition under 37 CFR 1.78(a)(3) filed on 03 February 2011 is considered below.

2. Petition Under 37 CFR 1.78(a)(3)

Applicants' "Petition To Accept Unintentionally Delayed Claim For The Benefit Of A Prior-Filed International Application Under 37 CFR 1.78(3)" seeks acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of international application PCT/US2005/008311, filed on March 11, 2005, as set forth in the amendment concurrently filed with the petition.

A petition under 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed benefit claim directed to a prior-filed international application designating the United States is appropriate where, as here, the later-filed application was filed on or after November 29, 2000

and an acceptable benefit claim directed to the prior-filed application was submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii).[2]

A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by the following:

(1) the reference to the prior-filed application, as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t);
(3) A statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

With respect to item (1), above, the present petition was accompanied by a supplemental amendment to the first sentence of the specification adding an acceptable benefit claim identifying the present application as a continuation-in-part of PCT/US2005/008311, filed on March 11, 2005, which in turn claims the benefit of U.S. provisional application 60/552,332, filed March 11, 2004. The reference to the international application contained in this amendment satisfies item (1) of a grantable petition under 37 CFR 1.78(a)(3).

Applicants have submitted payment of the applicable surcharge, and the petition includes an acceptable statement of unintentional delay. Items (2) and (3) of a grantable petition under 37 CFR 1.78(a)(3) are therefore also satisfied.

Based on the above, applicants have satisfied the requirements for a grantable petition under 37 CFR 1.78(a)(3) to add to the present application a domestic benefit claim under 35 U.S.C. 120 directed to international application PCT/US2005/008311.

CONCLUSION

For the foregoing reasons, the "Petition Under 37 C.F.R. § 1.182 To Treat Application Under 35 U.S.C. § 111" filed May 21, 2010 and the "Petition To Accept Unintentionally Delayed Claim For The Benefit Of A Prior-Filed International Application Under 37 CFR 1.78(3)" filed February 03, 2011 are **GRANTED** as follows.

The present application will be treated as a U.S. application filed under 35 U.S.C. 111(a) with a filing date of September 11, 2006.

The "Notification Of Acceptance" (Form PCT/DO/EO/903) mailed on July 28, 2009 is no longer appropriate in the present application (which is no longer being treated as a filing under 35 U.S.C. 371) and is therefore **VACATED**.

---

[2] As noted above, the description filed on September 11, 2006 included a statement that the present application "claims the benefit of" PCT/US2005/008311; however, the claim did not state the relationship of the applications (i.e., continuation, continuation-in-part, or divisional), as required under 37 CFR 1.78(a)(2)(i). The benefit claim in the application as filed is therefore not an effective claim of domestic priority under 35 U.S.C. 120. See MPEP section 201.11(III)(A).

The present decision is accompanied by a corrected filing receipt identifying the application as a U.S. application filed under 35 U.S.C. 111(a) on September 11, 2006 and including a benefit claim identifying the application as a continuation-in-part of PCT/US2005/008311, which claims the benefit of U.S. provisional application 60/552,332.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any questions concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to Group Art Unit 2624.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

Encl: Corrected Filing Receipt

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HUNTON & WILLIAMS LLP
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DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of:	:
Fecher et al.	:
Pat. No.: 7,714,132	: ON REQUEST FOR
Issue Date: 05/11/2010	: RECONSIDERATION OF
Application No. 10/598777	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/11/2006	:
Atty. Docket No.: 66535.000013	:

This decision is in response to the "RESPONSE TO PETITION DECISION DATED JULY 22, 2010," filed August 23, 2010. Patentees request that the determination of patent term adjustment be corrected to 833 days. The "RESPONSE TO PETITION DECISION DATED JULY 22, 2010," is properly treated under 37 C.F.R. § 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED.**

On May 11, 2010, the above-identified application matured into U.S. Patent No. 7,714,132. The patent issued with a PTA of 833 days.

Patentees argue that the period of delay of 75 days attributed to Patentees in connection with the filing of a "Supplemental Response Under 37 C.F.R. § 111," filed on December 12, 2009, after filing the reply to the Election/Restriction Requirement on September 28, 2009. Patentees assert that the supplemental reply was expressly requested by the Examiner. In support of this assertion, Patentees refer to an Interview Summary entered into the application file on December 8, 2009, wherein

> The examiner and the attorney discussed potential rejections. the examiner explained the 112 2nd para for C0-C5 alkylcarbonyl, C0-carbonyl would be C=O only and chemically not possible.

The provisoes because of art make the C1-C5 alkoxycarbonyl groups also obvious, recommend deleting it.

Claims 13 had the term medicament comprising without any other ingredient. The examiner suggested changing it to pharmaceutical composition with the carrier as given in claim 14.

Delete claim 18 and amend claim 15 to read the antagonizing as given on page 69 (delete preventing and treating)

Emphasis supplied.

Initially, a review of the "Supplemental Response Under 37 C.F.R. § 111," filed on December 12, 2009, reveals that Patentees stated therein that it was filed in response to several telephonic interviews, none of which was a telephonic interview with the Examiner on December 4, 2009. The "Supplemental Response Under 37 C.F.R. § 111," filed on December 12, 2009," states that "[t]his Supplemental Amendment is responsive to the telephonic interview with Examiner Desai on Friday, November 4, 2009, Monday, November 7, 2009, and Tuesday, November 8, 2009."

Moreover, a review of the Interview Summary relied upon by Patentees to assert that the Supplemental Amendment filed December 12, 2009 was expressly requested by the Examiner reveals that the Examiner made a suggestion and a recommendation. The Interview Summary does not contain an express request by the examiner that applicant file a Supplemental Amendment.

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(8), and a reduction of 75 days, beginning on the day after the date the initial reply was filed, September 29, 2009, and ending on the date that the supplemental reply was filed, December 12, 2009, is properly included in the patent term adjustment.

In view thereof, it is concluded that the Decision on Petition mailed July 22, 2010 correctly calculated the revised Patent Term Adjustment at seven hundred fifty-eight (758) days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Patentees are given **two (2) months** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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DEPARTMENT
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SUITE 1200
WASHINGTON DC 20006-1109

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FEB 10 2011

OFFICE OF PETITIONS

In re Application of:	:
Fecher et al.	:
Pat. No.: 7,714,132	: ON REQUEST FOR
Issue Date: 05/11/2010	: RECONSIDERATION OF
Application No. 10/598777	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/11/2006	:
Atty. Docket No.: 66535.000013	:

This decision is in response to the "SUPPLEMENTAL RESPONSE TO PETITION DECISION DATED JULY 22, 2010," filed February 2, 2011. Patentees request that the determination of patent term adjustment be corrected to 833 days. The "SUPPLEMENTAL RESPONSE TO PETITION DECISION DATED JULY 22, 2010," is properly treated as a request for reconsideration of petition under 37 C.F.R. § 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred thirty-three (833) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required[1].

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred thirty-three (833) days**.

[1] No fee is due for the present renewed petition; however, Office records reveal that while the petition fee was authorized in the initial petition filed March 16, 2010, no petition fee was charged at that time. The fee has been charged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,714,132 B2

DATED : **May 11, 2010**

INVENTOR(S) : Fecher et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 758 days.

Delete the phrase "by 758 days" and insert – by 833 days--

22 SEP 2010

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QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of	:	
LEE, Luke P., et al.	:	
Application No.: 10/598,830	:	DECISION
PCT No.: PCT/US2005/008349	:	
Int. Filing Date: 14 March 2005	:	ON PETITION UNDER
Priority Date: 12 March 2004	:	
Docket No.: 313S-300811US	:	37 CFR 1.47(a)
For: METHODS AND APPARATUS FOR INTEGRATED CELL HANDLING AND MEASUREMENTS	:	

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 16 July 2010.

BACKGROUND

On 17 March 2010, the Office mailed Decision On Petition, dismissing applicant's petition under 37 CFR 1.47(a).

On 16 July 2010, applicants filed this renewed petition under 37 CFR 1.47(a), accompanied by the fee for a two month extension of time.

DISCUSSION

This petition is to allow the application to proceed without the signature of Luke P. Lee.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (2) and (3) were previously satisfied. The petition fee has been paid. Applicant states the last known address of Luke P. Lee as 5 Meadow Court; Orinda, CA 94563.

Item (4) has now been satisfied.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **16 July 2010**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

22 SEP 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Luke P. Lee
5 Meadow Court
Orinda, CA 94563

In re Application of
LEE, Luke P., et al.
Application No.: 10/598,830
PCT No.: PCT/US2005/008349
Int. Filing Date: 14 March 2005
Priority Date: 12 March 2004
Docket No.: 313S-300811US
For: METHODS AND APPARATUS FOR INTEGRATED CELL HANDLING AND MEASUREMENTS

Dear Mr. Lee:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

PATENT
0144-P0047A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Gee Young Lee
Serial No. 10/598,864	Filing Date: 09/13/2006
Title of Application:	Metal tank with a synthetic resin sheet, and unit panel
Confirmation No. 1511	Art Unit: 3749
Examiner	Not known

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Response to Decision On Request To Participate In Patent PCT/ Prosecution Highway Program And Petition 37 CFR 1.102(d)

Dear Sir:

Applicant filed on July 26, 2010 a Request For Participation In The PCT–Patent Prosecution Highway (PCT-PPH) Pilot Program Between The Korean Intellectual Property Office (KIPO) And The USPTO (form PTO/SB/20PCT-KR), together with a Preliminary Amendment for correcting informalities, clerical and translation errors, and indefinite portions in the present application.

This response is filed in reply to the dismissal decision of July 28, 2010 which indicates the dismissal of petition for the reason that the applicant's request and petition to participate in the PPH program failed to include, among the required documents, a copy of the PCT/KIPO cited references, namely, JP 56-125890U published on 9/25/1981.

Applicant respectfully submits that this reference JP 56-125890U was already submitted in the application on 9/13/2006 with an Information Disclosure Statement, and also enclosing an English Abstract of the reference. However, both the Information Disclosure Statement and English Abstract of JP 56-125890U included a typo or error in the Publication Number which reads "**1981-199499**". Applicant submits that this

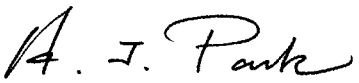
publication number of the Japanese reference was incorrectly stated and should have been written as "**56-125890**".

Accordingly, in order to correct the informalities Applicant enclosed hereto a copy of the reference along with an English Abstract thereof with its publication number corrected. Applicant further enclosed an Information Disclosure Statement (PTO/SB/08a) listing the Japanese reference.

As stated in the dismissal decision, the above item is the only missing condition which needs to be corrected in order to qualify for participation in the PPH program. This condition has been corrected by filing this Response and the enclosed documents.

Accordingly, an expedited examination and an early notice of the examination results are respectfully requested.

Respectfully submitted,



August 5, 2010

Hyun Jong Park, Registration No. 59,093
Attorney for Applicant(s)
Park & Associates Intellectual Property Law LLC
265 Bic Drive, Suite 106
Milford, CT 06461
Tel. (203) 702-7102

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,864	09/13/2006	Gee Young Lee	0144 - P0047A	1511

66837 7590 08/06/2010

HYUN JONG PARK
Park & Associates IP Law LLC
265 Bic Drive
Suite 106
Milford, CT 06461

EXAMINER	
MCALLISTER, STEVEN B	
ART UNIT	PAPER NUMBER
3749	

MAIL DATE	DELIVERY MODE
08/06/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HYUN JONG PARK
Park & Associates IP Law LLC
265 Bic Drive
Suite 106
Milford CT 06461

In re Application of	:	
LEE, GEE YOUNG	:	DECISION ON REQUEST TO
Application No. 10/598,864	:	PARTICIPATE IN PATENT
Filed: September 13, 2006	:	PCT/PROSECUTION HIGHWAY
Attorney Docket No. 0144-P0047A	:	PROGRAM AND PETITION
Title: METAL TANK WITH A SYNTHETIC RESIN SHEET, AND UNIT PANEL	:	37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 5, 2010, to make the above-identified application special.

The request and petition are granted.

A grantable request to participate in the PPH program and petition to make special require:
(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the KIPO, JPO, EPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

All other inquiries concerning the examination or status of the application should be directed to Steve McAllister, the SPE of Art Unit 3749, and 571-272-6785 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application will be docketed to an examiner for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The petition is **granted.**

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Farrell et al.	:	
Application No. 10/598,914	:	
Filed: September 14, 2006	:	
Atty Docket No. 3869/041 US	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 29, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, June 28, 2010, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on October 5, 2010.

This petition includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met. Receipt is acknowledged of the drawings timely filed October 6, 2010 in response to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed August 13, 2010.

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 21, 2011

TO SPE OF : ART UNIT 2614 - SPE Curtis A. Kuntz.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/598,929 Patent No.: 7,844,049 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the Foreign Application Priority Data is to be inserted on the Title Page after Item [65] as requested by applicant.. ***See COCIN dated 1-03-2011***

Antonio Johnson

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ✓ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____ ____ **SPE** /Curtis·A. Kuntz/ **Art Unit** 2614

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 08 2010

OFFICE OF PETITIONS

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

In re Patent No. 7,709,134 :
Issued: May 4, 2010 :
Application No. 10/598,951 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: July 13, 2007 :
Dkt. No.: SLU 03-022 (4556.8) :

This is a decision on the petition filed June 25, 2010 requesting that the patent term adjustment for the above-identified patent be increased from zero days to 200 days. This matter is being properly treated pursuant to 37 CFR 1.705(d).

The petition is hereby **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,709,134 on May 4, 2010. The patent issued with zero days of patent term adjustment. The instant request under 37 CFR 1.705(d) is timely filed. Patentee argues that the patent is entitled to an adjustment of 231 days pursuant to 37 CFR 1.702(b), less 31 days of applicant delay, yielding an overall patent term adjustment of 200 days.

The petition has been carefully considered, but is not persuasive. The instant patent is not entitled to any period adjustment for "B" delay because the instant patent issued less than three years after the date of commencement.

As stated, the "B" delay period is zero days. It is thought that perhaps patentees calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See, 1.702(b). The priority date of this application is March 15, 2004. The requirements for early commencement were not met; accordingly, the national stage commenced in this application on Friday, September 15, 2006.

The day after the date that is three years after the date of commencement would have been September 16, 2009. However, a request for continued examination was filed prior to that date on January 23, 2009, effecting cutting off the accrual of "B" delay because the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period. See, 35 U.S.C. 154(b)(1)(B)(i).

As to patentee's assertion that the applicant delay is 31 days, applicant is advised that in addition to the 31 days of applicant delay assessed per 37 CFR 1.704(b), there was an additional applicant

delay of 113 days in connection with the drawings filed post-allowance on January 12, 2010. Thus, in accordance with 37 CFR 1.704(c)(10), an applicant delay of 113 days is properly entered into the record. The delay commenced January 12, 2010, the date that the drawings were filed, and ended May 4, 2010, the date that the patent issued.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the $200.00 fee required per 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date:	March 30, 2012
In re Patent No.	8125721
Issue Date:	28-Feb-2012
Application No	10598979
Filed date	15-Sep-2006
Attorney Docket No	ESSR:124US

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed March 30, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Essilor International Compagnie General d'Optique

Change Assignment Information to the Following:

Essilor International Compagnie Generale d'Optique

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the the Patent Electronic Business Center (EBC) at 866-217-9197.

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificate of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	10598979
Filing Date	15-Sep-2006
First Named Inventor	Gerald Fournand
Attorney Docket Number	ESSR:124US
Title of Invention	OPTICAL LENS HOLDER

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8125721 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

Essilor International Compagnie General d'Optique

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Essilor International Compagnie Generale d'Optique

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

◯ Applicant(s) status remains as OTHER THAN small entity.

◯ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

◯ Applicant(s) status remains as SMALL ENTITY.

◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby 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 patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

◯ A sole inventor

◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

◯ A joint inventor; all of whom are signing this request

◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Tamsen L. Barrett/
Name	Tamsen L. Barrett
Registration Number, if applicable	57318

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 05 2011

PCT LEGAL ADMINISTRATION

SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

In re Application of :
HICKEY, Magali Bourghol, et al. :
Application No.: 10/599,010 :
PCT No.: PCT/US2005/009305 :
Int. Filing Date: 17 March 2005 : DECISION
Priority Date: 19 March 2004 :
Attorney's Docket No.: TPI-5053C3XC1T :
For: NOVEL PHARMACEUTICAL FORMS, :
AND METHODS OF MAKING AND :
USING THE SAME :

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

On 30 April 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath of declaration were required.

On 02 July 2007, applicants furnished a declaration of the inventors listing seven inventors. The international application lists nine.

On 01 August 2007, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had satisfied the requirements under 35 USC 371(c)(1), (c)(2) and (c)(4) and all of 35 USC 371 on 02 July 2007.

On 09 November 2007, applicants submitted this request under 37 CFR 1.48(b) requesting the removal of inventors Bis and McMahon.

DISCUSSION

The Notification of Acceptance mailed 01 August 2007 issued in error. Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required. Such an oath or declaration has not been furnished.

A petition under 37 CFR 1.48(b) is to add or remove an inventor from a non-provisional application to correct the inventorship after an amendment. This application is not yet a non-provisional as it has not satisfied the requirements of under 35 USC 371. Should applicants need to change the inventorship in the national stage application on account of a preliminary amendment, that can be done with a petition under 37 CFR 1.48(b), AFTER the application satisfies the requirements for entry into the national stage, including a declaration in compliance with 37 CFR 1.497(a)-(b).

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, applicant's declaration does not comply with 37 CFR 1.497(a)-(b) and the petition under 37 CFR 1.48(b) will not be acted upon at this point.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 01 August 2007 is **VACATED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 27 2011

PCT LEGAL ADMINISTRATION

SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

In re Application of :
HICKEY, Magali Bourghol, et al. :
Application No.: 10/599,010 :
PCT No.: PCT/US2005/009305 :
Int. Filing Date: 17 March 2005 : DECISION
Priority Date: 19 March 2004 :
Attorney's Docket No.: TPI-5053C3XC1T :
For: NOVEL PHARMACEUTICAL FORMS, :
AND METHODS OF MAKING AND :
USING THE SAME :

This decision is in response to applicants' Response to Decision, filed in the United States Patent and Trademark Office on 29 July 2011.

On 05 July 2011, the Office mailed Decision, vacating a Notification of Acceptance mailed 01 August 2011 and requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

On 29 July 2011, applicants furnished a declaration of the inventors.

The 29 July 2011 declaration complies with 37 CFR 1.497(a)-(b). The petition under 37 CFR 1.48(b) will remain in the file for treatment in due course.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

WHITHAM, CURTIS, CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

MAILED

MAR 24 2011

OFFICE OF PETITIONS

Applicant: Perrott, et al.
Appl. No.: 10/599,037
International Filing Date: March 22, 2005
Title: INULINS, LEVANS, FRUCTANS AND OTHER SMALLER-THAN-CELLULOSE TERMITE FEEDING ATTRACTANTS, AND TERMITE BAITING
Attorney Docket: 01640456 AA
Pub. No.: US 2008/0233080 A1
Pub. Date: September 25, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 26, 2010, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the wrong abstract was printed.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on April 26, 2010, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS CO 80521

MAILED

MAR 25 2011

PCT LEGAL ADMINISTRATION

In re Application of :
George H. Tagawa, et al. : DECISION ON PETITIONS
Application No. 10/599,107 : UNDER 37 CFR 1.78(a)(3) AND
Filed: September 19, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TGI-Shifter-USNP :

This is a decision on the "REFERENCE REQUIRED BY 35 USC §120 AND 37 CFR §1.78(a)(2) TO THE PRIOR FILED APPLICATIONS" filed 09 September 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications. The paper is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6). Applicant has provided payment of the petition fee.

The petitions are GRANTED.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a proper reference to the prior-filed applications has been included in an amendment to the first sentence of the specification, as provided by 37

CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. The statement contained in the instant petition is additionally being construed as the statement required by 37 CFR 1.78 (a)(5)(iii) with respect to the late provisional claim that the entire period of delay was unintentional and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3643 for appropriate action on the amendment submitted September 14, 2010, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 24, 2011

TO SPE OF : ART UNIT 2855 - SPE Lisa M. Caputo.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/599,153 Patent No.: 7,856,889 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the inventor "Robert John Sykes" be added to title page of patent? *See COCIN dated 2-9-2011*

Antonio Johnson

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____ **SPE** _____ **Art Unit** 2855

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANGEL PALACIOS
MENDEZ ALVARO 77 PORTAL 4 PISO 4B
MADRID 28045 ES SPAN

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Angel Palacios :
Application No. 10/599,178 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 2, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 6, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 7, 2010.

The petition is **DISMISSED.**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petition attests that the response to the non-final Office action mailed November 6, 2009 was unavoidable because the Office action was never received.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(II)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A review of the record indicates that the Office action was mailed to the address of record.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c), under the subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;" and 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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ANGEL PALACIOS
MENDEZ ALVARO 77 PORTAL 4 PISO 4B
MADRID 28045 ES SPAIN

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Angel Palacios
Application No. 10/599,178
Filed: September 21, 2006
Attorney Docket No.

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed November 29, 2010 to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed May 26, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 6, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 7, 2010.

Petitioner asserts the Notice of Abandonment mailed May 26, 2010 be withdrawn as petitioner never received the non-final Office action, mailed November 6, 2009.

To support this assertion petitioner has submitted: (1) a statement from petitioner stating that the Office communication was not received by the inventor and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the non-final Office action, mailed November 6, 2009.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center technical support Staff Art Unit 2156 for the re-mailing of the Office action November 29, 2010 and resetting the period for reply.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 29 2011

PCT LEGAL ADMINISTRATION

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of:
FELTEN, Frederic
U.S. Application No.: 10/599,294
PCT No.: PCT/FR2005/050186
International Filing Date: 22 March 2005
Priority Date: 25 March 2004
Attorney's Docket No.: 324-189
For: COMMUNICATION STATE PUBLISHING GATEWAY

DECISION
(37 CFR 1.47(b))

This decision is issued in response to applicants' "PETITION UNDER 37 CFR 1.47(b) FILING WHEN AN INVENTOR IS UNAVAILABLE" filed 29 July 2010.

BACKGROUND

On 22 March 2005, applicant filed international application PCT/FR2005/050186. The international application claimed a priority date of 25 March 2004, and it designated the United States. On 06 October 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 September 2006.

An executed declaration under PCT Rule 4.17(iv) from sole inventor Frederic FELTEN was filed during the international phase.

On 25 September 2006, , applicants filed materials to initiate the present national stage application including, among other materials, an English translation of the international application, an application data sheet (ADS), a declaration executed by the sole inventor of record, Frederic FELTEN, and payment of the basic national fee.

On 09 May 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), including the oath or declaration requirement, were satisfied as of 25 September 2006.

The application was subsequently examined and, on 29 April 2010, a "Notice Of Allowance And Fee(s) Due" (Form PTOL-85) and "Notice of Allowability" (Form PTOL-37) were mailed.

On 29 July 2010, applicants filed payment of the issue and publication fees, accompanied by the petition under 37 CFR 1.47(b) considered herein. The petition requests acceptance of a declaration executed by the assignee on behalf of the sole inventor, Frederic FELTEN, whom petitioners assert cannot be reached after diligent effort.

DISCUSSION

As confirmed in the "Notification Of Acceptance" mailed on 09 May 2007, an acceptable declaration executed by the sole inventor was submitted herein on 25 September 2006. This declaration satisfied the declaration requirement for a national stage application under 35 U.S.C. 371(c)(4) and 37 CFR 1.497.

In view of applicant's prior submission herein of an acceptable declaration executed by sole inventor Frederic FELTEN, the present petition under 37 CFR 1.47(b) requesting acceptance of a declaration without the signature of inventor Frederic FELTEN is appropriately dismissed as moot.

The $130 petition fee included with the petition will be refunded to petitioner.

CONCLUSION

The petition under 37 CFR 1.47(b) requesting acceptance of a declaration without the signature of the sole inventor is **DISMISSED AS MOOT.**

A declaration executed by the sole inventor of record has been previously submitted in the present application.

The $130 petition fee submitted with the present petition will be refunded to petitioner.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,936,686 :
Issued: 05/03/2011 :
Application No. 10/599,294 : ON PETITION
Filed: 09/25/2006 :
Atty Dckt No. 324-189 :

This is a decision on the PETITION UNDER 37 CFR 1.183 TO SUSPEND OR WAIVE REQUIREMENT FOR INVENTOR SIGNING OF SUPPLEMENTAL DECLARATION WHEN THE INVENTOR IS UNAVIALBLE, filed on June 6, 2011.

The petition is **DISMISSED AS MOOT**.

Petitioners request waiver, under 37 CFR 1.183, of §§ 1.63 and 1.64 inasmuch as they require that a supplemental oath or declaration by executed by all of the inventors, and that the Office accept a supplemental oath or declaration signed by fewer than all of the inventors.

MPEP 603.01 states:

> Since the decision in *Cutter Co. v. Metropolitan Electric Mfg. Co.*, 275 F. 158 (2d Cir. 1921), many supplemental oaths and declarations covering the claims in the application have been filed after the applications were allowed. Such oaths and declarations may be filed as a matter of right and when received they will be placed in the file by the Office of Data Management, but their receipt will not be acknowledged to the party filing them. They should not be filed or considered as amendments under 37 CFR 1.312, since they make no change in the wording of the papers on file. See MPEP § 714.16.

A notice of allowance was mailed on April 29, 2010, and the application issued as U.S. Patent No. 7,936,686 on May 3, 2011 as a result of the payment of the issue fee on July 29, 2010.

As the subject supplemental oath or declaration was filed after the application was allowed, the oath or declaration will be placed in the file. However, as oath or declaration is not considered an amendment, and its receipt will not be acknowledged, the petition will not be considered on its merits and will be **dismissed as moot.**

The petition fee will be refunded to counsel.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BARLEY SNYDER
101 LINDENWOOD DRIVE
SUITE 100
MALVERN, PA 19355

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Application of :
John L. Beiswenger, et al. :
Application No. 10/599,344 : ON PETITION
Filed: September 26, 2006 :
Attorney Docket No.: 48501-901 :

This is a decision in response to the petition, filed September 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment in response to the final Office action mailed June 3, 2010, was included with the petition filed on September 14, 2011; however, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/599,344	Applicant(s) BEISWENGER ET AL.	
	Examiner Bobby Soriano	Art Unit 3769	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 September 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 10-20.
   Claim(s) withdrawn from consideration: 1-9.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/SAM YAO/
Supervisory Patent Examiner, Art Unit 3769

/Bobby Soriano/
Examiner, Art Unit 3769

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United States Patent and Trademark Office
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PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO, IL 60606

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
PAUL C. BURKE ET AL. :
Application No. 10/599,359 : DECISION ON PETITION
Filed: May 29, 2007 : TO WITHDRAW
Attorney Docket No. **4240-079** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 5, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 51500 has been revoked by the applicants of the patent application on July 1, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: IP Advisors
Christopher Haigh
150 N. Michigan Ave.
STE. 2800
CHICAGO IL 60601

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ANGEL PALACIOS
MENDEZ ALVARO 77
PORTAL 4 PISO 4B
MADRID 28045 ES SPAIN

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of :
Angel Palacios :
Application No. 10/599,384 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. :

This is a decision on the petition, filed April 12, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. Note 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant mailed July 13, 10, which set a one (1) month or thirty (30) days period for reply. A Notice of Abandonment was mailed on January 31, 2011.

Petitioner states "After receiving the Notice of Abandonment enclosed with this letter I checked my files and I saw that I had in fact submitted my response to the Office Action mentioned. You can find attached both my response and the copy of the receipt that was received by the fax machine, sent by the USPTO fax machine."

See 37 C.F.R. § 1.8

> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and

Deposited with the U.S. Postal Service with sufficient Postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with 1.6(d).

The copy of the facsimile transmitted filed with the petition on April 12, 2011 is not in compliance with 37 CFR § 1.8. See MPEP 512.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed July 13, 2010.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
JUL 25 2011
OFFICE OF PETITIONS

ANGEL PALACIOS
MENDEZ ALVARO 77
PORTAL 4 PISO 4B
MADRID 28045 ES SPAIN

In re Application of :
Angel Palacios :
Application No. 10/599,384 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. :

This is a decision on the renewed petition, filed July 8, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. Note 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant mailed July 13, 2010, which set a one (1) month or thirty (30) days period for reply. A Notice of Abandonment was mailed on January 31, 2011.

Petitioner states "My grounds for this renewed petition is that the facsimile transmission must have actually been received in the USPTO, given that I received a successful transmission receipt, which was enclosed in my former petition and is also hereby attached for reference."

In addition to 37 CFR § 1.8, petitioner is also directed to 37 CFR § 1.6(d) which states:

> To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the United States Patent and Trademark Office. The application number of a patent application, the control number of a reexamination proceeding, the interference number of an interference proceeding, or the patent number of a patent should be entered as a part of the sender's identification on a facsimile cover sheet.

Unfortunately, facsimile transmissions are not permitted. Further, the facsimile transmission receipt submitted with the petition on April 12, 2011 does not identify the application with an application number. There is no application number on the facsimile transmission receipt. Petitioner has also failed to submit a facsimile cover sheet, which should itemize each correspondence being facsimiled.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 13 2011

OFFICE OF PETITIONS

ANGEL PALACIOS
MENDEZ ALVARO 77
PORTAL 4 PISO 4B
MADRID 28045 ES SPAIN

In re Application of :
Angel Palacios :
Application No. 10/599, 384 : ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2011 (certificate of facsimile September 25, 2011), to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2165 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 12, 2011

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10599391 Patent No.: 7482148

CofC mailroom date: Mar. 20, 2009

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

_____

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Mary Wall — 1656

SPE — **Art Unit**

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OCT 18 2010

PCT LEGAL ADMINISTRATION

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	DECISION
LI et al.	:	
Application No.: 10/599,449	:	
Attorney Docket No.: 18104.002US1	:	
For: A QUANTIFIED SYSTEM TO DESIGN,	:	
PLAN AND MANAGE ORGANIZATIONS'	:	
SALES ACTIVITIES	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 23 October 2010, which included a "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" that has properly been treated as a petition under 37 CFR 1.181 and a petition under 37 CFR 1.137(b).

BACKGROUND

On 29 March 2005, applicants filed international application PCT/CN2005/000400 which claimed a priority date of 29 March 2004 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 September 2006.

On 28 September 2006, applicants filed application papers in the United States Patent and Trademark Office electronically via EFS-Web. The submission included, *inter alia*, an abstract, specification, drawings, and claims. The specification identifies the application as a "continuation in part of prior PCT Application No. PCT/CN2005/000400, filed March 29, 2005". However, when filing the application electronically, applicant selected in the Graphical User Interface the radio button "U.S. National Stage under 35 USC 371" rather than the radio button "Utility". (See Electronic Acknowledgement Receipt for the instant application dated 28 September 2006.)

On 15 April 2008, a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) was mailed indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 09 July 2008, applicants filed a declaration of inventors.

On 14 July 2008, a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) was mailed indicating, *inter alia*, that the declaration of inventors filed 09 July 2008 was not in compliance with 37 CFR 1.497(a)-(b) because the declaration listed three inventors while the published international application listed only two inventors.

On 20 August 2009, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to respond to the Notification mailed 14 July 2008.

On 23 August 2010, applicants filed the instant petitions under 37 CFR 1.181 and 37 CFR 1.137(b).

DISCUSSION

Petition Under 37 CFR 1.181

The petition under 37 CFR 1.181 indicates that the declaration of inventors filed 09 July 2008 was sufficient because the instant application is a continuation-in-part of PCT/CN2005/000400 and that the third inventor listed in the declaration contributed to the continuation-in-part application.

Conflicting Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

See also 37 CFR 1.495(g). As noted above, applicant selected the radio button "U.S. National Stage under 35 USC 371" rather than the radio button "Utility"when filing electronically via EFS-Web. However, the specification filed on that date identified the application as a "continuation in part of prior PCT Application No. PCT/CN2005/000400, filed March 29, 2005". So the originally fled papers included conflicting instructions. Thus, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly,

the original papers deposited on 28 September 2006 were improperly accepted as a submission under 35 U.S.C. 371. The NOTIFICATION OF MISSING REQUIREMENTS mailed 15 April 2008, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 14 July 2008, and the NOTIFICATION OF ABANDONMENT mailed 20 August 2009 are each hereby VACATED.

Petition Under 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is moot for the reasons set forth above. The petition fee has been credited to Deposit Account 03-1240.

CONCLUSION

This application is accepted as an application filed under 35 U.S.C. 111(a).

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** as **MOOT**.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 15 April 2008, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 14 July 2008, and the NOTIFICATION OF ABANDONMENT mailed 20 August 2009 are each VACATED.

The application will be forwarded to the Office of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) having application number **10/599,449** and having a filing date of **28 September 2006**.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET NW
SUITE 1200
WASHINGTON DC 20005-4051

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OCT 01 2010

OFFICE OF PETITIONS

In re Application :
Taylor, et al. :
Application No. 10/599,498 : DECISION ON APPLICATION
Filed: September 29, 2006 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 007412.00070 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed May 17, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred sixty-six (266) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred forty-five (245) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 17, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 17, 2010, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred sixty-six (266) days.

[1] Applicants filed the application for patent term adjustment together with the issue fee.

Applicants assert entitlement to a patent term adjustment of two hundred sixty-six (266) days on the basis that the PTO should have been assessed delay of two hundred sixty-six (266) days for not mailing an Office action within fourteen months of October 5, 2006, the date of completion of all 35 USC 371 requirements.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

35 USC 371 requirements were completed on October 5, 2006. Pursuant to 37 C.F.R. § 1.702(a)(1), the Office had until December 5, 2007 to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The Office mailed an Office action on August 28, 2008, and was not accorded any days of PTO delay. Accordingly, under 37 C.F.R. § 1.703(a)(1), PTO delay of two hundred sixty-six (266) days should have been assessed.

However, a review of the file reveals that Applicant delay also should have been assessed pursuant to 37 CFR 1.704(b). Subsequent to the Office mailing an Office action on August 28, 2008, Applicants filed a reply on December 19, 2008. Accordingly, pursuant to 37 CFR 1.704(b), twenty-one (21) days of Applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred forty-five (245) days** (266 days of PTO delay reduced by 21 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10599498 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTE Calculations for Application: 10599498

Application Filing Date	09/29/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	0
A Delays	0	PTO Manual Adjustment	245
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTE (days)	245

* - Sorted Column

File Contents History

Action Number	Action Recorded Date *	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
66	09/30/2010		P028	Adjustment of PTA Calculation by PTO		21	0
65	09/30/2010		P028	Adjustment of PTA Calculation by PTO	266		0
58	02/17/2010		MN/=.	Mail Notice of Allowance	0		0
57	02/12/2010		IREV	Issue Revision Completed	0		0
56	02/12/2010		OVER	Document Verification	0		0
55	02/12/2010		N/=.	Notice of Allowance Data Verification Completed	0		0
54	02/11/2010		CNTA	Notice of Allowability	0		0
51	01/13/2010		FWDX	Date Forwarded to Examiner	0		0
50	11/25/2009		A...	Response after Non-Final Action	0		0
49	09/25/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0		0
48	09/22/2009		EXIN.	Examiner Interview Summary Record (PTOL - 413)	0		0
47	08/26/2009		MCTNF	Mail Non-Final Rejection	0		0
46	08/26/2009		CTNF.	Non-Final Rejection	0		0
45	06/16/2009		FWDX	Date Forwarded to Examiner	0		0
43	06/16/2009		FWDX	Date Forwarded to Examiner	0		0
41	06/16/2009		ABN9	Disposal for a RCE / CPA / R129	0		0
44	06/15/2009		AMPR	RCE - AF Processed	0		0
42	06/15/2009		RCEX	Request for Continued Examination (RCE)	0		0
40	06/15/2009		BRCE	Workflow - Request for RCE - Begin	0		0
39	06/05/2009		MCTAV	Mail Advisory Action (PTOL - 303)	0		0
38	06/04/2009		CTAV	Advisory Action (PTOL-303)	0		0
37	05/23/2009		FWDX	Date Forwarded to Examiner	0		0
36	05/18/2009		A.NE	Amendment after Final Rejection	0		0
35	03/17/2009		MCTFR	Mail Final Rejection (PTOL - 326)	0		0
34	03/16/2009		CTFR	Final Rejection	0		0
33	03/13/2009		PA..	Change in Power of Attorney (May Include Associate POA)	0		0
31	03/11/2009		C.AD	Correspondence Address Change	0		0
32	01/26/2009		IDSC	Information Disclosure Statement considered	0		0
29	01/26/2009		EIDS.	Electronic Information Disclosure Statement	0		0
28	01/26/2009		WIDS	Information Disclosure Statement (IDS) Filed	0		0
27	01/06/2009		FWDX	Date Forwarded to Examiner	0		0
24	12/23/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0		0
26	12/19/2008		A...	Response after Non-Final Action	0		0
25	12/19/2008		XT/G	Request for Extension of Time - Granted	0		0
23	12/16/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)	0		0
22	10/06/2008		DOCK	Case Docketed to Examiner in GAU	0		0
21	08/28/2008		MCTNF	Mail Non-Final Rejection	0		0
20	08/27/2008		CTNF	Non-Final Rejection	0		0
0	08/27/2008		DUMMY	Dummy Standard Action - DO Not DELETE	0		0
14	07/29/2008		DOCK	Case Docketed to Examiner in GAU	0		0
13	11/15/2007		FLRCPT.C	Filing Receipt - Corrected	0		0
12	10/05/2007		DOCK	Case Docketed to Examiner in GAU	0		0
11	09/06/2007		PG-ISSUE	PG-Pub Issue Notification	0		0
10	07/15/2007		C602	Oath or Declaration Filed (Including Supplemental)	0		0
9	06/29/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete	0		0
6	06/19/2007		OIPE	Application Dispatched from OIPE	0		0
4	06/01/2007		PGPC	Sent to Classification Contractor	0		0
3	06/01/2007		M903	Notice of DO/EO Acceptance Mailed	0		0
2	10/06/2006		L194	Cleared by OIPE CSR	0		0
5	10/05/2006		371COMP	371 Completion Date	0		0
8	09/29/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0		0
7	09/29/2006		A.PE	Preliminary Amendment	0		0
1	09/29/2006		IEXX	Initial Exam Team nn	0		0

Export to: Excel

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PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK, NY 10022

MAILED

OCT 0 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,749,301	:	
Issue Date: July 6, 2010	:	
Application No. 10/599,570	:	NOTICE
Filed: January 31, 2007	:	
Attorney Docket No. 102881-15 (FF39694/06)	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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NICK A NICHOLS, JR.
P O BOX 16399
SUGAR LAND, TX 77496-6399

MAILED
FEB 25 2011
PCT LEGAL ADMINISTRATION

In re Application of LEVERETTE et al :
U.S. Application No.: 10/599,608 :
PCT Application No.: PCT/US2005/011429 :
Int. Filing Date: 06 April 2005 : DECISION
Priority Date Claimed: 06 April 2004 :
Attorney Docket No.: SEAH/511US :
For: ULTRA-DEEPWATER FLOATING :
PLATFORM :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 May 2008.

BACKGROUND

On 06 April 2005, applicant filed international application PCT/US2005/011429, which claimed priority of an earlier United States application filed 06 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 06 October 2006.

On 03 October 2006, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). However, the submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 October 2006, international application PCT/US2005/011429 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 May 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 April 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 May 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON ELISEEVA
420 BEDFORD ST
SUITE 155
LEXINGTON, MA 02420

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DEC 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Kaule et al.	:	
Application No. 10/599,659	:	DECISION ON PETITION
Filed: April 23, 2008	:	
Attorney Docket No. 0055.0013US1 (P-00060)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 26, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 26, 2010. Accordingly, the application became abandoned on November 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

MAILED

FEB 08 2011

OFFICE OF PETITIONS

Polsinelli Shughart PC
700 W. 47th Street
Ste. 1000
Kansas City, Missouri 64112-1802

In re Application of	:	
Adam John WALKER	:	DECISION GRANTING PETITION
Application No. 10/599,694	:	UNDER 37 CFR 1.137(b)
Filed: 19 January 2007	:	
Atty. Docket No.: 051922-408167	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 18 December 2009, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 24 March 2009 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. The application became abandoned on 25 June 2009, with notification mailed 28 September 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810.00 (small entity), and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on 18 December 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Technology Center AU 1796 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

0 4 AUG 2010

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Garret V. Davis
Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W. Suite 600
Washington, DC 20036

In re Application of	:	DECISION ON
LEY et al	:	
Application No.: 10/599,701	:	
PCT No.: PCT/EP2005/051424	:	PETITION
Int. Filing Date: 29 March 2005	:	
Priority Date: 07 April 2004.	:	
Attorney's Docket No.: 52460	:	
For: Use of gamma-Aminobutyric Acid...	:	UNDER 37 CFR 1.182
gamma-Aminobutyric Acid	:	

This decision is in response to the "Petition Under CFR 1.182," filed on 06 May 2010 to correct PCT serial number from the electronic entry of PCT/WO05/96841 to PCT/EP2005/051424. The petition fee of $400.00 has been charged to Deposit Account No.: 18-2220.

BACKGROUND

In a telephone conversation from this Office on 05 May 2010, Mr. Milef stated that applicants had to submit a petition under 37 CFR 1.182 with respect to correcting the referenced PCT number.

On 06 May 2010, petitioner filed a petition under 37 CRF 1.182 with a copy of the return stamped postcard by the USPTO indicating a date receipt of 06 October 2006 of the original petition. The petition states that at the time of filing the application, the petitioner made a typographical error, and the correct PCT number is PCT/EP2005/051424.

DISCUSSION

Petitioner entered the incorrect PCT serial number at the time of electronically filing the application, PCT/WO05/96841, was inadvertently entered into EFS-Web . Petitioner, however, did provide the correct copy of the international application number **PCT/EP2005/051424**. Accordingly, there is sufficient evidence that the correct international application PCT number is **PCT/EP2005/051424**.

Therefore, the petition to accept the correct PCT number of **PCT/EP2005/051424** for the instant application is granted, and will be reflected in a corrected filing receipt.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 24, 2012

In re Application of :

Jean-Claude Abed

Application No : 10599721

Filed : 30-Jul-2007

Attorney Docket No : 034423/317776

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 24, 2012

The request is **APPROVED.**

The request was signed by John E Johnson III (registration no. 58367) on behalf of all attorneys/agents associated with Customer Number 00826 . All attorneys/agents associated with Cusotmer Number 00826 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Fiberweb Corovin GmbH

Name2

Address 1 Woltorfer Strasse 124

Address 2

City Peine

State

Postal Code D-31224

Country DE

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10599721
Filing Date	30-Jul-2007
First Named Inventor	Jean-Claude Abed
Art Unit	1786
Examiner Name	ALTREV SYKES
Attorney Docket Number	034423/317776
Title	Spunbond Fleece of Polymer Fibers and Its Use

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 00826

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Fiberweb Corovin GmbH
Address	Woltorfer Strasse 124
City	Peine
State	
Postal Code	D-31224
Country	DE

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/John E Johnson III/
Name	John E Johnson III
Registration Number	58367

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
2050 MAIN STREET, SUITE 600
IRVINE CA 92614

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of :
CHELLAPPA, Arnand et al. :
Application No. 10/599,813 : DECISION ON PETITION
Filed: July 17, 2007 : TO WITHDRAW
Attorney Docket No. **37929-32102** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW FIRM OF NAREN THAPPETA
C/O LANDON IP, INC.
1725 Jamieson Avenue
ALEXANDRIA VA 22314

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Navin N. Thakkar :
Application No. 10/599,854 :
Filed: October 11, 2006 :
Attorney Docket No. TKKR-001 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed July 23, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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SEP 27 2010

OFFICE OF PETITIONS

LAW FIRM OF NAREN THAPPETA
c/o Landon IP, Inc.
1725 Jamieson Avenue
Alexandria, VA 22314

In re Application of	:	
Navin N. Thakkar	:	
Application No. 10/599,854	:	DECISION ON PETITION
Filed: October 11, 2006	:	TO WITHDRAW
Attorney Docket No. TKKR-001	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Narendra R. Thappeta on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Navin N. Thakkar at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Navin N. Thakkar**
39/B, Hindu Colony, Opp Sardar Patel Stadium
Navrangpura
Ahmedabad, Gujarat, 380009

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/599,854	10/11/2006	Navin N. Thakkar	TKKR-001

CONFIRMATION NO. 5788

26392
LAW FIRM OF NAREN THAPPETA
C/O LANDON IP, INC.
1725 Jamieson Avenue
ALEXANDRIA, VA 22314

POWER OF ATTORNEY NOTICE

OC000000043701938

Date Mailed: 09/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/16/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,893	10/12/2006	Charles Marvin Berteau	139381USPCT	6098

24587 7590 01/07/2011

Docket Administrator - Room 3D-201
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974-0636

EXAMINER	
SIVJI, NIZAR N	
ART UNIT	**PAPER NUMBER**
2617	
MAIL DATE	**DELIVERY MODE**
01/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Docket Administrator - Room 3D-201
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill NJ 07974-0636

Applicant: Berteau et al.
Appl. No.: 10/599,893
Filing Date: October 12, 2006
Title: RESTRICTIVE AND PREFERENTIAL ROUTING IN A DISTRIBUTED MOBILE SWITCHING CENTER ENVIRONMENT WITH MEDIA GATEWAY CLUSTERS
Attorney Docket No.: 139381USPCT
Pub. No.: US 2007/0212530 A1
Pub. Date: September 13, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 22, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 01/07/2011 KKING1
12/23/2010 INTEFSW 00006107 10599893
01 FC:1504 -300.00 OP

Refund Ref:
01/07/2011 0030092448

Credit Card Refund Total: $300.00

VISA....: XXXXXXXXXXX7184

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MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Patent No. 7,456,219	: DECISION ON REQUEST FOR
Miller et al.	: RECONSIDERATION OF
Issue Date: November 25, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/600,132	: AND NOTICE OF INTENT TO ISSUE
Filed: June 19, 2003	: CERTIFICATE OF CORRECTION
Attorney Docket No. 24852-501 CIP	:

This is a decision on the renewed petition filed on May 27, 2010,[1] which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred sixty-eight (1468) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**. The term of the above-identified patent is extended or adjusted by **one thousand four hundred sixty-eight (1468) days**.

Patentee asserts that the period of reduction of 21 days under 37 CFR 1.704(c)(10) for the filing of the IDS on September 18, 2008, is not warranted and should be removed.

It is undisputed that patentee filed an IDS on September 18, 2008, after the mailing of the notice of allowance. However, after further review, the Office concludes that the language in the statement accompanying the IDS on September 18, 2008, meets

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed May 4, 2010.

the requirements of 37 CFR 1.704(d).[2] Thus, the period of reduction of 21 days will be removed.

Accordingly, the patent term adjustment is 1468 days (821 days of A delay + 890 days of B delay - 169 days of overlap - 74 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred sixty-eight (1468) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[2] The removal of the 21-day period of reduction is not based on patentee's submission of the statement under 37 CFR 1.704(d) in the present renewed petition.

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,456,219 B2

DATED : Nov. 25, 2008

INVENTOR(S) : Miller et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1447 days

Delete the phrase "by 1447 days" and insert – by 1468 days--

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Commissioner for Patents
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KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application :
Fumitoshi Asai et al. :
Application No. 10/600,266 : DECISION ON APPLICATION
Filed: June 20, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **17620-105003** :

This is in response to the PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F,R § 1.705(b) filed November 19, 2010. Applicant requests that the determination of patent term adjustment be corrected from 285 days to 325 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is being considered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On August 20, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 285 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 404 days for Office delay. Applicants argue however that in response to a Final Office Action mailed on March 6, 2006, they filed an amendment on May 6, 2006 and further, in response to an Advisory Action mailed May 26, 2006, filed a Request for Continued Examination (RCE) along with a one month Request for Extension of Time. Applicants argue therefore that the papers submitted on May 6, 2006 fulfilled the requirements for a reply to an action by the USPTO under Rule 1.704(b) within the requisite three-month period and thus, does not incur any Applicant delay. Further, Applicants argue that a second three-month period for Applicants to submit a reply was triggered by the Advisory Action dated May 26, 2006, which expired after the RCE was filed.

At the outset, a response that receives an advisory action after final is not treated as a response with an omission. Rather, the time period under 37 CFR 1.704(b) continues to run until a sufficient response, such as the RCE in this matter, is filed. Furthermore, a second period for reply is not triggered by the mailing of the advisory action as the

[1] PALM records indicate that the issue fee was paid on November 19, 2010.

advisory action mailed May 26, 2006 explicitly states that the period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

In this instance, as the amendment filed May 6, 2006 was not sufficient, the period for reply to the final rejection continued to run. The proper reply, the RCE, was not received in the Office until July 6, 2006. Thus, pursuant to § 1.704(b), the patent term adjustment has been properly reduced by 30 days for applicant delay from June 6, 2006 to July 6, 2006, the date of filing of the RCE.

The Office and acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TECHLAW LLP
10755 SCRIPPS POWAY PARKWAY, SUITE 465
SAN DIEGO CA 92131

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,214,489 :
Issued: May 8, 2007 :
Application No. 10/600,286 : ON PETITION
Filed: June 20, 2003 :
Attorney Docket No: **2002-451-2** :

This is a decision regarding the request for acceptance of a fee deficiency submission and loss of small entity status filed October 11, 2011 under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

The fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 42P16523	Patent Number: 7,668,098
Filing Date (or 371(b) or (f) Date): 06-19-2003	Issue Date: 02-23-2010
First Named Inventor: Kevin J. Murphy	
Title: METHOD AND APPARATUS FOR IMPROVING THE UPSTREAM DATA TRANSFER RATE FOR A CABLE MODEM	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Molly A McCall/	Date July 8, 2010
Name (Print/Typed) Molly A McCall	Registration Number 46,126

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
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Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 09/13/2010

Applicant	: Kevin J. Murphy	: DECISION ON REQUEST FOR
Patent Number	: 7668098	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/600,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CONLEY ROSE, P.C.
David A. Rose
PO BOX 3267
HOUSTON TX 77253-3267

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/600991 : DECISION ON PETITION
Filing or 371(c) Date: 06/19/2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1391-20308 :

This is a decision on the "Petition Under 37 C.F.R. 1.78(a)(3)," filed April 20, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed Amendment. The petition is properly treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference prior-filed applications PCT/US01/49193, 60/256679 and 60/299002. An incorporation

by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Director for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232.

Christopher Bottorff
Supervisor
Office of Petitions

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David A. Rose
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AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/600991 : DECISION ON PETITION
Filing or 371(c) Date: 06/19/2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 1391-20308 :

This is a decision on the "Renewed Petition Under 37 C.F.R. 1.78(a)(3)," filed August 6, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed Amendment. The petition is properly treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2129 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Christopher Bottorff
Supervisor
Office of Petitions

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/600,991	06/19/2003	2129	1222	1391-20308	25	6

CONFIRMATION NO. 7123

CORRECTED FILING RECEIPT

46133
CONLEY ROSE, P.C.
David A. Rose
PO BOX 3267
HOUSTON, TX 77253-3267

OC00000042955777

Date Mailed: 08/09/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Dingding Chen, Plano, TX;
Luis E. San Martin, Houston, TX;
Gulamabbas A. Merchant, Houston, TX;
Robert W. Strickland, Austin, TX;
Martin T. Hagan, Stillwater, OK;

Power of Attorney: The patent practitioners associated with Customer Number 46133

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US01/49193 12/19/2001
which claims benefit of 60/256,679 12/19/2000
and claims benefit of 60/299,002 06/18/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/600,991**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PROCESSING WELL LOGGING DATA WITH NEURAL NETWORK

Preliminary Class

706

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
Carl et al.	:	
Application No. 10/601,014	:	DECISION ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 49386 CON (71995)	:	

This is a decision on the petition, filed March 18, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the final Office action mailed August 17, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed March 15, 2011.

Petitioner asserts that a proper reply was timely filed on February 17, 2011, which included the following papers: a three (3) month extension of time and fee of $555, a Notice of Appeal and fee of $270 and an Amendment in response to the final Office action dated August 17, 2010.

A review of the file record does in fact indicate that a three month extension of time, a Notice of Appeal and an Amendment in response to the final Office was timely received by the Office on February 17, 2011, therefore rendering the reply proper.

In view of the above, the holding of abandonment for failure to timely file a proper reply to the Office action of August 17, 2010, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3733 for appropriate action in the normal course of business on the reply filed February 17, 2011 and supplemented on March 18, 2011.

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Patent No: 7,313,264 :
Issued: December 25, 2007 :
Application No. 10/601,043 : NOTICE
Filed: June 20, 2003 :
Attorney Docket No. DCBP119831 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 28, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, that part of the petition that is directed to the deficiency payment is not signed by the proper party. Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: GILL LENNON
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,313,264 :
Issued: December 25, 2007 :
Application No. 10/601,043 : ON PETITION
Filed: June 20, 2003 :
Attorney Docket No. DCBP119831 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 2, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/20/12

TO SPE OF : ART UNIT 2443

SUBJECT : Request for Certificate of Correction for Appl. No.: 10601237 Patent No.: 8131880

CofC mailroom date: 03/14/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: Should the changes to claim 52 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The requested changes to claim 52, specifically, column 95, line 57, the last word in the sentence, "the" to be deleted, is approved.

/Tonia L. M. Dollinger/ 2443

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/20/12

TO SPE OF : ART UNIT 2443

SUBJECT : Request for Certificate of Correction for Appl. No.: 10601237 Patent No.: 8131880

CofC mailroom date: 03/14/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 52 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The requested changes to claim 52, specifically, column 95, line 57, the last word in the sentence, "the" to be deleted, is approved.

/Tonia L. M. Dollinger/ — 2443

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7103351
Issue Date: September 5,2006
Application No. 10601397
Filed: June 23,2003
Attorney Docket No. JUL-002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 6,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7103351	2006-09-05	10601397	2003-06-23	Jul-002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William L. Botjer/	Date (YYYY-MM-DD)	2011-01-06
Name	William L. Botjer	Registration Number	27990

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 25 2011

OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Patent No. 7,253,182 :
Issued: August 7, 2007 :
Application No.: 10/601,542 : NOTICE
Filed: June 23, 2003 :
Attorney Docket No: **WEB-7765 D** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jackson Walker, LLP
112 E. Pecan
Suite 2400
San Antonio, TX 78205

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of :
Morris Samelson, et. al. :
Application No. 10/601,796 : ON PETITION
Filed: June 23, 2003 :
Attorney Docket No. P-5435(div1) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a timely response to the final Office action mailed November 9, 2007. A Notice of Abandonment was mailed on May 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is granted.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/118,299.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HONIGMAN MILLER SCHWARTZ & COHN LLP
38500 WOODWARD AVENUE
SUITE 100
BLOOMFIELD HILLS MI 48304-5048

MAILED

MAY 24 2011

OFFICE OF PETITIONS

In re Application of :
Deng et al. :
Application No. 10/601,828 : DECISION ON PETITION
Filed: June 23, 2003 :
Attorney Docket No. 216683-114025 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, September 14, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on March 15, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3724 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTELLECTUAL PROPERTY DIVISION
TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.
NO. 8, LI-HSIN RD. 6
SCIENCE-BASED INDUSTRIAL PARK
HSIN-CHU 300-7-7 TW TAIWAN

MAILED

NOV 2 1 2011

OFFICE OF PETITIONS

Patent No. 6,960,512
Application No. 10/602,241
Filed: June 24, 2003
Issued: November 1, 2005
Attorney Docket No. TSM02-1262

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 31, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks none of the items listed above.

However, it appears that the instant petition is on the behalf of the assignee, and as such, does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) statement is enclosed.

Further, although the petition form submitted was for a petition under 37 CFR 1.378(b), to accept payment of the maintenance fee based on UNAVOIDABLE delay, petitioner submitted the

$1640.00 UNINTENTIONAL delay surcharge. The petition has been treated as a petition under 37 CFR 1.378(c) to accept an unintentionally delayed payment of maintenance fee. If this is in error, please notify the Office to treat the petition under 37 CFR 1.378(b) to accept an unavoidably delayed payment of maintenance fee.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on October 31, 2011. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____

Signature Date

_____ _____

Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY DIVISION
TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.
NO. 8, LI-HSIN RD. 6
SCIENCE-BASED INDUSTRIAL PARK
HSIN-CHU 300-7-7 TW TAIWAN

MAILED
FEB 13 2012
OFFICE OF PETITIONS

Patent No. 6,960,512	:	
Application No. 10/602,241	:	
Filed: June 24, 2003	:	ON PETITION
Issued: November 1, 2005	:	
Attorney Docket No. TSM02-1262	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 20, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued November 1, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was November 1, 2009. Therefore, since the original petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

According to USPTO financial records, petitioner's credit card was charged $2770.00 twice on October 31, 2011. Accordingly, $2770.00 will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Leonard N. Schiff :
Application No. 10/602,355 : DECISION ON PETITION
Filed: June 23, 2003 :
Attorney Docket No. :
010129U1/QUALP854USA

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 5, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 6, 2006. A Notice of Abandonment was mailed November 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,500.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Additionally, petitioner's deposit account has been charged the required petition fee of $1,500.00 as authorized February 2, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David J. Huffaker
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAYER BROWN, LLP
PO BOX 2828
CHICAGO, IL 60690

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of
Dai Sung Moon
Application No. 10/602,722
Filed: June 25, 2003
Attorney Docket No. P68940US0

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAYER BROWN, LLP
PO BOX 2828
CHICAGO, IL 60690

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AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of
Dai Sung Moon
Application No. 10/602,741
Filed: June 25, 2003
Attorney Docket No. 123029-05004537

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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ROBERT D SHEDD PATENT OPERATIONS
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 10/602,754 : ON PETITION
Filed: June 24, 2003 :
Attorney Docket No. PU030107 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely seek judicial review of the decision by the Board of Patent Appeals and Interferences, mailed January 10, 2011. Pursuant to 37 CFR 1.304, applicants had two months to judicial review. No review having been sought, the application became abandoned on March 11, 2011. The Office mailed a Notice of Abandonment on March 25, 2011.

With the instant petition, petitioner made the proper statement of unintentional delay and submitted the required reply in the form of an RCE (together with an Amendment).

The application is being forwarded to Group Art Unit 2439 for consideration of the RCE, filed May 9, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,310,356	2007-12-18	10/603,038	2003-06-24	061607-1730

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric M. Dowling/	Date (YYYY-MM-DD)	2012-02-13
Name	Eric M. Dowling	Registration Number	44094

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7310356
Issue Date: December 18,2007
Application No. 10603038
Filed: June 24,2003
Attorney Docket No. 061607-1730

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 13,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 13,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Patent No. 6,989,997	:	
Issued: 01/24/2006	:	
Application No. 10/603,097	:	NOTICE
Filed: 06/25/2003	:	
Attorney Docket No. 01640408AA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 15, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ABBYY SOFTWARE LTD.
8, BUTIRSKAYA
P.O. BOX #72
MOSCOW 12701-5 RU RUSSIAN FEDERATION

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of :
ZUEV, et al :
Application No. 10/603,216 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. ABBYY-U09 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed February 16, 2007, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1): A review of the Office record shows that the reply to the Office action dated February 16, 2007, is improper. In this regard, petitioner should review the non-final Office action mailed February 16, 2007, and submit a reply accordingly. Any questions concerning the Office action should be directed to the Examiner at (571) 272-7445. Since the

reply filed October 7, 2007 is improper, it does not meet the requirements as set forth in 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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8, BUTIRSKAYA
P.O. BOX #72
MOSCOW 12701-5 RU RUSSIAN FEDERATION

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OFFICE OF PETITIONS

In re Application of :
ZUEV, et al :
Application No. 10/603,216 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. ABBYY-U09 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed February 16, 2007, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

With respect to item (1): A review of the Office record shows that the reply to the Office action dated February 16, 2007, is improper. In this regard, petitioner should review the non-final Office action mailed February 16, 2007, and submit a reply accordingly. Any questions concerning the Office action should be directed to the Examiner at (571) 272-7445. Since the reply filed October 7, 2007 is improper, it does not meet the requirements as set forth in 37 CFR 1.137(b).

With respect to item (3): The petition contains a statement of unintentional delay signed by an assignee of the entire interest, however, the assignee has not been properly made of record under 37 CFR 3.71 which states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

37 CFR 3.73(b) states:

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

Accordingly, since the petition was not accompanied by the reel and frame or a copy of the assignment document, the statement under 37 CFR 3.73(b) is incomplete and cannot be accepted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:

Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ABBYY SOFTWARE LTD.
P.O. BOX 16146
NICOSIA CY 20-86 CY CYPRUS

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
ZUEV, et al :
Application No. 10/603,216 : ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. ABBYY-U09 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply to the non-final Office action, mailed February 16, 2007, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a statement of unintentional delay.

The Office acknowledges the one (1) extension of time filed with the renewed petition on April 28, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 10, 2010

TO SPE OF : ART UNIT 1652 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/603,282 Patent No.: 7,604,970 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change to be made at claim 2 be approved?
See COCIN dated 07-20-2010

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
✓ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: In column 33, lines 47-51, Applicants delete the language of claim 2, but do not state what claim language is being replaced with (see Examiner's amendment). (not approved).

Corrections for column 4, 9, 19, 23, 24 and 26 are OK (approved) __

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

1652

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 27 2010

OFFICE OF PETITIONS

GREGORY L. KOELLER
955 ST. CLAIR AVE.
ST. PAUL MN 55105

In re Patent No. 6,893,072 :
Issue Date: May 17, 2005 :
Application No. 10/603,299 : DECISION ON PETITION
Filed: June 25, 2003 :
Attorney Docket No. **TLD 638** :

This is a decision on the petition under 37 CFR 1.378(c), filed April 22, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on May 17, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JOMOKO GRAVES**
#A419-614
P.O. BOX 4501
LIMA OH 45802

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

WORKMAN NYDEGGER / FINISAR
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Patent No. 7206363 :
Issue Date: 04/17/2007 :
Application Number: 10/603388 :
Filing or 371(c) Date: 06/24/2003 :
Attorney Docket Number: 15436.1247.1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on November 9, 2010.

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas Wood
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,897,517B2
Ser. No. : 10/603,426
Inventor(s) : Van Houdt et al.
Issued : May 24, 2005
Title : MULTIBIT NON-VOLATILE MEMORY AND METHOD
Docket No. : IMEC279.001AUS
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,897,517 :
Issue Date: 24 May, 2005 :
Application No. 10/603,426 : ON PETITION
Filed: 24 June, 2003 :
Attorney Docket No. IMEC279.001AUS :

This is a decision on the petition filed on 26 July, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

NOTE:

Petitioner avers recordation of assignment in the instant application (Application No. 10/603,426, issued as Patent No. 6,897,517 on 24 May, 2005), however, the recordation(s) of what Petitioner referred to as "a confirmatory assignment" of what Petitioner termed "a clerical error in the [original] assignment" was not recorded until 9 May, 2011.

The petition is **DISMISSED**.

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

The regulations at 37 C.F.R. §3.81 that set forth the applicable procedure:

> **§ 3.81 Issue of patent to assignee.**
>
> ***
>
> (b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to §3.28, or a statement under §3.73(b).
> (c) *Partial assignees.*
>
> ***
>
> (2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

The commentary at MPEP §1481.01 provides that:

> ***
>
> 1481.01 Correction of Assignees' Names [R-3]
>
> ***
>
> Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee *** must:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
> (B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
> (C) include the processing fee set forth in 37 C.F.R. §1.17(i).
> See 37 C.F.R. §3.81(b).

Petitioner has submitted a form for correction, but appears that Petitioner has not satisfied the requirement that the recordation predate issue.

Patent No. 6,897,517
Application No. 10/603,426

CONCLUSION

Accordingly, the petition is **dismissed**.

The file is released to IFW Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN DESLIERRES
1351 E. CHAPMAN AVE., #D
FULLERTON CA 92831

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 6,939,319 :
Issued: September 6, 2005 :
Application No. 10/603,496 : ON PETITION
Filed: June 25, 2003 :
Title: Process And Device For Single Use, Needle-Free Intradermal, Subcutaneous, Or Intramuscular Injections :

This is a decision on the petition under 37 CFR 1.378(c), filed May 2, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 7, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that petitioner's request for Change of Correspondence Address submitted May 9, 2011 was not accepted since only one of the three inventors submitted the request. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. Further, petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

Further, with respect to petitioner's questions (1) and (4) the U.S. Patent and Trademark Office (USPTO) administers the patent and trademark laws as they relate to the granting of patents for utility inventions, designs and plants and the issuing of trademark registrations. The USPTO examines applications for patents to determine if the applicants

are entitled to patents and grants the patents when they are so entitled. However, the USPTO has no jurisdiction over matters relating to the promotion or utilization of patents or inventions, other than providing a public forum for complaints against invention promoters/promotion firms. The USPTO cannot act for or advise inventors concerning the business transactions or arrangements that are involved in the development and marketing of an invention, nor can it give legal advice in such matters. You may wish to contact an attorney who specializes in such business matters for legal advice with respect to your concerns. The USPTO cannot aid in the selection of a registered attorney or agent. A listing of registered practitioners is available on the USPTO web site: www.uspto.gov.

With respect to petitioner's question (2), a provisional application provides a mechanism to enable domestic applicants to claim the benefit of priority in a given application in the United States, thus placing domestic applicants on equal footing with foreign applicants with respect to patent term. Provisional applications are not examined for patentability. Accordingly, there are no "provisional patents". See MPEP 201.04(b).

With respect to petitioner's question (3), see above explanation of improper Change of Correspondence submission filed May 9, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Conrad Anstead
31460 El Camino Real
San Juan Capistrano, CA 92675

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YECHEZKAL EVAN SPERO
74 MOSHAV TIFRACH
M. P. HANEGEV 85102
ISRAEL

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
Spero :
Application No. 10/604,360 : ON PETITION
Filed: July 14, 2003 :
Attorney Docket No. N/A :
For: MULTIPLE LIGHT-SOURCE
ILLUMINATING SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed April 17, 2009, which set an extendable three month period for reply. Applicant submitted an amendment after final on July 17, 2009 and supplemented it on July 20, 2009. The amendment after was non-compliant, as was explained in the August 4, 2009 Notice of Non-Compliant Amendment. On August 28, 2009, applicant filed another amendment after final. The August 28, 2009 amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 6, 2009 Advisory action. Accordingly, this application became abandoned on July 18, 2009. A Notice of Abandonment was mailed on January 28, 2010.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $810.00.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

In addition, the petition is incomplete. The second page of the petition is missing. Please re-submit the full petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YECHEZKAL EVAN SPERO
74 MOSHAV TIFRACH
M. P. HANEGEV 85102
ISRAEL

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of :
Spero :
Application No. 10/604,360 : ON PETITION
Filed: July 14, 2003 :
Attorney Docket No. N/A :
For: MULTIPLE LIGHT-SOURCE
ILLUMINATING SYSTEM

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 18, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed April 17, 2009, which set an extendable three month period for reply. Applicant submitted an amendment after final on July 17, 2009 and supplemented it on July 20, 2009. The amendment after was non-compliant, as was explained in the August 4, 2009 Notice of Non-Compliant Amendment. On August 28, 2009, applicant filed another amendment after final. The August 28, 2009 amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 6, 2009 Advisory action. Fee payments of $245.00 and $405.00 were received on September 3, 2009. However, no RCE transmittal was filed on September 3, 2009. Accordingly, this application became abandoned on July 18, 2009. A Notice of Abandonment was mailed on January 28, 2010.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

This petition lacks (1) above.

The Office has no record of receiving a Request for Continued Examination (RCE). A review of financial records shows the Office received authorization to charge a $245.00 two month extension of time and a $405.00 RCE fee on September 3, 2009. However, no document requesting continued examination appears to have been filed.

Please find enclosed a blank Request for Continued Examination (RCE) Transmittal. Please complete the form and return it with a renewed petition under 37 CFR 1.137(b). It is noted the RCE fee has already been paid and a submission has already been filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: blank Request for Continued Examination (RCE) Transmittal

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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YECHEZKAL EVAN SPERO
74 MOSHAV TIFRACH
M. P. HANEGEV 85102
ISRAEL

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
Spero :
Application No. 10/604,360 : ON PETITION
Filed: July 14, 2003 :
Attorney Docket No. N/A :
For: MULTIPLE LIGHT-SOURCE
ILLUMINATING SYSTEM

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 22, 2011, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly reply to the final Office action, mailed April 17, 2009, which set an extendable three month period for reply. Applicant submitted an amendment after final on July 17, 2009 and supplemented it on July 20, 2009. The amendment after was non-compliant, as was explained in the August 4, 2009 Notice of Non-Compliant Amendment. On August 28, 2009, applicant filed another amendment after final. The August 28, 2009 amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 6, 2009 Advisory action. Fee payments of $245.00 and $405.00 were received on September 3, 2009. However, no RCE transmittal was filed on September 3, 2009. Accordingly, this application became abandoned on July 18, 2009. A Notice of Abandonment was mailed on January 28, 2010.

Applicant has submitted a RCE and required $405.00 fee and amendment in reply to the April 17, 2009 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 17, 2009 final Office action, and the $810.00 petition fee. All requirements under 37 CFR 1.137(b0 being met, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2875 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously submitted amendment, filed July 17, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church VA 22040-0747

MAILED

NOV 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Shawn W. Smith	:	
Application No. 10/604452	:	DECISION ON REQUEST
Filing or 371(c) Date: 07/22/2003	:	FOR RECONSIDERATION OF
Attorney Docket Number: 6107-0185PUS1	:	PATENT TERM ADJUSTMENT

This is a decision on the petition filed on November 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred two (802) days. Applicant requests this correction based upon an assertion that (1) the Office erred in calculating a reduction of 1157 days; (2) the Office erred in failing to calculate a reduction of 90 days; (3) the Office erred in failing to calculate an adjustment pursuant to 37 CFR 1.702(a)(1) of 1281 days, and (4) the Office erred in failing to calculate an adjustment of 38 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred two (802) days is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight hundred two (802) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 11, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is seven hundred thirty (730) days.

On November 7, 2011, applicant timely submitted the present application for patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate a reduction of three (3) days pursuant to 37 CFR 1.704(b).

Applicant's arguments have been carefully considered. As to applicants assertions that the Office erred in calculating a reduction of 1157 days, and the Office erred in failing to calculate an adjustment pursuant to 37 CFR 1.702(a)(1) of 1281 days, a review of Office records confirms that

[1] Office records show that the Issue Fee payment was received in the Office on November 10, 2011.

the application was filed on July 22, 2003. The Office mailed a non-final Office action on March 26, 2008. Office records reveal further that the Office calculated an adjustment an adjustment of 1157 days pursuant to 37 CFR 1.702(a)(1). However, the correct adjustment, beginning on the day after the date that is fourteen months after the date on which the application was filed, September 23, 2004, and ending on the date of mailing of the Office action, March 26, 2008, is 1281 days.

As to the assertion that the Office erred in failing to calculate a reduction of 90 days, a review of Office records reveals that in reply to the Office action mailed March 26, 2008, applicant filed an Amendment on September 24, 2008, and a reduction of 90 days pursuant to 37 CFR 1.704(b), beginning on the day after the date that is three months after the date of mailing of the Office action, June 27, 2008, and ending on the date the reply was filed, September 24, 2008 is appropriate.

Finally, as to the assertion that the Office erred in failing to calculate an adjustment of 38 days, Office records confirm that in response to applicant's reply filed September 24, 2008, the Office mailed a non-final Office action on March 3, 2009. Pursuant to 37 CFR 1.702(a)(2), a reduction of 38 days, beginning on the day after the date that is four months after the date the reply was filed, January 25, 2009, and ending on the date of mailing of the non-final Office action, March 3, 2009, is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is eight hundred two (802) days, subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

PTA/PTE Information

Application Number*: 10604452 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10604452

Application Filing Date	07/22/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1157
A Delays	1157	PTO Manual Adjustment	72
B Delays	0	Applicant Delay (APPL)	427
C Delays	0	Total PTA (days)	802

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
100	11/16/2011		P028	Adjustment of PTA Calculation by PTO	72		0
80	08/11/2011		MN/=.	Mail Notice of Allowance			0
79	08/09/2011		OAR	Office Action Review			0
78	08/09/2011		IREV	Issue Revision Completed			0
74	07/28/2011		OAR	Office Action Review			0
73	07/28/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
72	07/28/2011		N/=.	Notice of Allowance Data Verification Completed			0
71	07/28/2011		DVER	Document Verification			0
70	07/26/2011		CNTA	Allowability Notice			0
69	06/23/2011		FWDX	Date Forwarded to Examiner			0
66	06/21/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
65	06/20/2011		C.AD	Correspondence Address Change			0
68	06/10/2011	03/10/2011	A...	Response after Non-Final Action		92	64
67	06/10/2011		XT/G	Request for Extension of Time - Granted			0
64	12/10/2010		MCTNF	Mail Non-Final Rejection			0
63	12/06/2010		CTNF	Non-Final Rejection			0
62	10/04/2010		FWDX	Date Forwarded to Examiner			0
60	10/04/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
61	09/24/2010		A...	Response after Non-Final Action			0
59	09/23/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
58	07/06/2010		MCTNF	Mail Non-Final Rejection			0
57	07/02/2010		CTNF	Non-Final Rejection			0
56	05/21/2010		FWDX	Date Forwarded to Examiner			0
52	05/14/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
55	05/04/2010	08/03/2009	A...	Response after Non-Final Action		274	48
54	05/04/2010		XT/G	Request for Extension of Time - Granted			0
51	04/29/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
50	03/05/2010		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
49	02/01/2010		FWDX	Date Forwarded to Examiner			0
48.1	08/03/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
48	08/03/2009	06/03/2009	A...	Response after Non-Final Action		61	46
47	08/03/2009		XT/G	Request for Extension of Time - Granted			0
46	03/03/2009		MCTNF	Mail Non-Final Rejection			0
45	03/02/2009		CTNF	Non-Final Rejection			0
44	02/20/2009		FWDX	Date Forwarded to Examiner			0
41	02/20/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
40	02/20/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
39	02/05/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
38	02/02/2009		C.AD	Correspondence Address Change			0
35	10/02/2008		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
34	09/30/2008		ABN2	Aband. for Failure to Respond to O. A.			0
37	09/24/2008		A.PE	Preliminary Amendment			0
32	03/26/2008	01/24/2005	MCTNF	Mail Non-Final Rejection	1157		43
31	03/25/2008		CTNF	Non-Final Rejection			0
33	03/17/2008		A.PE	Preliminary Amendment			0
28	06/24/2007		DOCK	Case Docketed to Examiner in GAU			0
27	06/19/2007		DOCK	Case Docketed to Examiner in GAU			0
26	01/18/2007		DOCK	Case Docketed to Examiner in GAU			0
25	10/17/2006		DOCK	Case Docketed to Examiner in GAU			0
24	10/10/2006		DOCK	Case Docketed to Examiner in GAU			0
23	10/10/2006		DOCK	Case Docketed to Examiner in GAU			0
22	10/05/2006		DOCK	Case Docketed to Examiner in GAU			0
21	03/21/2006		DOCK	Case Docketed to Examiner in GAU			0
20	12/02/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0

43	09/24/2004	A...	Response after Non-Final Action	0
42	09/24/2004	XT/G	Request for Extension of Time - Granted	0
18	07/09/2004	DOCK	Case Docketed to Examiner in GAU	0
17	05/20/2004	TI1050	Transfer Inquiry to GAU	0
16	05/17/2004	TI1050	Transfer Inquiry to GAU	0
15.7	09/22/2003	M844	Information Disclosure Statement (IDS) Filed	0
15	09/22/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
13	09/12/2003	WROIPE	Application Return from OIPE	0
12	09/12/2003	ROIPE	Application Return TO OIPE	0
11	09/12/2003	WROIPE	Application Return from OIPE	0
10	09/12/2003	ROIPE	Application Return TO OIPE	0
9	09/12/2003	WROIPE	Application Return from OIPE	0
8	09/12/2003	ROIPE	Application Return TO OIPE	0
7	09/12/2003	OIPE	Application Dispatched from OIPE	0
6	09/12/2003	COMP	Application Is Now Complete	0
5	08/13/2003	CLSS	CASE CLASSIFIED BY OIPE	0
4	08/13/2003	L194	Cleared by OIPE CSR	0
3	08/07/2003	SCAN	IFW Scan & PACR Auto Security Review	0
30	07/22/2003	IDSC	Information Disclosure Statement considered	0
19.7	07/22/2003	EIDS.	Electronic Information Disclosure Statement	0
19	07/22/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
14	07/22/2003	NPRQ	PGPubs nonPub Request	0
2	07/22/2003	SCAN	IFW Scan & PACR Auto Security Review	0
1	07/22/2003	IEXX	Initial Exam Team nn	0
0.5	07/22/2003	EFILE	Filing date	0

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MATTINGLY, STANGER & MALUR, PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Patent No. 7,188,138
Issue Date: March 3, 2007
Application No. 10/604,626
Filed: August 5, 2003
Attorney Docket No. 93766

: DECISION ON PETITION
: UNDER 37 CFR 1.323 and 37 CFR 1.322
: AND REQUEST FOR
: CERTIFICATE OF CORRECTION
:

This is a decision on the renewed request, filed March 26, 2010, filed under 37 CFR 1.323 and 37 CFR 1.322, to correct the patent by way of certificate of correction.

The petition under 37 CFR 1.323 and 37 CFR 1.322 is **DISMISSED**.

Petitioner argues that application serial number 09/683,481 became abandoned on October 1, 2003; however, the date of abandonment for the application is May 4, 2003 (*i.e.*, three months from the mailing date of the final Office action) not the mailing date of the Notice of Abandonment. Accordingly, no copendency exists between the instant application and application serial number 09/683,481. Petitioner may wish to file a petition to revive application serial number 09/683,481 for purposes of copendency should they desire to do so.

Petitioner further argues that a petition under 37 CFR 1.78 is not necessary as the error in failing to list the continuity data is an Office error. Specifically, petitioner argues that the continuing data was placed in an Application Data Sheet (ADS) and the Office failed to recognize the benefit claim therein.

37 CFR 1.76 states:

> (a)Application data sheet. An application data sheet is a sheet or sheets, that may be voluntarily submitted in either provisional or nonprovisional applications, which contains bibliographic data, arranged in a format specified by the Office. **An application data sheet must be titled "Application Data Sheet" and must contain all of the section headings listed in paragraph (b) of this section, with any appropriate data for each section heading.** If an application data sheet is provided, the application data sheet is part of the provisional or nonprovisional application for which it has been submitted.

(b)Bibliographic data. Bibliographic data as used in paragraph (a) of this section includes:
(1)Applicant information. This information includes the name, residence, mailing address, and citizenship of each applicant (§ 1.41(b)). The name of each applicant must include the family name, and at least one given name without abbreviation together with any other given name or initial. If the applicant is not an inventor, this information also includes the applicant's authority (§§ 1.42, 1.43, and 1.47) to apply for the patent on behalf of the inventor.
(2)Correspondence information. This information includes the correspondence address, which may be indicated by reference to a customer number, to which correspondence is to be directed (see § 1.33(a)).
(3)Application information. This information includes the title of the invention, a suggested classification, by class and subclass, the Technology Center to which the subject matter of the invention is assigned, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (e.g., utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a secrecy order pursuant to § 5.2 of this chapter (see § 5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination. The suggested classification and Technology Center information should be supplied for provisional applications whether or not claims are present. If claims are not present in a provisional application, the suggested classification and Technology Center should be based upon the disclosure.
(4)Representative information. This information includes the registration number of each practitioner having a power of attorney in the application (preferably by reference to a customer number). Providing this information in the application data sheet does not constitute a power of attorney in the application (see §1.32).
(5)Domestic priority information. This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application
for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(5), and need not otherwise be made part of the specification.
(6)Foreign priority information. This information includes the application number, country, and filing date of each foreign application for which priority is claimed, as well as any foreign application having a filing date before that of the application for which priority is claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and § 1.55(a).
(7)Assignee information. This information includes the name (either person or juristic entity) and address of the assignee of the entire right, title, and interest in an application. Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of this chapter to have an assignment recorded by the Office. **[Emphasis Added]**

A thorough review of the record indicates that: (1) the first sentence of the application included a benefit claim; and (2) a paper entitled Application Data Sheet was filed on August 5, 2003. Unfortunately, the benefit claim only set forth a proper relationship between the instant application and application serial number 09/683,481, and no copendency exists between the two applications. See MPEP 2011.11. Additionally, the ADS does not include all of the section headings listed in 37 CFR 1.76(b). See MPEP 601.05. Therefore, the ADS is not a proper ADS and the information therein was not incorporated.

In view of the above, a proper petition under 37 CFR 1.78 is required to correct the benefit claim(s) in the instant application.

With respect to the request for refund of the petition fee of $1410, the Office never charged the above mentioned fee to petitioner's deposit account, so the refund request is dismissed as moot.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/28/10

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction for Appl. No.: 10604626 Patent No.: 7188138

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-27[illegible]9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2457
Art Unit

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Patent No. 7,188,138
Issue Date: March 6, 2007
Application No. 10/604,626
Filed: August 5, 2003
Attorney Docket No. 93766

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the renewed petition, filed October 4, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to non-provisional as set forth by the amendment, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed August 5, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may

require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410 surcharge fee, will be charged to petitioner's Deposit Account No. 06-1135.

Any inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/604,626	08/05/2003	2157	450	93766	5	1

CONFIRMATION NO. 1625

CORRECTED FILING RECEIPT

22242
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

OC00000044741879

Date Mailed: 12/01/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Eric Schneider, University Heights, OH;

Power of Attorney: The patent practitioners associated with Customer Number 22242

Domestic Priority data as claimed by applicant

This application is a CON of 09/683,481 01/05/2002 ABN
which is a CIP of 09/682,351 08/23/2001 ABN
which is a CIP of 09/682,133 07/25/2001 PAT 7,194,552
and is a CIP of 09/653,100 08/31/2000 PAT 6,760,746
and is a CIP of 09/650,827 08/30/2000 PAT 6,901,436
and is a CIP of 09/598,134 06/21/2000 PAT 6,895,430
and is a CIP of 09/532,500 03/21/2000 PAT 7,136,932
and is a CIP of 09/525,350 03/15/2000 PAT 6,338,082
which claims benefit of 60/175,825 01/13/2000
and claims benefit of 60/160,125 10/18/1999
and claims benefit of 60/157,075 10/01/1999
and claims benefit of 60/143,859 07/15/1999
and claims benefit of 60/135,751 05/25/1999
and claims benefit of 60/130,136 04/20/1999
and claims benefit of 60/125,531 03/22/1999

Foreign Applications

If Required, Foreign Filing License Granted: 11/12/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/604,626**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

METHOD, PRODUCT, AND APPARATUS FOR RESOURCE IDENTIFIER REGISTRATION AND AFTERMARKET SERVICES

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON, DC 20007

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Michael G. Siefe et al :
Application No. 10/604,752 : ON PETITION
Filed: August 14, 2003 :
Attorney Docket No. 205402042003 :

This is a decision on the petition, filed August 18, 2010 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The petition received August 18, 2010 was signed by one inventor, Don R. Kuhn. **Communications received at the USPTO must be signed by all of the inventors.** 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless

there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Don R. Kuhn
1616 Dickey St.
Fallbrook, CA 92028

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN, N.W.
SUITE C-2
WASHINGTON, DC 20007

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NOV 23 2010

OFFICE OF PETITIONS

In re Application of :
Michael G. Siefe et al :
Application No. 10/604,752 : ON PETITION
Filed: August 14, 2003 :
Attorney Docket No. 205402042003 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3696 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 7, 2011

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/604,788 Patent No.: 7898703

CofC mailroom date: 06-03-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: should the changes be accepted? RoChaun Johnson-Hardwick

Certificates of Correction Branch

571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The changes are appropriate.

C.Lee

/Mark Zimmerman/ 6/7/11

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7255114
Issue Date: August 14,2007
Application No. 10604793
Filed: August 18,2003
Attorney Docket No. 10573-US-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,255,114	2007-08-14	10/604,793	2003-08-18	LKSP0075USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2011-09-23
Name	Winston Hsu	Registration Number	41526

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
SHI et al. :
Application No. 10/604,816 : DECISION ON PETITION
Filed: 08/19/2003 :
Title: CABLE END CONNECTOR AND :
METHOD OF ASSEMBLING THE SAME :

This is a decision on the petition under 37 CFR 1.181, filed February 28, 2005, to withdraw the holding of abandonment.

This application was held abandoned for failure to respond timely to the final Office action mailed on May 20, 2004, which set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on December 29, 2004.

Petitioners aver that they filed a timely and proper reply to the final Office action on August 10, 2004.

Upon a review of the record, the Office has located the reply in the Image File Wrapper for this application. Accordingly, the response is considered timely filed on August 10, 2004.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a reply was filed timely.

The application is being referred to Technology Center Art Unit 2839 for a review of the reply filed on August 10, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 19 2012

OFFICE OF PETITIONS

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

In re Patent No. 6,929,843 :
Issued: August 16, 2005 : REQUEST FOR INFORMATION
Application No.: 10/605,028 :
Filing Date: September 2, 2003 :
Attorney Docket No. 51900-KUCHAR-001 :

This is a request for information in response to the petition under 37 CFR 1.378(b), filed February 2, 2012, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed February 3, 2012. No additional fees are due.

The patent issued August 16, 2005. The 3.5 year maintenance fee could have been paid August 16, 2008, through February 16, 2009, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from February 17, 2009, to August 16, 2009. Petitioner did not do so. Accordingly, the patent expired at midnight on August 16, 2009.

Petitioner is required to address the following points:

- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

  A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

  Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee

- Petitioner is cautioned that Maintenance Fee Reminders are sent as a courtesy. It is well established in case law that non-receipt of a Maintenance Fee Reminder is not a cause for unavoidable delay as the term is used in 37 CFR 1.378(b). Further, patentees are charged with constructive knowledge of all applicable rules as set forth in Title 37 of the Code of Federal Regulations. Accordingly, being unaware of an applicable rule as it relates to the maintenance fee schedule and payments or petitions to reinstate the patent once expires would normally not be considered a cause of unavoidable delay. Neither would being computer illiterate be considered a cause of unavoidable delay.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Edwards Neils PLLC
11710 Plaza America Drive, Suite 2000
Reston VA 20190

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Patent No. 7,227,688 :
Issue Date: June 5, 2007 :
Application No. 10/605,319 : ON PETITION
Filed: September 22, 2003 :
Attorney Docket No. :
12962.0008.DVUS01 :

This is in response to the PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 3.81(b) filed January 26, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. Receipt of the status inquiry filed August 3, 2011 is acknowledged. These communications were recently forwarded to the undersigned for consideration.

The request is **GRANTED**.

By decision mailed January 15, 2010, a prior REQUEST FOR A CERTIFICATE OF CORRECTION first filed July 5, 2007 and again filed November 4, 2008 was dismissed. The request included a Request for Certification of Correction Under 37 CFR 1.323 and the fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction and an authorization to charge any other required fees. However, no petition directed to the Office of Petitions accompanied either request.

On January 26, 2010, petitioner submitted their request directed to the Office of Petitions for decision. A review of the record reveals that "National Science Foundation," was named as the assignee on the form PTOL-85B. Petitioner requests that the

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

above-identified patent be corrected to name the assignee as "Arch Development Corporation" and requests that a Certificate of Correction be issued identifying this assignee. On January 26, 2010, Petitioner again submitted a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the parent case (U.S. Patent Application No. 09/495,064, Patent No. 6,624,940)(and thereby to any improvements and applications for patents based thereon) to "Arch Development Corporation" was recording in the Office on March 24, 2002 before issuance of the patent (Reel/Frame 012922/0484) on June 5, 2007. This was also prior to payment of the Issue Fee on April 27, 2007. This application is a division of application No. 09/495,064.

Receipt of the required $100 certificate of correction fee and the $130 processing fee received November 4, 2008. These fees were again charged to the Deposit Account on filing of this request. The overpayment of $230 is being refunded to Deposit Account No. 50-0951 as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,963,105	2005-11-08	10/605,419	2003-09-30	LKSP0020USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2011-11-03
Name	Winston Hsu	Registration Number	41526

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6963105
Issue Date: November 8,2005
Application No. 10605419
Filed: September 30,2003
Attorney Docket No. LKSP0020USA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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KENEHAN & LAMBERTSEN, LTD
JOHN C LAMBERTSEN
6900 WESTCLIFF DRIVE
SUITE 104
LAS VEGAS NV 89145-0195

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Patent No. 6,694,081 :
Issue Date: November 15, 2005 :
Application No. 10/605,740 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. MAGD.01P :

This is a decision on the petition under 37 CFR 1.378(c), filed October 13, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 15, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 07 2010

OFFICE OF PETITIONS

DARIO CHANG
4704 NW 114TH AVE UNIT 203
MIAMI FL 33178

In re Application of Dario Chang :
Application No. 10/605,894 : Decision on Petition
Filing Date: November 4, 2003 :
For: System and Method of Promote Website Using Cycle Hits and Hits History :

This is a decision on the petition filed May 5, 2010, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration *under 37 CFR 1.181* must be submitted within TWO (2) MONTHS from the mail date of this decision and should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time under 37 CFR 1.136(a) are NOT permitted.

The Address of Record

The petition requests the Office withdraw the holding of abandonment. The petition also requests the Office send future correspondence to the inventor at: "4704 NW 114 AVE unit 104 Doral FL 33178."

Since the petition is not signed, the request to change the address of record is improper and will not be entered. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

A copy of a form which may be used to change the address of record is attached. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Facts

The Office mailed a non-final Office action on March 2, 2009. The Office action stated, "The fax number for the organization where the application or processing is assigned is 571-273-8300." The Office action set a shortened statutory period for reply of three (3) months.

Neither a reply nor a payment for an extension of time was matched with the application. As a result, the Office mailed a notice of abandonment on November 13, 2009.

The inventor filed a letter via facsimile transmission on April 29, 2010. The first page of the letter states,

> To: Alvin L Brown
> To: Eric Tamber
> Pages: 5
>
> From: Dario Chang
> Ph: 305-600-2773
> Fax: 305-704-3887
> Email: zonalibrepanama@live.com

The second page of the April 29, 2010 letter indicates the inventor electronically checked USPTO records on April 29, 2010, and discovered the examiner had not received the inventor's "first fax response." The second page of the letter also states the response sent April 29, 2010, is the same as the first response previously "sen[t] to fax 571.273.8300." The copy of the response sent April 29, 2010, is merged with the letter to the examiner.

The inventor filed the instant petition on May 5, 2009. The petition is accompanied by a copy of a facsimile transmission report indicating six pages were transmitted by facsimile from Office Depot to "A I Brown - uspto" concerning the instant application on April 5, 2009. The sending unit's report states,

> To Fax: 703.872.9306
> 571.272.6724

Discussion

The Petition is Not Signed.

A petition must be signed in order to be granted. The instant petition is not signed. Therefore, the petition cannot be granted.

The Petition Does Not Include a Copy of the Response Petitioner Alleges Was Filed April 29, 2009.

Petitioner has not provided a copy of the response petitioner asserts was filed April 5, 2009. Although the inventor has indicated the "copy" of the April 5, 2009 correspondence filed April 29, 2010, is the same as the correspondence originally filed on April 5, 2009, the "copy" is clearly not an exact copy of the previous correspondence. For example, the first page of the "copy" includes language informing the examiner the paper is a copy of the first response. Since an exact copy of the alleged prior response has not been filed, the petition cannot be granted.

The Petition Does Not Prove a Reply was Filed April 9, 2009.

Evidence in the form of an allegation a paper was timely filed and a copy of a facsimile sending unit's report confirming transmission of a document is insufficient, without more, to establish a paper was timely filed with the Office.

The Office has promulgated a regulation, 37 CFR 1.8, which provides a procedure a party may use to ensure a paper is timely filed *and* to preserve adequate evidence of the filing of a paper when submitting a paper by facsimile transmission.

A party can establish a reply was timely filed by facsimile transmission and subsequently lost or misplaced by the Office by providing a showing under 37 CFR 1.8(b).

Although an allegation a paper was timely filed and a copy of a sending unit's report confirming transmission will not, without more, establish a paper was timely filed with the Office, the allegation and sending unit's report may be part of a showing under 37 CFR 1.8(b). 37 CFR 1.8(b)(3) states, with emphasis added,

> [One of the items a petition under 37 CFR 1.8(b) *must* include is] a statement which attests on a personal knowledge basis, or to the satisfaction of the Commissioner, to the previously timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission *may be used to support* this statement.

In view of petitioner's statements and the copy of the sending unit's report confirming transmission, petitioner has satisfied the requirements set forth in 37 CFR 1.8(b)(3). Unfortunately, petitioner has *not* satisfied all the other requirements set forth in 37 CFR 1.8. Some of the other requirements are set forth below:

1. The petition must be accompanied by an identical copy of the previously filed correspondence,
2. The original correspondence must have been properly addressed, and
3. The original correspondence must have included a certificate for each piece of correspondence stating the date of deposit or transmission.

The petition fails to satisfy items 1-3 identified above.

As to item 1, the petition is not accompanied by an identical copy of the correspondence petitioner states was filed April 5, 2009.

As to item 2, the petition fails to establish the reply was sent to a proper facsimile number.

Since July 15, 2005, the Office has required most patent-related correspondence, such as the reply in this case, to be sent to a central facsimile number, which is 571-273-8300. The March 2, 2009 Office action clearly stated, "The fax number for the organization where the application or processing is assigned is 571-273-8300." The letter filed with examiner on April 29, 2010, asserts the reply was sent by facsimile transmission to 571-273-8300. However, the assertion in

the letter is inconsistent with other portions of the record. Specifically, the sending unit's report indicates the reply was sent to 703.872.9306 or 571.272.6724. In other words, the sending unit's report indicates the reply was not sent to a correct facsimile number.

As to item 3, the petition has failed to establish the reply included a certificate stating the date of transmission.

Since an identical copy of the correspondence petitioner states was filed April 5, 2009, has not been provided, the Office is unable to determine if the correspondence included a certificate and whether or not, if it did include a certificate, the certificate was proper.

The Office notes a proper certificate must be signed and may be set forth on the paper at issue or a separate paper. If the certificate is on a separate paper, the certificate must be securely attached to the other papers filed and fully and completely identify each paper being attached, e.g., reply to final rejection, Notice of Appeal, etc. The following language is an example of a Certificate of Transmission:

> Certificate of Transmission
>
> I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. 571-273-8300) on ([date]).
>
> Typed or printed name of person signing this certificate:
>
> _____
>
> Signature: _____

The Propriety of the Reply Petitioner States Was Filed April 5, 2009

Since an exact copy of the April 5, 2009 reply has not been filed, the Office will not address the propriety of the reply at this time. However, petitioner may wish to note:

(1) A reply to an Office action must be signed, and

(2) A reply to a non-final Office action must meet the requirements set forth in 37 CFR 1.111(b).

37 CFR 1.111 states, with emphasis added,

> The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner 's action and must reply to *every ground of objection and rejection* in the prior Office actionThe applicant's or patent owner 's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Conclusion

In view of the prior discussion, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply to the prior Office action, the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition under 37 CFR 1.137(b) form is attached and a PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand:
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachments: Form PTO/SB/122 (Change of Address form)
Form PTO/SB/64 (Petition Under 37 CFR 1.137(b) form)
Privacy Act Notice

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Andre Sirilutporn Chan, et al.	:	DECISION ON PETITION
Application No. 10/606,140	:	TO WITHDRAW
Filed: June25, 2003	:	FROM RECORD
Attorney Docket No. HSJ920030034US1	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed September 15, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **HITACHI GLOBAL STORAGE TECHNOLOGIES**
3403 YERBA BUENA ROAD
SAN JOSE, CA 95135

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/18/11

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10606150 Patent No.: 7670491

CofC mailroom date: 07/12/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

_____ Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Brandon J. Fetterolf/ AU 1628

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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DEC 0 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,706,282	:	DECISION
HUANG, LEPING	:	DISMISSING REQUEST FOR
Issue Date: 04/27/2010	:	RECONSIDERATION OF PATENT
Application No. 10/606,437	:	TERM ADJUSTMENT
Filed: 06/25/2003	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 088245-0113	:	

This is a decision on the petition under 37 CFR 1.705(d), filed June 21, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred sixty-six (166) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee acknowledges 44 days of A delay, 265 days of applicant delay, and 0 days of overlap. However, patentee's calculation of the number of days of B delay is incorrect.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on June 26, 2006, and ends on July 17, 2007, the day before the RCE was filed, and is 387 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee failed to account for the

filing of the notice of appeal on May 10, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii); 37 CFR 1.703(b)(4).

In this instance, the period consumed by appellate review is 69 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, May 10, 2007, and ending on the day before the filing of the RCE, July 17, 2007. Thus, B delay is 318 days (387 - 69).

Accordingly, the patent term adjustment is 97 days (44 days of A delay + 318 days of B delay - 265 days of applicant delay).

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Bhatia et al. :
Application No. 10/606,478 : ON APPLICATION FOR
Filed: June 26, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. :
14251US02 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF the DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR §1.705)," filed on December 17, 2010. Applicants assert that the correct patent term adjustment is 983 days rather than 737 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicants assert entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APR 07 2011

OFFICE OF PETITIONS

In re Patent No.7,787,419 :
Karaoguz, et al. :
Issue Date : August 31, 2010 :
Application No. 10/606,565 :
Filed: June 26, 2003 :
Attorney Docket No. **14169US02** :

DECISION FOR REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "Application for Reconsideration of the Patent Term Adjustment under 35 U.S.C. § 154(b) Indicated in the Patent (37 CFR 1.705(d)," filed November 1, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one thousand, one hundred and six (1,106) days to one thousand, one hundred and nine (1,109) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given ONE (1) MONTH from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On August 31, 2010, the above-identified application matured into U.S. Patent No. 7,787,419 with a revised patent term of 1,109 days. The instant petition under 37 CFR 1.705(d) was filed within two months of the issuance of the patent and is timely.

Patentees again assert that the 2 day reduction to the patent term adjustment for the filing of a response on February 11, 2008, three months and two days after a non-final Office action was mailed on June 12, 2009, was improper. In summary, applicants state that the date that was three months after the mailing of the non-final Office action was Saturday, September 12, 2009, therefore, the filing of the response on Monday September 14, 2009, was timely pursuant to 37 CFR 1.7(a).

Patentees' argument is not persuasive. Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 2 days, the number of says in the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, September 13, 2009, and ending on the date the reply was filed September 14, 2009. The calculation of 2 days of application delay is based on the date of receipt of the response in the Office. The Office notes that 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in

the Office within its three month grace period, but simply specifies that there is this three month period. Therefore, neither the "carry-over" provisions of 35 U.S.C. 21(b), nor 37 CFR 1.7 apply to the three month periods in 35 U.S.C. 154(b)(2)(C)(ii). Accordingly, the reduction to the patent term adjustment of 2 days was warranted and will not be removed.

Patentees' further assert that the Office's calculation of the "B" delay period is inaccurate because the "B" delay period was calculated beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on the day before the date the Request for Continued Examination was filed. Patentees' maintain that said period should end on the day the Request for Continued Examination was filed.

It is noted that 35 U.S.C. 154 authorizes the Director to establish the procedures for the application for and the determination of patent term adjustments. Those procedures include the calculation of the period of adjustment as set forth in 37 CFR 1.702(b)(1) and 37 CFR 1.703(b)(1). 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

As such, it is evident that 35 U.S.C. 154 gives the USPTO rulemaking authority relative to the determination of patent term adjustments and the authority to implement and interpret said rules. Accordingly, 37 CFR 1.702(b)(1) and 37 CFR 1.703(b)(1) are interpreted to mean that the period of adjustment to the patent term for failure to issue the patent within three years of after the date the application was filed under 35 U.S.C. 111(a) begins on the day after the date that is three years after the date on the which the application was filed under 35 U.S.C. 111(a), and ends on the day before the date the Request for Continued Examination was filed.

Accordingly, as the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 27, 2006, and ends on November 14, 2007, the day before the RCE was filed, and is 506 days.

In view thereof, the patent term adjustment of 1,106 days indicated in the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under

35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FREEDMAN & ASSOCIATES
55 Murray Street
Suite 230
Ottawa ON K1N 5M3
CANADA

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 6,742,210	:	
Hutton et al.	:	
Issue Date: June 1, 2004	:	
Application No. 10/606,759	:	NOTICE REGARDING DEFICIENCY
Filed: June 27, 2003	:	
Attorney Docket No.	:	
12M-29 US DIV(1)	:	

This is a notice regarding your letter received November 28, 2011, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

The instant request included an itemization and payment of the deficiency in payment of fees.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6960267	2005-11-01	10606853	2003-06-26	A2,128

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William P. Nixon, III/	Date (YYYY-MM-DD)	2011-01-13
Name	William P. Nixon, III		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6960267
Issue Date: November 1,2005
Application No. 10606853
Filed: June 26,2003
Attorney Docket No. A2,128

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 14,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

MAILED
MAR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Paul D. MANOS	:	
Application No. 10/606,946	:	DECISION ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. 047204/265198	:	

This is a decision on the petition under 37 CFR 1.59(b), filed July 1, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that an Assignment, filed April 9, 2009, be expunged from the record. Petitioner indicates that the assignment is invalid and improper as to form and substance in that Zannier, Inc., the rightful assignee, was never a party to the assignment.

The petition is dismissed as being an improper third party submission by a party not of record. Petitioner has not shown, nor is it apparent, that petitioner has standing to assert the relief requested. Here the records establish Paul D. Manos as the inventor. Moreover, a mere assertion of a right to have the United States Patent and Trademark Office (Office) act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPPQ 2d 1487 (Fed. Cir. 1988). A third party does not have standing to challenge Office decisions regarding patent applications during the prosecution process, including the decision to grant a patent to an applicant during ex parte procession process. See e.g., Godtfredsen v. Banner, 503 F. Supp., 642, 647, 207 USPQ 202, 207 (D.D.C. 1980).

A review of the records in the instant file indicated that Zannier Inc. is not the assignee of record and the signature of the submitting party is not the party authorized to conduct business with the USPTO regarding this patent. The provisions of 37 CFR 3.71(b)(1) and (2) identify the owner or assignee that can take action in patent matters, or any other patent proceedings. It is well settled that the USPTO is not the appropriate forum for resolving a dispute concerning the ownership of an application, and as such, the USPTO will not permit itself to become embroiled in ownership

disputes. See Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924; In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904).

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: WOMBLE CARLYLE SANDRIDGE & RICE PLLC
ATTN: PATENT DOCKETING
P.O. BOX 703
ATLANTA, GA 30357-0037

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 30, 2009

TO SPE OF : ART UNIT 1637
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/607,136 Patent no. 7226738

Please respond to this request for a certificate of correction w
ithin 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below

Comments: _____

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Patent No. 6,985,511 :
Issued: January 10, 2006 :
Application No. 10/607,342 : DECISION ON PETITION
Filed: June 27, 2003 :
Attorney Docket No. 57042-013 (GBTI65US) :

This is a decision on the petition under 37 CFR 1.378(c), filed December 12, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

This patent expired on January 11, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Elmer Yuen
25 James Way
Eatontown, NJ 07724

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6954474	2005-10-11	10607899	2003-06-27	O013 P00846-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/stephen holmes/	Date (YYYY-MM-DD)	2010-08-17
Name	Stephen Holmes	Registration Number	34621

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6954474
Issue Date: October 11,2005
Application No. 10607899
Filed: June 27,2003
Attorney Docket No. P00846-US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of :
Robert J. Steger :
Application No. 10/608,091 :
Filed: June 30, 2003 :
Attorney Docket No. 015290-682 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as Attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to specify a reason and certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Teresa Stanek Rea on behalf of herself.

Teresa Stanek Rea has been withdrawn as attorney of record, however all other attorneys remain of record.

There is an outstanding Board of Appeals Decision mailed February 2, 2011 that requires a reply from the applicant.

As no change of correspondence address was indicated on the request, the address will remain unchanged.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

MAILED

DEC 21 2010

OFFICE OF PETITIONS

Patent No. 7,091,634 :
Yi et al. :
Issue Date: August 15, 2006 :
Application No. 10/608,123 : DECISION ON PETITION
Filed: June 30, 2003 :
Atty Docket No. T3465-908318 :

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) filed October 20, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent. This petition was signed by the CEO of the assignee of record of the entire interest. Accompanying the petition was a 3.73(b) statement which set forth the ownership interest, but was signed by attorney Schaffer. Nonetheless, given the title of the signer of the petition, it is presumed that CEO Yi has the authority to act on behalf of the assignee.

The petition is **GRANTED**.

The patent issued August 15, 2006. The grace period for paying the 3-½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on August 15, 2010, with no payment received.

The petition was timely filed within twenty-four months after the expiration of the six-month grace period. Further, as required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional. These fees were accepted at the reduced small entity rate, as

the fees were accompanied by petitioner's assertion of having made a determination of continued entitlement to pay small entity fees, pursuant to new 37 CFR 1.27(g)(1), effective September 8, 2000.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

MAILED

DEC 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,739,233	:	DECISION ON REQUEST FOR
GHEMAWAT et al.	:	RECONSIDERATION OF
Issue Date: June 15, 2010	:	PATENT TERM ADJUSTMENT AND
Application No. 10/608,139	:	NOTICE OF INTENT TO ISSUE
Filed: June 20, 2003	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 0026-0029	:	

This is a decision on the petition filed on August 16, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand eight hundred forty (2840) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand nine hundred thirty (1930) days.**

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141,

145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the over three year period is 1446 days. However, patentee failed to account for the filing of the notice of appeal on March 1, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 910 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, March 1, 2007, and ending on the date of the last decision by the Board of Patent Appeals and Interferences, August 26, 2009. 37 CFR 1.703(b)(4). Thus, the B delay is 536 days (1446 - 910). Accordingly, the patent term adjustment is 1930 days (512 days of A delay + 536 days of B delay + 910 days of C delay - 28 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand nine hundred thirty (1930) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,739,233 B1

DATED: Jun. 15, 2010 **DRAFT**

INVENTOR(S): GHEMAWAT et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1726 days.

Delete the phrase "by 1726 days" and insert – by 1930 days--

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/608,354	CROOK ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)								
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)								
435				6.1	435	6.11	91.1							
INTERNATIONAL CLASSIFICATION					436	173								
C	1	2	Q	1/68	536	23.1	24.3	24.33						
C	1	2	P	19/34										
G	0	1	N	24/00										
C	0	7	H	21/02										
C	0	7	H	21/04										

(Assistant Examiner) (Date)		Total Claims Allowed: 19	
	/Frank W Lu/ 2/24/2012	O.G. Print Claim(s)	O.G. Print Fig.
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	1	None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65	6	95		125		155		185
	6		36		66		96		126		156		186
	7		37		67	7	97		127		157		187
	8	2	38		68	3	98		128		158		188
	9	5	39		69	12	99		129		159		189
	10		40		70		100		130		160		190
	11		41		71	13	101		131		161		191
	12		42		72		102		132		162		192
	13		43		73	14	103		133		163		193
	14		44		74	16	104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79	4	109		139		169		199
	20		50		80	15	110		140		170		200
	21		51		81	1	111		141		171		201
	22		52		82	11	112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85	8	115		145		175		205
	26		56		86	9	116		146		176		206
	27		57		87	10	117		147		177		207
	28		58		88	17	118		148		178		208
	29		59		89	18	119		149		179		209
	30		60		90	19	120		150		180		210

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7235245	2007-06-26	10608538	2003-06-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2011-12-13
Name	Benoit Castel	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7235245
Issue Date: June 26,2007
Application No. 10608538
Filed: June 30,2003
Attorney Docket No. 3495.0188-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 13,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 13,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

JUN 06 2011

OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Patent No. 7,909,829	:	DECISION ON REQUEST FOR
PATEL et al.	:	RECONSIDERATION OF
Issue Date: 03/22/2011	:	PATENT TERM ADJUSTMENT
Application No. 10/609,123	:	AND
Filed: 06/27/2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 101896-178 (DEP5100)	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-four (644) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-four (644) days is **GRANTED**.

The Office will charge the requisite $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the petition under 37 CFR 1.705(d) to the Deposit Account as authorized. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred forty-four (644) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,909,829 B2

DATED : Mar. 22, 2011 **DRAFT**

INVENTOR(S) : PATEL et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 724 days.

Delete the phrase "by 724 days" and insert – by 644 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7127534
Issue Date: October 24,2006
Application No. 10609291
Filed: June 27,2003
Attorney Docket No. 491442001600

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,127,534	2006-10-24	10/609,291	2003-06-27	491442001600

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Peng Li/	Date (YYYY-MM-DD)	2010-12-29
Name	Peng Li	Registration Number	L0060

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 15 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Harness, Dickey & Pierce, P.L.C.
P.O.Box 8910
Reston VA 20195

In re Application of:
NAKAO, TOMOAKI
Application Serial No.: 10/609,603
Filed: July 1, 2003
For: **SIGNAL TRANSMISSION METHOD, SIGNAL TRANSMISSION SYSTEM, LOGIC CIRCUIT, AND LIQUID CRYSTAL DRIVE DEVICE**

DECISION
ON PETITION

This is a decision on the petition to review the restriction (election of species) requirement filed March 25, 2010.

The petition is **DISMISSED**.

Petitioner requests that the Restriction Requirement mailed October 13, 2009 be withdrawn.

BACKGROUND

As a result of a fourth restriction requirement made on June 24, 2009, the applicant elected claims 2, 7, 24 and 25 without traverse, see page 10, last paragraph of the remarks by applicant on July 9, 2009. On October 13, 2009 the examiner made the fifth and latest restriction (election of species) requirement. On November 9, 2009 the applicant made an election of the same claims with traverse. After a non-final rejection on June 10, 2010, applicant added an additional claim on September 7, 2010 (claim 30.) On November 24, 2010 a final Office action was mailed rejecting claims 2, 7, 24, 25 and 30.

DISCUSSION

Petitioner argues that the restriction requirement of March 25, 2010 should be withdrawn. This restriction requirement as well as the election thereto is deemed moot in view of the fact that applicant previously elected the claims (2, 7, 24 and 25) without traverse. These claims, along with newly added claim 30 have been examined on the merits.

Accordingly, there is no ground for petition on review of restriction since the claims that were elected without traverse have in fact been given an action on the merits.

SUMMARY: The petition is **considered moot**. The Restriction requirement of March 25, 2010 is vacated as also being moot. The period for response set in the final Office action mailed November 24, 2010 continues to run.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

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OFFICE OF PETITIONS

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of
Bijan Tadayon, et al.
Application No. 12/609,725
Filed: October 30, 2009
Attorney Docket No. 111325-221100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Jeffrey L. Costellia on behalf of all attorneys of record who are associated with customer No. 22204. All attorneys/agents associated with the Customer Number 22204 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed September 29, 2010 that requires a reply from applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: XIN WANG
2720 EMERALD STREET, #V2
TORRANCE, CA 90503

cc: CONTENTGUARD HOLDINGS. INC
222 N. SEPULVEDA BLVD.,
SUITE 1400
EL SEGUNDO, CA 90245

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/609,725	10/30/2009	Bijan Tadayon	111325-221100

CONFIRMATION NO. 8991

POWER OF ATTORNEY NOTICE

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Date Mailed: 10/18/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

In re Patent of Klint et al.	: DECISION ON REQUEST FOR
Patent No. 7,654,986	: RECONSIDERATION OF
Issue Date: February 2, 2010	: PATENT TERM ADJUSTMENT
Application No. 10/609,744	: AND NOTICE OF INTENT TO ISSUE
Filed: June 30, 2003	: CERTIFICATE OF CORRECTION
Atty. Docket No. 6472.200-US	:

This is a decision on the petition filed on March 31, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-nine (729) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-nine (729) days is **GRANTED**.

Patentees dispute the period of reduction of 3 days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), in connection with payment of the issue fee on Tuesday, September 8, 2009. It is noted that Monday, September 7, 2009 was Labor Day. This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. § 21(b) is not warranted. Accordingly, the period of reduction of 3 days is being removed.

Patentees dispute the Office's calculation of zero (0) days of B delay. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, the first RCE was filed June 14, 2007. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The period of B Delay in this case is 348 days, which is the number of days beginning on July 1, 2006, the day after the date three years after the filing date, and ending on June 13, 2007, the day before the date the first RCE was filed.

The correct patent term adjustment is 729 days, which is the sum of 602 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 348 days of B Delay, reduced by 221 days of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-nine (729)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,654,986 B2

DATED : **February 2, 2010** **DRAFT**

INVENTOR(S) : Klint et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 378 days

Delete the phrase "by 378 days" and insert – by 729 days--

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,380,524

DATED: June 03, 2008

INVENTOR(S): James R. Hand

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

SEE Attached.

/Gregory A. Wilson/

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 7,380,524	)	
	)	
Issued: June 3, 2008	)	Attorney Docket No.: 25314A
	)	
Inventor(s): Hand	)	
	)	
Patent Owner: Owens Corning Intellectual Capital, LLC	)	
	)	
	)	
	)	
Serial No.: 10/609,929	)	**Attention: Certificate of Correction Branch**
	)	
Filed: June 30, 2003	)	
	)	
Title: Water Heater Chamber Wrap	)	
	)	

REQUEST FOR CERTIFICATE OF CORRECTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Patent Owner respectfully requests the Patent and Trademark Office (PTO) to issue a certificate of correction under 35 USC 254 and 37 CFR 1.322 in the above-identified patent to correct the errors identified on Form PTO 1050, which is enclosed in duplicate. The error(s), which are clerical in nature, are the fault of the PTO, as evidenced by the official file for the patent.

If any fee is due in connection with this paper, please charge all required fees to Deposit Account No. 50-0568.

Respectfully submitted,

James J. Dottavio
Registration No 40,360

Date: 7 JAN 2010

Owens Corning
Patent Department, Building 54
2790 Columbus Road
Granville, Ohio 43023

APPROVED: /GW/ Approved: /Steven McAllister/

SPE, AU 3749

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,380,524

DATED : June 3, 2008

INVENTOR(S): Hand

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claims:

1) An insulation wrap for a water heater tank comprising: an elongated strip of nonflammable fibrous material formed into a ring which extends completely around a circumference of an inner tank of a water heater, wherein said ring includes a **face** substantially . . .
2) The insulation wrap of claim 1, further including a foil layer on said **strip** of . . .
6) The insulation wrap of claim 1, **wherein** said . . .
8) The insulation wrap of claim 6, wherein said fibrous material element is constructed **from** a material selected **from** a . . .
9) The insulation wrap of claim 1, wherein said fibrous material element is constructed from a material selected **from** a . . .
10) The insulation wrap of claim 1, wherein said fibrous material element is constructed **from** a material selected **from** a . . .
14) An insulation wrap for a water heater tank, comprising: a **strip** including . . .
15) The insulation wrap of claim 14, including a fiberglass **scrim** on . . .
16) The insulation wrap of claim 14, wherein said layer of fiberglass and said layer of foil **are** adhered . . .
21) The water heater of claim 20, wherein said fibrous material element is constructed from a material selected from a group consisting of polyester, polyethylene, polypropylene, polyethylene **terephthalate**, glass . . .
23) A water heater, comprising: an inner tank including a water inlet and a water outlet; an outer jacket received around said inner tank; a heating chamber adjacent said inner tank in said outer jacket; an access door in said outer jacket for accessing said heating chamber; and an insulation wrap, including (a) an elongated strip including a layer of fiberglass laminated to a layer of foil wrapped **fully** around said inner tank, wherein said layer includes an outer face following the outer jacket, said face include an opening aligned with said access door and (b) a fibrous material element contacting said **face** and . . .
24) The water heater of claim 23, wherein said fibrous material element is constructed from a material selected from a group consisting of polyester; polyethylene, polypropylene, polyethylene **terephthalate**, glass . . .

APPROVED: /GW/ Approved: /Steven McAllister/

SPE, AU 3749

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,660,357
Hulmani et al.
Issue Date: February 9, 2010
Application No. 10/610,149
Filed: June 30, 2003
Attorney Docket No. 14899US02
Title: PES DATA PROCESSING

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the petition filed on June 10, 2010, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted. The petition was filed within one month of a decision by the Office mailed on May 10, 2010 granting applicants' request for reconsideration of PTA. Patentees request the above-identified patent be extended or adjusted by six hundred sixty-five (665) days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-eight **(558)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 312 days.

A review of the record shows the 102 day adjustment for the delay in mailing the Examiner's Answer is not warranted. The adjustment of 102 days is being removed as a compliant appeal brief was not filed until November 13, 2006. The appeal brief filed on June 15, 2006 was deemed to be non-compliant. The period of adjustment is equal to the number of days, if any, in the period beginning on the day after the date that is four

months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. Thus, the mailing of the Examiner's Answer on January 25, 2007 does not warrant an adjustment. As such the 102 day adjustment will be removed.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1320 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed February 7, 2006. The reduction of 1015 days commenced February 7, 2006; the date that the Notice of Appeal was filed, and ended November 17, 2008, the day the last decision by the Board of Patent Appeals under 35 U.S.C. 141. See, 37 CFR 1.703(b)(4).

Thus, B delay is 305 days (1320- 1015).

Patentees dispute the 3 day reduction for the submission of the response to the July 8, 2005 Office action on October 11, 2005. Applicants maintain that since the response was submitted on the first business day after the deadline falling on a weekend the reply was not late and no reduction is required. Petitioner relies upon 35 USC §154(b)(2)(C)(ii) and 1.6(a) to establish a reduction is not warranted.

The Office has considered patentees' argument but does not find it persuasive. The Office has concluded that the reduction of 3 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or

transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 3 days for the submission of reply on October 11, 2005 is warranted. The PTA was properly reduced by 3 days, the number of days in excess of three months that was taken to reply to the July 8, 2005 Office action. The fact that a reply could be filed on October 11, 2005 and be deemed timely to avoid abandonment does not establish a reduction is not warranted. The actual date of receipt of the correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If applicant wanted to avoid a reduction applicant should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicants could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731. As such the 3 day reduction will not be removed.

Patentees dispute the 25 day reduction for the submission of the information disclosure statement (IDS) filed July 10, 2006 after the filing of an appeal brief on June 15, 2006. Patentees maintain that a reduction is not warranted as an IDS is not an appropriate part of an appeal brief.

The record has been reviewed and it has been determined that the IDS was not filed under circumstances that warrant entry of a period of reduction for applicant delay. Accordingly, the period of reduction of 25 days has been removed.

Patentees dispute the 56 day reduction for the submission of the drawings after the Notice of Allowance on December 16, 2009. Patentees state that the submission of drawings should not result in any delay pursuant to 37 CFR 1.704(c)(10).

Patentees' argument has been considered but is not persuasive. Patentees acknowledge submitting replacement drawings after the mailing of the notice of allowance. The filing of replacement

drawings after the mailing of a notice of allowance is a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that replacement drawings were filed after the mailing of the notice of allowance. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by fifty-six (56) days beginning on December 16, 2009 and ending on February 9, 2010 when the patent issued.

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process.

Thus the total reduction for patentees' delay totals 59 (3 + 56 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fifty -eight (558)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,660,357 B2

DATED : February 9, 2010 **DRAFT**

INVENTOR(S) : Hulmani et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 426 days

Delete the phrase "by 426 days" and insert – by 558 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DENNIS V. CARMEN
EASTMAN CHEMICAL COMPANY
100 NORTH EASTMAN ROAD
KINGSPORT TN 37660-5075

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of :
Williams, et al. :
Application No. 10/610,238 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 71359 (US05) :

This is a decision on the petition to revive pursuant to 37 CFR 1.137(b) filed June 10, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned June 9, 2011 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed March 8, 2011. The Notice set a three month statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition fails to comply with requirement (1) set forth above. The Office acknowledges the request for continued examination (including submission and fee) submitted herewith. The request for continued examination will be processed upon the submission of a grantable petition under 37 CFR 1.137(b).

However, as the instant application is abandoned for failure to timely submit the issue fee and publication fee. Petitioner is advised that the only proper reply in this instance is payment of the issue fee and publication fee. See, MPEP 711.03(c).

Any request for reconsideration must include the required issue fee and publication fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS V. CARMEN
EASTMAN CHEMICAL COMPANY
100 NORTH EASTMAN ROAD
KINGSPORT TN 37660-5075

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Kevin Alan Williams, et al.	:	
Application No. 10/610,238	:	DECISION GRANTING PETITIONS
Filed: June 30, 2003	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 71359 (US05)	:	37 CFR 1.313(c)(2)

This is a decision on the petitions, filed July 19, 2011, under 37 CFR 1.137(b) (renewed), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before June 8, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 8, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1,510 issue fee and the $300 publication fee, (2) the petition fee of $1,620 (previously paid), and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This matter is being referred to Technology Center AU 1762 for processing the RCE and for consideration of the Information Disclosure Statement submitted on June 10, 2011.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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500 WEST MADISON ST
34TH FLOOR
CHICAGO IL 60661

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NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Hulmani et al. :
Application No. 10/610,246 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 14924US02 :

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a), filed April 5, 2010. This is also a decision on the concurrently filed Contingent Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

On October 17, 2009, a Decision on Appeal was mailed, which affirmed the Examiner. On December 7, 2009, a Request for Rehearing under 37 CFR 41.52 was filed by the petitioner. On January 29, 2010, the request for rehearing was denied by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed February 4, 2010.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due the premature abandonment of the instant application. Specifically, petitioner states, "Since each of the actual rejections that were issued against claims 2, 9, 16, and 17 were reversed, Assignee should at the very least have been given one month notice to rewrite the dependent claims in independent form." Petitioner further notes that "the obviousness-type double-patenting rejection that was issued and affirmed by the board was not actual, but provisional."

Although the examiner was reversed on claims 2, 9, 16 and 17, the claims were still rejected under a double-patenting rejection. As stated in MPEP 804, "If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only rejection remaining in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the rejection can be withdrawn." As the instant application is the later-filed application, a Terminal Disclaimer was necessary to overcome the double-patenting rejection, which was not submitted until April 5, 2010.

Further, according to MPEP 1214.01(II), "By proceeding in this manner (a request for rehearing), the appellant waives his or her right to further prosecution before the examiner." As

noted by the MPEP, if the applicant elects to request a rehearing, as the petitioner did, then there is no further prosecution before the examiner. Thus the Terminal Disclaimer filed with the instant petition is not a proper reply. The only reply that petitioner can submit is a request for a judicial review (MPEP 1216) or a new application filed under 37 CFR 1.53(b) for continuity purposes.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

As stated above, the only reply that petitioner can submit is a request for a judicial review (MPEP 1216) or a new application filed under 37 CFR 1.53(b) for continuity purposes.

The $1620.00 petition fee required under 37 CFR 1.137(b)(2) will be charged to petitioner's deposit account as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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500 WEST MADISON ST
34TH FLOOR
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SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Hulmani et al. :
Application No. 10/610,246 : ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 14924US02 :

This is a decision on the renewed petition under 37 C.F.R. § 1.181(a), filed January 18, 2011, to withdraw the holding of abandonment. This is also a decision on the concurrently filed renewed petition under 37 CFR § 1.137(b).

The petition under 37 C.F.R. 1.181 is **DISMISSED**.

On October 17, 2009, a Decision on Appeal was mailed, which affirmed the Examiner. On December 7, 2009, a Request for Rehearing under 37 CFR 41.52 was filed by the petitioner. On January 29, 2010, the request for rehearing was denied by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed February 4, 2010.

Petitioner again contends that the instant application was prematurely abandoned by the Examiner. Rather than abandonment, petitioner states a one-month time limit to rewrite the dependent claims in independent form should have been set forth.

While the Examiner was reversed with respect to some claims under 35 USC 102(e), the rejection of those claims (including claim 18) under obvious double patenting was affirmed. Therefore, after the Board decision, there were no allowed claims. Despite petitioner's contention otherwise, all rejections against a dependent claim were not reversed. Since he did not timely file a response two months from the rehearing denial, the case was abandoned. The fact that the examiner prematurely mailed a notice of abandonment does not overcome the abandonment for failure to respond timely. Accordingly, the petition to withdraw the holding of abandonment is hereby dismissed.

The petition under 37 CFR § 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The Response to Final Office Action submitted previously on April 5, 2010 was forwarded to the examiner of record to determine if it placed the instant application in condition for allowance. However, it did not and an Advisory Action issued by the Examiner is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/610,246	**Applicant(s)** HULMANI ET AL.	
	Examiner YOUNG LEE	**Art Unit** 2485	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *09 March 2006*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-5,9-13 and 16-18*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Young Lee/
Primary Examiner
Art Unit: 2485

Continuation of 3. NOTE: Newly amended limitations and newly added claims raise new issues.

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

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OFFICE OF PETITIONS

In re Application :
Anthony D. Zannis et al. :
Application No. 10/610,288 : DECISION ON APPLICATION
Filed: June 30, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **DEP786** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed February 10, 2010. Applicant requests that the determination of patent term adjustment be corrected from 366 days to 875 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

On May 18, 2007, applicants filed a response to the Restriction Requirement mailed non-final Office action mailed April 5, 2007. Then on May 24, 2007, applicants filed a Supplemental Response. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

Applicants argue that the correct period of adjustment for the Supplemental Response filed May 24, 2007 is 6 days, not 0 days as determined by the office. The Supplemental Response was received by the Patent Office on May 24, 2007, 6 days after the receipt of the initial response.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

---

[2] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Applicants are correct that the Patent Term Adjustment should be reduced by an additional 6 days of applicants' delay, in accordance with 37 CFR 1.704(c)(8) for the filing of a Supplemental Response on May 24, 2007.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 360 days.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred sixty **(360)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10610238 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10610288

Application Filing Date	06/30/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	576
A Delays	576	PTO Manual Adjustment	-6
B Delays	0	Applicant Delay (APPL)	210
C Delays	0	Total PTA (days)	360

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
108	09/19/2010		P028	Adjustment of PTA Calculation by PTO		6	0
101	11/17/2009		MN/=.	Mail Notice of Allowance			0
100	11/13/2009		IREV	Issue Revision Completed			0
99	11/13/2009		OVER	Document Verification			0
98	11/13/2009		N/=.	Notice of Allowance Data Verification Completed			0
94	11/09/2009		CNTA	Notice of Allowability			0
89	10/08/2009		FWDX	Date Forwarded to Examiner			0
87	10/08/2009		ABN9	Disposal for a RCE / CPA / R129			0
92	09/17/2009		IDSC	Information Disclosure Statement considered			0
91	09/17/2009		RCAP	Reference capture on IDS			0
90	09/17/2009		M844	Information Disclosure Statement (IDS) Filed			0
88	09/17/2009		RCEX	Request for Continued Examination (RCE)			0
86	09/17/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
85	09/17/2009		BRCE	Workflow - Request for RCE - Begin			0
83	08/04/2009		MN271	Mail Response to 312 Amendment (PTO-271)			0
82	08/03/2009		N271	Response to Amendment under Rule 312			0
84	07/27/2009		FIDC	Finished Initial Data Capture			0
81	07/27/2009		A.NA	Amendment after Notice of Allowance (Rule 312)			0
80	07/22/2009		MM327-A	Mail Notice of drawing inconsistency with specification			0
79	07/22/2009		M327-A	PUB Notice of drawing inconsistency with specification			0
77	06/30/2009		EIDC	Export to Initial Data Capture			0
76	06/25/2009		MN/=.	Mail Notice of Allowance			0
75	06/22/2009		IREV	Issue Revision Completed			0
74	06/22/2009		OVER	Document Verification			0
73	06/22/2009		N/=.	Notice of Allowance Data Verification Completed			0
72	06/22/2009		CNTA	Notice of Allowability			0
60	04/02/2009		FWDX	Date Forwarded to Examiner			0
66	04/02/2009		FWDX	Date Forwarded to Examiner			0
64	04/02/2009		ABN9	Disposal for a RCE / CPA / R129			0
67	03/30/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
65	03/30/2009	03/15/2009	RCEX	Request for Continued Examination (RCE)		15	61
63	03/30/2009		XT/G	Request for Extension of Time - Granted			0
62	03/30/2009		BRCE	Workflow - Request for RCE - Begin			0
61	12/15/2008	12/14/2008	MCTFR	Mail Final Rejection (PTOL - 326)	1		57
60	12/09/2008		CTFR	Final Rejection			0
59	10/20/2008		DOCK	Case Docketed to Examiner in GAU			0
58	09/23/2008		FWDX	Date Forwarded to Examiner			0
57	08/14/2008	05/22/2008	A...	Response after Non-Final Action		84	55
56	08/14/2008		XT/G	Request for Extension of Time - Granted			0
55	02/22/2008		MCTNF	Mail Non-Final Rejection			0
54	02/12/2008		CTNF	Non-Final Rejection			0
51	12/03/2007		FWDX	Date Forwarded to Examiner			0
49	12/03/2007		FWDX	Date Forwarded to Examiner			0
47	12/03/2007		ABN9	Disposal for a RCE / CPA / R129			0
52	11/28/2007		LET.	Miscellaneous Incoming Letter			0
48	11/28/2007	11/07/2007	RCEX	Request for Continued Examination (RCE)		21	37
46	11/28/2007		XT/G	Request for Extension of Time - Granted			0
45	11/28/2007		BRCE	Workflow - Request for RCE - Begin			0
44	11/26/2007		MM327	Mail Miscellaneous Communication to Applicant			0
43	11/23/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
53	10/30/2007		IDSC	Information Disclosure Statement considered			0
50	10/30/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
41	10/30/2007		IRCE	Improper Request for Continued Examination			0
40	10/30/2007		RCAP	Reference capture on IDS			0
39	10/30/2007		M844	Information Disclosure Statement (IDS) Filed			0
38	10/30/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
37	08/07/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
36	08/03/2007		CTFR	Final Rejection			0
78	05/24/2007		LET.	Miscellaneous Incoming Letter			0
33	05/23/2007		FWDX	Date Forwarded to Examiner			0
32	05/18/2007		ELC.	Response to Election / Restriction Filed			0
31	05/18/2007		XT/G	Request for Extension of Time - Granted			0
30	04/05/2007		MCTRS	Mail Restriction Requirement			0
29	04/02/2007		CTRS	Requirement for Restriction / Election			0
28	01/30/2007		FWDX	Date Forwarded to Examiner			0
27	01/15/2007	10/17/2006	A...	Response after Non-Final Action		99	24
26	01/15/2007		XT/G	Request for Extension of Time - Granted			0
25	08/07/2006		DOCK	Case Docketed to Examiner in GAU			0
24	07/17/2006		MCTNF	Mail Non-Final Rejection			0
23	07/08/2006		CTNF	Non-Final Rejection			0
21	05/05/2006		FWDX	Date Forwarded to Examiner			0
20	05/02/2006		ELC.	Response to Election / Restriction Filed			0
19	05/02/2006		XT/G	Request for Extension of Time - Granted			0
18	03/28/2006	08/30/2004	MCTRS	Mail Restriction Requirement	575		-1
17	03/20/2006		CTRS	Requirement for Restriction / Election			0
16	10/06/2005		DOCK	Case Docketed to Examiner in GAU			0
15	09/28/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	04/22/2004		DOCK	Case Docketed to Examiner in GAU			0
11	12/10/2003		WRDIPE	Application Return from OIPE			0
10	12/10/2003		RDIPE	Application Return TO OIPE			0
9	12/10/2003		OIPE	Application Dispatched from OIPE			0
8	12/10/2003		COMP	Application Is Now Complete			0
22	10/27/2003		IDSC	Information Disclosure Statement considered			0
14	10/27/2003		RCAP	Reference capture on IDS			0
13.7	10/27/2003		M844	Information Disclosure Statement (IDS) Filed			0
13	10/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
7	10/20/2003		ADDFLFEE	Additional Application Filing Fees			0
6	10/20/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	09/24/2003		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	09/03/2003		CLSS	CASE CLASSIFIED BY OIPE			0
3	09/03/2003		L194	Cleared by OIPE CSR			0
2	08/07/2003		SCAN	IFW Scan & PACR Auto Security Review			0
1	06/30/2003		IEXX	Initial Exam Team nn			0

Export to: Excel

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte RAMKUMAR VADIVELU

Application 10/610,371
Technology Center 2400

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed April 28, 2010 ("Petition").

FINDINGS

1. On February 15, 2010, Appellants filed an Appeal Brief.

2. On March 5, 2010, the Patent Appeals Center entered a Notification of Non-Compliant Appeal Brief.

3. On March 23, 2010, Appellants filed a correction to the Appeal Brief.

4. On April 20, 2010, the Board of Patent Appeals and Interferences entered a Communication Re: Appeal advising Appellants that the correction to the Appeal Brief was not responsive to the Notification of Non-Compliant Appeal Brief and holding that the application was abandoned.

5. On April 28, 2010, Appellants filed the present Petition seeking revival of the application under Rule 1.137(b), and a Supplemental Appeal Brief.

6. On May 4, 2010, the Examiner entered a Notice of Abandonment.

7. The Supplemental Appeal Brief has been found to comply with 37 C.F.R. § 41.37.

9. Further, the Petition includes all of the required elements as set forth in Rule 1.137(b), specifically:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

DISCUSSION

As indicated, Appellants have complied with all of the requirements of Rule 1.137(b) for reviving an application abandoned unintentionally.

DECISION

In view of the foregoing, the Petition is GRANTED. The Supplemental Appeal Brief has been entered and the appeal will be returned to the Examiner for preparation of the Examiner's Answer.

Michael R. Fleming
Chief Administrative Patent Judge

Keith Lutsch
Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.
20333 Tomball Parkway, 6th Floor
Houston, TX 77070

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-6-10

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 10610657 Patent No.: 7725892

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

TUAN DAM 8/9/10
SUPERVISORY PATENT EXAMINER

SPE

2192
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/02/12

TO SPE OF : ART UNIT 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 10610832 Patent No.: 7730543

CofC mailroom date: 03/22/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted] Fax No. 571-273-3421

Note: Please check Claims 5 and 16
Should the changes to the claims be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Philip Chea/ 2436

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of Boliek et al. :
Application No. 10/610,837 : Decision on Petition
Filing Date: June 30, 2003 :
Attorney Docket No. 74451P153 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b) August 4, 2010, which requests revival of the application.

The petition is **granted**.

The Office mailed a final Office action on May 10, 2007. The final Office action set a shortened statutory period for reply of three (3) months. The Office received a reply to the Office action on August 13, 2007.[1] The Office mailed an Advisory Action on August 30, 2007. The Advisory Action stated the August 13, 2007 reply failed to place the application in condition for allowance. Petitioner did not file any further response to the final Office action. Therefore, the date of abandonment is August 11, 2007. The Office mailed a Notice of Abandonment on December 28, 2007.

A petition under 37 CFR 1.137(b) was filed January 27, 2010. A decision dismissing the petition was mailed June 4, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner previously submitted the required petition fee and a reply to the final Office action in the form of a request for continued examination ("RCE") on January 27, 2010. Petitioner has

[1] The reply included a certificate of mailing dated August 9, 2007. Therefore, the reply was timely.

stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2624 will be informed of the instant decision and the RCE filed January 27, 2010, will be considered in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7040698	2006-05-09	10610956	2003-07-01	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald L. Monin, Jr./	Date (YYYY-MM-DD)	2011-11-08
Name	Donald L. Monin, Jr.	Registration Number	47256

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7040698
Issue Date: May 9,2006
Application No. 10610956
Filed: July 1,2003
Attorney Docket No. 1016.704

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 8,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 8,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hogan Lovells US LLP
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

MAILED

SEP 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,676,651 :
Issue Date: March 9, 2010 :
Application No. 10/611,315 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 83394.0008 :

This is a decision on the Petition Under 37 CFR 3.81(B) And Request For Certificate Of Correction Under 37 CFR 1.323, filed June 17, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Hitachi, Ltd., Tokyo (JP)"

to:

--Renesas Technology Corporation, Tokyo (JP)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,676,651.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7152755	2006-12-26	10611332	2003-07-01	11426-78641

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Daniel E. Sineway/	Date (YYYY-MM-DD)	2011-05-06
Name	Daniel E. Sineway	Registration Number	61364

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7152755
Issue Date: December 26,2006
Application No. 10611332
Filed: July 1,2003
Attorney Docket No. 11426-78641

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 6,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 11 2012

OFFICE OF PETITIONS

Forefront IP Lawgroup PLLC
P.O.Box 52050
Minneapollis MN 55402

In re Application of

Rover, et al.

Application No. 10/611,596

: DECISION ON PETITION

Filed: June 30, 2003

:

Attorney Docket No. **42P17061**

This is a decision on the petition under 37 CFR §1.137(b), December 23, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-cited application became abandoned on September 27, 2011, for failure to seek further judicial review or take other appropriate action after a decision on appeal was rendered on July 26, 2011. A Notice of Abandonment was mailed on October 11, 2011.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Item 1 above as petitioner has not supplied any reply after the decision on appeal affirming the examiner was mailed July 26, 2011. The renewed petition must be accompanied by a proper reply which might include a Request for Continued Examination under 37 CFR 1.114 and amendment

NO ADDITIONAL FEES ARE REQUIRED WITH THE RENEWED PETITION.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,619,784	:	DECISION ON REQUEST
O'Sullivan et al.	:	FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 10/611,681	:	PATENT TERM ADJUSTMENT
Filed: June 30, 2003	:	and
Atty Docket No. 16113-1305001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred forty-seven (1447) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred forty-seven (1447) days is **GRANTED**.

It is noted that patentee, in their duty of good faith and candor, disclose that an additional period of reduction of 80 days is warranted. That period has also been entered.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred forty-seven (1447)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,619,784 B1

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : O'Sullivan et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 944 days

Delete the phrase "by 944 days" and insert – by 1447 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: IP DOCKETING
P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of
Gloria Falla et al
Application No. 10/611,682
Filed: July 1, 2003
Attorney Docket No. 026595-013310US

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.182, filed December 10, 2010, which requests that the terminal disclaimer filed on April 18, 2005, be withdrawn.

The petition is **granted.**

The terminal disclaimer filed on April 15, 2005 is withdrawn.

Per the examiner, the terminal disclaimer does not apply to any claim currently of record because Applicant inadvertently included the wrong U.S. Patent Serial Number in the Terminal Disclaimer of April 18, 2005. The original Terminal Disclaimer should have cited U.S. Patent Number 6,837,771 and not U.S. Patent No. 5,154,659 to Gluckin. U.S. Patent No. 5,154,659 was cited by the Examiner in combination with U.S. Patent No. 6,837,771 in an obviousness type double patenting rejection. The error in the Terminal Disclaimer is clear from the record in the Non-Final rejection of February 1, 2005 and as explained by Applicant's attorney in the Petition of December 10, 2010. Therefore, the newly filed Terminal Disclaimer of December 10, 2010 disclaiming U.S. Patent No. 6,837,771 is correct.

Telephone inquiries should be directed to the undersigned at (571)272-3208.

This matter is now being referred to Technology Center Art Unit 3765 for correction of PALM and file records consistent with this decision.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

DATED: 01/17/2012 10/611,774 /AL/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/07/11

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10611774 Patent No.: 7395278

CofC mailroom date: 11/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

John Ruser — 2162

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/07/11

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10611774 Patent No.: 7395278

CofC mailroom date: 11/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

John Breene 2162

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Alan Schaer :
Application No. 10/611,838 : DECISION ON PETITION
Filed: June 30, 2003 :
Attorney Docket No. 021574-000220US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, September 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 20, 2007. A Notice of Abandonment was mailed on April 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the RCE received November 3, 2008.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of :
Alan Schaer :
Application No. 10/611,838 : DECISION ON PETITION
Filed: June 30, 2003 : TO WITHDRAW
Attorney Docket No.: 021574-000220US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Brad J. Loos on behalf of the attorneys/agents associated with Customer Number 20350.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the Customer Number provided (21971) does not identify the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Mok-Kun Jeong et al. :
Application No. 10/611,954 : NOTICE
Filed: July 3, 2003 :
Attorney Docket No. **239870US2** :

This is a notice regarding your request filed September 30, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent/application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10612170
Filing Date	01-Jul-2003
First Named Inventor	Vahid Saadat
Art Unit	3734
Examiner Name	MICHAEL MENDOZA
Attorney Docket Number	USGINZ02111
Title	Methods and apparatus for gastric reduction

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 7,2011

In re Application of :

Vahid Saadat

Application No : 10612170

Filed : 01-Jul-2003

Attorney Docket No : USGINZ02111

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name USGI Medical, Inc.
Name2
Address 1 1140 Calle Cordillera
Address 2
City San Clemente
State CA
Postal Code 92673
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of :
Chan :
Application No. 10/612,729 :
Filed: July 2, 2003 :
Attorney Docket No. 14227US01 :
For: METHOD AND SYSTEM FOR :
AUTOMATIC MEDIA DEPENDENT :
INTERFACE RECONFIGURATION AND :
REPAIR :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING OF NOTICE OF ALLOWANCE (37 CFR §1.705)" filed August 5, 2010. This request is properly treated under 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be corrected from nine hundred eighty-two (982) days to one thousand six hundred nineteen (1,619) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED** to the extent indicated herein.

On May 27, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 982 days. The instant application for patent term adjustment was timely filed on August 5, 2010.

Applicant contends that a 2-day reduction for the submission of the reply to the non-final Office action October 27, 2008 should not be assessed. Applicant maintains that since the response was submitted on the first business day after the deadline falling on a weekend the reply was not late and no reduction is required.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 2 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 2 days for the submission of reply on October 27, 2009 is warranted. The PTA was properly reduced by 2 days, the number of days in excess of three months that was taken to reply to the July 25, 2008 Office action. The fact that a reply could be filed on October 27, 2009 and be deemed timely to avoid abandonment does not establish a reduction is not warranted. The actual date of receipt of the

correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If applicant wanted to avoid a reduction applicant should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731. As such the 2 day reduction will not be removed.

Applicant's delay prior to the mailing of the Notice of Allowance is 2 days. Office delay prior to the mailing of the Notice of Allowance is 984 days.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is nine hundred eighty-two **(982)** days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7129987
Issue Date: October 31,2006
Application No. 10612805
Filed: July 2,2003
Attorney Docket No. N1047

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,129,987	2006-10-31	10/612,805	2003-07-02	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ joe zheng /	Date (YYYY-MM-DD)	2011-12-08
Name	Joe Zheng	Registration Number	39450

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

INSKEEP INTELLECTUAL PROPERTY GROUP, INC.
2281 W. 190TH STREET
SUITE 200
TORRANCE CA 90504

In re Application of	:	
Robert F. WILSON, et al	:	
Application No. 10/613,121	:	ON PETITION
Filed: July 3, 2003	:	
Attorney Docket No. 21013-301	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 21, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three(3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

The Associate Power of Attorney filed with the declaration on December 18, 2006, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

The request to refund the petition fee is dismissed. In this regard, the petition fee is a requirement by statue for consideration of revival of an abandoned application, and cannot be waived. Further, the action of the Patent and Trademark Office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. See 37 CFR 1.2.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3734 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,433	07/03/2003	Leonel Yanez Martinez	MX/JFC-Serv-001	5111

7590 08/16/2010

Carmen Pili Ekstrom
727 Sunshine Dr.
Los Altos, CA 94024

EXAMINER	
MAYO III, WILLIAM H	

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
08/16/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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In re Application of Martinez et al.
Appl. No.: 10/613,433
Filed: July 3, 2003
For: DRY, WATER-RESISTANT COAXIAL CABLE AND MANUFACTURING METHOD OF THE SAME

DECISION ON PETITION

This is a decision on the petitions under 37 C.F.R. § 1.181, filed on June 1, 2010, July 19, 2010 and July 22, 2010, requesting withdrawal of the objection to the claims and of the newly cited prior art.

The petitions have been granted to the extent that the claim objections and the response to arguments have been modified to remove the objectionable language and the newly cited prior art, respectively, as indicated in the new Final Rejection mailed on August 5, 2010.

Inquiries related to this decision should be directed to Diego Gutierrez at 571-272-2245.

John W. Cabeca
Director, Technology Center 2800

Carmen Pili Ekstrom
727 Sunshine Dr.
Los Altos, CA 94024

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CARMEN PILI EKSTROM
727 SUNSHINE DR.
LOS ALTOS CA 94024

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APR 03 2012
OFFICE OF PETITIONS

In re Application of :
MARTINEZ, et al :
Application No. 10/613,433 : DECISION ON PETITION
Filed: July 3, 2003 :
Attorney Docket No. MX/JFC-SERV-001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2012, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to pay the issue and publication fees in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed October 13, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 14, 2012. A Notice of Abandonment was mailed February 1, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $870 and the publication fee of $300; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

MARIA A. TREVISAN
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

In re Patent No. 7,605,138	: DECISION ON REQUEST
Issued: October 20, 2009	: FOR RECONSIDERATION
Application No. 10/613,524	: OF PATENT TERM ADJUSTMENT
Filed: July 3, 2003	: AND
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
C1037.70042US00	: CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed May 19, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1830 days to 1308 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED** to the extent indicated herein.

The term of the above-identified patent is extended or adjusted by one thousand three hundred eight (1308) days.

On December 18, 2009, patentee submitted a petition under 37 CFR 1.705(d) and fee. On April 16, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On April 19, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 1254 days. On April 22, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1830 days.

The Office notes that the decision of April 22, 2010, was issued in error as it accorded patentee 522 more days of patent term adjustment than were warranted. Accordingly, the decision of April 22, 2010, is withdrawn. The present decision supersedes the decision mailed on April 22, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is 1308 days. The 522 additional days of adjustment will be removed.

The Office will sua sponte issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given one (1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred eight (1308)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,605,138 B2

DATED : October 20, 2009

INVENTOR(S) : Arthur M. Krieg

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1830) days

Delete the phrase "by 1830 days" and insert – by 1308 days--

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Paper No.

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JAN 04 2011

OFFICE OF PETITIONS

RAYMOND J. WERNER
2056 NW ALOCLEK DRIVE
SUITE 314
HILLSBORO OR 97124

In re Patent No. 7,075,276 :
Issue Date: July 11, 2006 :
Application No. 10/613,969 : DECISION ON PETITION
Filed: July 3, 2003 :
Atty Docket No. ISI. P002 :

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN EXPIRED PATENT (37 CFR 1.378(c)), filed September 30, 2010.

The petition is **GRANTED**.

The patent issued July 11, 2006. The grace period for paying the 3-½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on July 11, 2010, with no payment received.

This petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/10 Paper No.: —

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/614074 Patent No.: 7788860 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/10 Paper No.: —

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/614074 Patent No.: 7788860 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

3633

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INTREXON CORPORATION
1872 PRATT DRIVE
SUITE 1400 VT-CRC
BLACKSBURG VA 24060

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OFFICE OF PETITIONS

In re Application of :
Colin M. Tice et al. :
Application No. 10/614,116 : NOTICE
Patent No. 7,375,093 :
Filed: July 03, 2003 :
Attorney Docket No. **2584.0020001/RWE/RAS**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 May 11, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **STERNE, KESSLER, GOLDSTEIN & FOX P.L.C.**
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005-3934

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OFFICE OF PETITIONS

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

In re Application of :
Caparro et al. :
Application No. 10/614573 :
Filing or 371(c) Date: 07/03/2003 : ON PETITION
Patent No. 7222737 :
Issue Date: 05/29/2007 :
Title of Invention: :
DIE SORTER WITH REDUCED MEAN :
TIME TO CONVERT :

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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M. MICHELLE MULLER
VINSON & ELKINS DOCKETING OFFICE
2300 FIRST CITY TOWER
1001 FANNIN STREET
HOUSTON TX 77002-6760

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JUL 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,147,822 :
Issued: December 12, 2006 :
Application No. 10/614,656 : DECISION ON PETITION
Filed: July 7, 2003 :
Attorney Docket No. SLP100/4-4US :

This is a decision on the petition under 37 CFR 1.378(c), filed June 13, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 13, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephen L. Parkhurst
701 Crestwood Lane
Round Rock, TX 78665

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STRATEGIC PATENTS P.C.
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
MCSHEFFREY et al. :
Application Number: 10/614,948 : DECISION ON PETITION
Filing Date: 07/08/2003 :
Attorney Docket Number: ENGA-0007-P01 :

This is a decision on the petition filed on March 15, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned for failure to submit the issue and publication fees on February 19, 2010, in response to the Notice of Allowance and Fee(s) Due mailed on November 19, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed March 8, 2010.

Petitioner has submitted a Request for Continued Examination (RCE), a submission under 37 CFR 1.114 in the form of an IDS, and a RCE fee, as the required reply.

The petition must be dismissed because 37 CFR 1.137(c) states, in part, that in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. However, the issue fee has not been paid, and applicant's fee submission does not authorize the charging of the issue and publication fees, or fees under 37 CFR 1.18.

MPEP 711.03(c) states, in pertinent part, that while the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." As such, even when an RCE is filed, the issue and publication fees must be paid in order to revive an application abandoned for failure to submit the issue and publication fees.

Accordingly, payment of the issue and publication fees is a prerequisite to revival of the application.

Petitioner should note that if the application is again allowed, the previously paid issue fee and publication fee will be reapplied toward the fees due at that time. See MPEP 1306.

Any renewed petition must be accompanied by payment of the issue and publication fees.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also by filed using the EFS-Web system of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OCT 26 2010

OFFICE OF PETITIONS

STRATEGIC PATENTS P.C.
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
MCSHEFFREY et al. :
Application No. 10/614,948 : ON PETITION
Filed: 07/08/2003 :
Attorney Docket No. ENGA-0007-P01 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2010, to revive the above-identified application.

The application became abandoned for failure to submit the issue and publication fees on February 19, 2010, in response to the Notice of Allowance and Fee(s) Due mailed on November 19, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed March 8, 2010.

Applicants submitted the required reply in the form of the issue fee, publication fee, a Request for Continued Examination (RCE), and an Information Disclosure Statement. Applicants made an appropriate statement of unintentional delay and paid the petition fee. Accordingly, the petition is **GRANTED**.

Applicants are advised that the issue fee and publication fee in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, applicants may request that they be applied towards the issue fee and publication fee required by the new Notice of Allowance.[1]

This matter is being referred to Technology Center AU 3752 for processing of the RCE and the submission under 37 CFR 1.114.

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to Box Issue Fee. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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XEROX CORPORATION
P.O. BOX 10500
MCLEAN VA 22102

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SEP 02 2010

OFFICE OF PETITIONS

In Re application of
William Yeoh et al.
Application No. 10/615,088
Filed: July 8, 2003
Attorney Docket No. A1667-US-NP

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), March 3, 2010 to expunge information from the above identified application and a decision on the Request for Refund.

The petition is **granted**.

Petitioner requests that specified documents filed March 2, 2010 be expunged from the record. Petitioner states that the information submitted was intended for another application and was erroneously filed in the instant application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

The petition also requests refund of the fees associated with the papers to be expunged. The fees have been refunded to petitioner's deposit account.

The application is being returned to The Office of Data Management.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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60 SOUTH MARKET STREET
SUITE 480
SAN JOSE, CA 95113

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NOV 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,075,363 :
Issue Date: July 11, 2006 :
Application No. 10/615,093 : NOTICE
Filed: July 7, 2003 :
Attorney Docket No. AELU.P0006

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Accenture Chicago 28164
Brinks Hofer Gilson & Leone
PO Box 10395
Chicago IL 60610

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MAY 09 2011

OFFICE OF PETITIONS

In re Patent No. 7,587,331 :
Pelletier : DECISION UPON REMAND AND
Issue Date: September 8, 2009 : RECONSIDERATION OF
Application No. 10/615,157 : PATENT TERM ADJUSTMENT
Filed: July 7, 2003 : AND NOTICE OF INTENT
Attorney Docket No. 10022/579 : TO ISSUE CERTIFICATE OF
Title: A System or Method for : CORRECTION
Determining a Scent or Taste :
Profile for Predicting a User
Adapted Scent or Taste

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seventeen hundred and forty-six (1746) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seventeen hundred and forty-six (1746) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,587,331

DATED : September 8, 2009 **DRAFT**

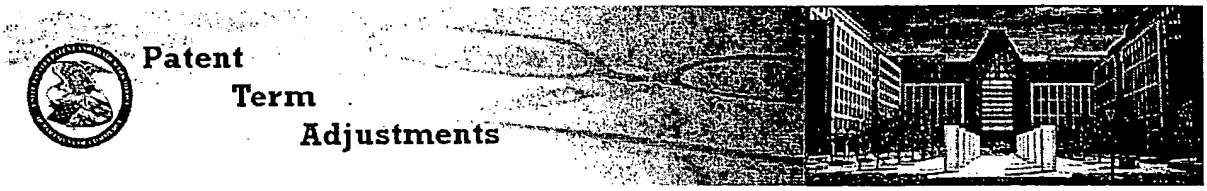
INVENTOR(S) : Pelletier

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1111 days

Delete the phrase "by 1111 days" and insert – by 1746 days--



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10615157 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10615157

Application Filing Date	07/07/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	09/08/2009	Non-Overlapping USPTO Delays:	1192
A Delays	1192	PTO Manual Adjustment	635
B Delays	0	Applicant Delay (APPL)	81
C Delays	0	Total PTA (days)	1746

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
81	05/03/2011		P028	Adjustment of PTA Calculation by PTO	635	0	
74	09/08/2009		PTAC	Patent Issue Date Used in PTA Calculation		0	
74.5	08/19/2009	07/07/2006	PTA36M	PTA 36 Months	0	0	
73	08/05/2009		EFDC	Export to Final Data Capture		0	
72	08/04/2009		D1935	Dispatch to FDC		0	
71	08/03/2009		PILS	Application Is Considered Ready for Issue		0	
70	07/30/2009		N084	Issue Fee Payment Verified		0	
69	07/30/2009		IFEE	Issue Fee Payment Received		0	
68	07/07/2009		FIDC	Finished Initial Data Capture		0	
67	06/08/2009		EIDC	Export to Initial Data Capture		0	
65	06/04/2009		MN/=.	Mail Notice of Allowance		0	
64	06/03/2009		IREV	Issue Revision Completed		0	
63	06/03/2009		DVER	Document Verification		0	
62	06/03/2009		N/=.	Notice of Allowance Data Verification Completed		0	
61	05/27/2009		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
60	05/26/2009		EX.A	Examiner's Amendment Communication		0	
59	05/22/2009		CNTA	Allowability Notice		0	
58	05/04/2009		FWDX	Date Forwarded to Examiner		0	
57	04/27/2009		A.NE	Amendment after Final Rejection		0	
56	02/10/2009		MCTFR	Mail Final Rejection (PTOL - 326)		0	
55	02/09/2009		CTFR	Final Rejection		0	
54	12/11/2008		FWDX	Date Forwarded to Examiner		0	
53	12/01/2008	10/10/2008	A...	Response after Non-Final Action		52	51
52	12/01/2008		XT/G	Request for Extension of Time - Granted		0	
51	07/10/2008		MCTNF	Mail Non-Final Rejection		0	
50	07/07/2008		CTNF	Non-Final Rejection		0	
48	04/29/2008		FWDX	Date Forwarded to Examiner		0	
49	04/11/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
47	04/11/2008	03/13/2008	A...	Response after Non-Final Action		29	43
46	04/11/2008		XT/G	Request for Extension of Time - Granted		0	
45	01/22/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
44	01/16/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
43	12/13/2007	09/07/2004	MCTNF	Mail Non-Final Rejection	1192		-1
42	12/10/2007		C105-D	Requirement under Rule 105 Included with Office Action		0	
41	12/10/2007		CTNF	Non-Final Rejection		0	
40	12/10/2007		DOCK	Case Docketed to Examiner in GAU		0	
35	10/17/2007		W525	Withdraw Flagged for 5/25		0	
34	10/17/2007		W525	Withdraw Flagged for 5/25		0	
33	10/15/2007		F525	Flagged for 5/25		0	
32	10/15/2007		F525	Flagged for 5/25		0	
31	10/09/2007		DOCK	Case Docketed to Examiner in GAU		0	
30	08/15/2007		DOCK	Case Docketed to Examiner in GAU		0	
29	08/09/2007		TI1050	Transfer Inquiry to GAU		0	
28	07/06/2007		DOCK	Case Docketed to Examiner in GAU		0	
27	11/13/2006		DOCK	Case Docketed to Examiner in GAU		0	
26	09/12/2006		DOCK	Case Docketed to Examiner in GAU		0	
25	06/27/2006		DOCK	Case Docketed to Examiner in GAU		0	
24	09/28/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
36	06/23/2005		IDSC	Information Disclosure Statement considered		0	
23	06/23/2005		LET.	Miscellaneous Incoming Letter		0	
20.7	06/23/2005		M844	Information Disclosure Statement (IDS) Filed		0	
20	06/23/2005		WIDS	Information Disclosure Statement (IDS) Filed		0	
17	02/14/2005		TI1050	Transfer Inquiry to GAU		0	
37	02/07/2005		IDSC	Information Disclosure Statement considered		0	
19.7	02/07/2005		M844	Information Disclosure Statement (IDS) Filed		0	

19	02/07/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
18	02/07/2005	A.PE	Preliminary Amendment	0
16	02/07/2005	WAMD	Workflow incoming amendment IFW	0
14	11/09/2004	PA..	Change in Power of Attorney (May Include Associate POA)	0
15	11/08/2004	C.AD	Correspondence Address Change	0
22	10/13/2004	LET.	Miscellaneous Incoming Letter	0
38	11/24/2003	IDSC	Information Disclosure Statement considered	0
13	11/24/2003	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
12	11/24/2003	RCAP	Reference capture on IDS	0
11.7	11/24/2003	M844	Information Disclosure Statement (IDS) Filed	0
11	11/24/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
10	10/03/2003	WROIPE	Application Return from OIPE	0
9	10/03/2003	ROIPE	Application Return TO OIPE	0
7	10/03/2003	COMP	Application Is Now Complete	0
8	10/02/2003	OIPE	Application Dispatched from OIPE	0
6	09/17/2003	CLSS	CASE CLASSIFIED BY OIPE	0
5	09/17/2003	L194	Cleared by OIPE CSR	0
4	09/17/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	09/17/2003	L194	Cleared by OIPE CSR	0
2	07/25/2003	SCAN	IFW Scan & PACR Auto Security Review	0
21	07/07/2003	A.PE	Preliminary Amendment	0
1	07/07/2003	IEXX	Initial Exam Team nn	0

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