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

HB Fuller Company
Patent Department
1200 Willow Lake Boulevard
PO Box 64683
St. Paul, MN 55164-0683

COPY MAILED

JUL 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Quinn et al. :
Application No. 09/300,544 : DECISION ON PETITION
Filed: April 27, 1999 :
Attorney Docket No. EI-084-US-02 :

This is a decision on the petition under 37 CFR 1.47(a), filed February 27, 2004, which is being treated as a petition under 37 CFR 1.183 requesting wavier of the requirement that all of the inventors sign the declaration of prior inventorship.[1]

The petition under 37 CFR 1.183 is **GRANTED**.

The 37 CFR 1.131 declaration states that the invention claimed in the above-identified application was jointly conceived and reduced to practice in the United States prior to September 18, 1997. The 37 CFR 1.131 declaration was signed by all of the joint inventors, except inventor Quinn. Applicants have filed the present petition requesting that the Office enter the 37 CFR 1.131 declaration despite the fact that joint inventor Quinn did not sign the declaration. Applicants assert that inventor Quinn is unwilling to execute the declaration.

37 CFR 1.131 states, in pertinent part:

When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original 37 CFR 1.63 oath or declaration.

claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[2]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[3]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor Quinn sign the § 1.131 declaration, applicants must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

In the present petition, applicants have set forth the steps taken to obtain joint inventor Quinn's signature on the § 1.131 declaration. Applicants have shown that inventor Quinn was presented with a Secrecy Agreement, a copy of the § 1.131 declaration and its attachments, and a copy of the specification including pending claims. Applicants assert that inventor Quinn stated that he would not sign the § 1.131 declaration. The Office notes that joint inventors Albrecht, Eichler-Johnson, Malcom, and Ryan signed the § 1.131 declaration. Under the circumstances, it is concluded that applicants have demonstrated that this is an extraordinary situation, requiring waiver of the rules.

---

[2] 37 CFR 1.131(a) (emphasis added).

[3] MPEP 715.04.

The declaration pursuant to 37 CFR 1.131 may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The $130.00 petition fee will be charged to Deposit Account No. 06-2241, as authorized.

The application file is being forwarded to Technology Center Art Unit 1713 for consideration of the declaration pursuant to 37 CFR 1.131, filed February 27, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GO

NOV - 7 2002

#15

John R. Casperson
P.O. Box 2174
Friendswood, Texas 77549

In re Application of	:	
Binie V. Lipps et al.	:	
Serial No.: 09/300,612	:	DESICION ON PETITION
Filed: April 27, 1999	:	
Attorney Docket No.: FWLPAT012US	:	

This is in response to applicants' petition under 37 CFR § 1.181, filed October 30, 2001, requesting to withdraw holding of abandonment.

A review of the file history indicates the examiner mailed an Office action on December 18, 2000. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed September 17, 2001. On October 30, 2001, the present petition was filed. Applicant asserts that the Office action dated December 18, 2000 was never received. Based on the statements and evidence provided it is concluded that the Office action dated December 18, 2000 was never received by applicant. Accordingly, the petition is Granted.

Applicants' petition is **GRANTED**.

The delay of responding to this petition is regretted. The application has been returned to pending status and the response is being entered. The application will be forwrded to examiner for consideration after mailing of this letter.

Should there be any questions regarding this decision, please contact Cecilia Tsang by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang for
Jasemine Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060304

DATE : 1-27-2005

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 6,768,546

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 - PK 3-915
Palm location **7580** - Tel. No. 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.

Magdalene Talley

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 appropriate box.

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

Comments:

All changes are approved.

Gregory J, Toatley, Jr.
Supervisory Patent Examiner

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. 6329437
Issue Date: December 11,2001
Application No. 09300868
Filed: April 28,1999
Attorney Docket No. 650

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 26,2010 .
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)
6,329,437	2001-12-11	09/300,868	1999-04-28	053245-0028

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

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	/Jennifer L. Gregor/	Date (YYYY-MM-DD)	2010-05-26
Name	Jennifer L. Gregor	Registration Number	56958

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 & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

JUL 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Michael O. Scheinberg
P.O. Box 164140
Austin, Texas 78716-4140

In re Application of James H. Wolfston Application No. 09/300,881 Filed: April 28, 1999 For: METHOD AND APPARATUS FOR INCREASING CHARITABLE DONATIONS BY PROVIDING INSTANTANEOUS DONOR RECOGNITION	DECISION ON PETITION TO WITHDRAW FINALITY OF ACTION UNDER 37 CFR 1.181

This is in response to applicant's petition received on September 3, 2002 in which applicant has requested that the Finality of the April 3, 2002 Office action be withdrawn.

The Petition is **GRANTED.**

Applicant argues that in the Final rejection dated April 3, 2002 the examiner set forth new grounds of rejection on all of the claims while the amendment dated March 5, 2002 only contained amendments to claims 8, 13-15, and new claims 21-28. As such the Final rejection should be considered premature.

A review of the file history indicated that the examiner sent out a non-final Office action on October 22, 2001. In response to this action applicant submitted a response on March 5, 2002 in which claims 8, and 13-15 were amended and new claims 21-28 added. Just looking to the independent claims 6 and 17 it is clear that there were no changes to either of these claims and that the examiner did in fact apply a new grounds of rejection to both of these claims.

The MPEP 706.07(a) sets forth that a "second or subsequent action 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...". Based on the facts in the case the Finality of the April 3, 2002 was premature and as such is hereby withdrawn. As for the RCE papers and the request for the related fees to be refunded, since the RCE has not yet been processed there have not been any related fees charged.

In summary, the finality of the April 3, 2002 Office action is hereby withdrawn. The RCE papers filed will be placed in the file but not processed. The application will be forwarded to the Supervisory Legal Instruments Examiner to have the amendment after Final dated July 15, 2002 entered and the application forwarded to the examiner for prompt action on this amendment. The Advisory Action of July 25, 2002 mailed in response to the above-noted amendment is hereby **VACATED** since it is an improper response to an amendment responding to the now non-Final Office action of April 3, 2002.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Robert Olszewski at (703) 308-5183.

John J. Love, Director
Patent Technology Center 3600
(703) 308-1020
FAX (703) 306-4597

RO/SM: 06/15/03

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-06

MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN TX 78716-4140

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
James F. Wolfston	:	
Application No. 09/300,881	:	DECISION ON PETITION
Filed: 28 April, 1999	:	
Atty Docket No. C054-2	:	
	:	

This is a decision on the petition filed on 8 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 December, 2005, for failure to properly reply to the final Office action mailed 6 July, 2005, which set a three (3) month shortened statutory period for reply. On 6 December, 2005, a Request for Continued Examination (RCE) Request form was filed. However, no submission under 37 CFR 1.114

---

[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 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)).

was filed. Thus, the RCE Request was improper. On 8 January, 2006, an amendment intended as the submission under 37 CFR 1.114 was filed.[2] The filing of the present petition precedes the mailing of Notice of Abandonment.

It is noted that the papers filed on 6 December, 2005, required a two (2) month extension of time to be timely. As such, a two (2) month extension of time will be charged to counsel's deposit account as authorized on the fee transmittal filed on 6 December, 2005.[3]

This application is being referred to the Technology Center for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] The amendment filed on 8 January, 2006, was untimely as a submission under 37 CFR 1.114, as the maximum extendable period for reply to the final Office action mailed on 6 July, 2005, expired on 7 January, 2006.

[3] Under 37 CFR 1.136(a)(3), an authorization to charge all required fees, fees under 37 CFR 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time for its timely submission.

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

Thomas R. FitzGerald, Esq.
16 E. Main Street Suite 210
Rochester NY 14614-1803

In re Patent No. 6,305,410	:	
Issue Date: October 23, 2001	:	
Application No. 09/301,043	:	ON PETITION
Filed: April 28, 1999	:	
Attorney Docket No. 20051.000200	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 14, 2006 with a certificate of mailing dated December 22, 2005, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 24, 2005 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 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.

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

CC: Thomas R. Fitzgerald, Esq.
2000 HSBC Plaza
Rochester, NY 14604-2404

Approved for use through 04/30/2009. 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)
6418535	2002-07-09	09301290	1999-04-28	TUC919990012US1-LEN106484

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

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	/Anthony M. Del Zoppo, III/	Date (YYYY-MM-DD)	2008-01-10
Name	Anthony M. Del Zoppo, III	Registration Number	51606

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 record s.

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. 6418535
Issue Date: July 9,2002
Application No. 09301290
Filed: April 28,1999
Attorney Docket No. TU9-99-012

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 10,2008 ,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 10,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

TOWNSEND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

MAY 1 0 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Murphy, et al. :
Application No. 09/301,380 :
Filed: April 27, 1999 :
Attorney Docket No. 20093A-00210 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2001, 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.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application mailed July 30, 1999. This Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 1999. A Notice of Abandonment was mailed on May 2, 2000.

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 item (1), the required reply.

Although petitioner did submit a Declaration and Power of Attorney with his petition as the reply to the Notice to File Missing Parts of Application, the declaration is incomplete. When an inventor is deceased, insane, or incapacitated, then a legal representative may sign the declaration on the inventor's behalf. The declaration should state the inventor's full name, citizenship, and residence and mailing address (or the last known addresses). The legal representative should sign the declaration on the inventor's behalf (usually above the inventor's name). Per 37 CFR 1.64, the declaration **must state** that the representative is a legal representative, and **the citizenship, residence, and mailing address of the legal representative.** Here, the declaration lacks the legal representative's

citizenship, residence, and mailing address.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

TOWNSEND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JUL 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Murphy, et al.
Application No. 09/301,380
Filed: April 27, 1999
Attorney Docket No. 20093A-00210

DECISION ON
RENEWED PETITION

This is a decision on the Renewed Petition under 37 CFR 1.137(b), filed on June 15, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application mailed July 30, 1999. This Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 1999. A Notice of Abandonment was mailed on May 2, 2000. On April 30, 2001, petitioner filed a petition to revive under 37 CFR 1.137(b). However, this petition was dismissed in a decision mailed on May 10, 2001.

With the instant petition, petitioner filed an executed Declaration and Power of Attorney that is in compliance with 37 CFR 1.64. The declaration includes the citizenship, residence, and mailing address of the legal representative, Mrs. Murphy. Petitioner has met all other requirements for a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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
DIW Sep-06

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Murphy et al.	:	
Application No. 09/301,380	:	ON PETITION
Filed: 27 April, 1999	:	
Atty Docket No. 20093A-00210	:	

This is a decision on the petition under 37 CFR 1.53 filed on 14 August, 2006, requesting that the above-identified application be accorded a filing date of 27 April, 1999, instead of the presently accorded filing date of 15 June, 2001.

Petitioners assert that the application is entitled to a filing date of 27 April, 1999, the date the application papers were filed.

As previously stated in the Notice of File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice) mailed on 30 July, 1999, the above-identified application has been accorded a filing date of 27 April, 1999. The record supports applicants' assertion that the United States Patent and Trademark Office erroneously changed the application filing date to 15 June, 2001, the date of applicants' response to the Notice. The Office apologizes for the error and regrets any inconvenience to applicants.

The petition is **granted**.

As the petition resulted from Office error, the fee will be credited to counsel's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 27 April, 1999, and the mailing of a corrected filing receipt. Thereafter, the application will be forwarded to the Technology Center for further processing.

All other inquiries regarding this decision may be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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)
6425343	2002-07-30	09301418	1999-04-28	

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

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	/Kenneth A. Roddy/	Date (YYYY-MM-DD)	2008-05-01
Name	Kenneth A. Roddy	Registration Number	31294

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 record s.

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. 6425343
Issue Date: July 30,2002
Application No. 09301418
Filed: April 28,1999
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 1,2008 ,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 1,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6,411,718	2002-06-25	09/301,668	1999-04-28	6954/65529

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

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	/Edward E. Clair/	Date (YYYY-MM-DD)	2007-02-28
Name	Edward E. Clair	Registration Number	51565

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 record s.

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. 6411718
Issue Date: June 25,2002
Application No. 09301668
Filed: April 28,1999
Attorney Docket No. 65529

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 28,2007 ,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 28,2007 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires 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
www.uspto.gov

Paper No. 17

MEDTRONIC INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

COPY MAILED

JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Brian C.A. Fernandes et al :
Application No. 09/301,842 : ON PETITION
Filed: April 29, 1999 :
Attorney Docket No.: P-8383.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, 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 non-final Office action mailed August 14, 2002, 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 above-identified application became abandoned on November 15, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3763.

Wan Laymon
Petitions Examiner
Office of Petitions
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

KATTEN MUCHIN ZAVIS ROSEMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

COPY MAILED

DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Kazuhisa Ohbuchi et al :
Application No. 09/301,853 :
Filed: April 29, 1999 :
Attorney Docket No. FUJS-16.073

ON PETITION

This is a decision on the petition, filed December 14, 2004, which is being treated as a petition 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 November 8, 2004 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 will be forwarded to Technology Center AU 2133 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
John Edward Hodgson, et al. :
Application No. 09/302,024 :
Filed: April 29, 1999 :
Attorney Docket No. RDYN.MRS.09.US.1:

ON PETITION

This is a decision on the petition, filed August 24, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 15 2003, 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. A Notice of Abandonment was mailed on August 11, 2004. On August 24, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1652 for consideration of the amendment filed August 24, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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

SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH CO 80129

COPY MAILED

DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:
Hodgson et al.	:
Application No. 09/302,024	: Decision on Petition for
Filed: April 29, 1999	: Patent Term Extension
For: METHIONYL TRNA SYNTHETASE	:
POLYPEPTIDES FROM	:
STAPHYLOCOCCUS AUREUS	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR .181 To Review Patent Term Extension (PTE) Calculation Under 37 CFR 1.701" received March 28, 2005.

The petition is granted.

Petitioner notes the above-identified application was suspended by the Office on September 11, 2000, and again on April 9, 2003 for a potential interference. Petitioner states that he is not aware of an interference being declared.

The Notice of Allowance and Issue Fee Due mailed on May 6, 2004, incorrectly indicated that the patent to issue from the application 09/302,024 is eligible for a 190-day extension, where a no extension is due.

The petition is GRANTED.

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

Although prosecution was suspended in the above-identified application, the suspensions were due to a potential interference with applicants' application with other applications, not to await the result of an

interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply. Thus, the application is not eligible for patent term extension.

After mailing of this decision, the application will be forwarded to the Office of Publications for issuance of the patent.

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 17

BEYER & WEAVER,LLP
P O BOX 61059
PALO ALTO , CA 94306

Mailed
JUN 21 2000
Director's Office
Group 2700

In re Application of:
James W. Rose, et al.
Application No.: 09/302,034
Filed: April 29, 1999
For: APPARATUS AND METHOD FOR AN INTERNET BASED COMPUTER RESERVATION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 24, 2000, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

A grantable petition to make special in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

For the above stated reasons, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

for Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

Stephen A. Gratton
2764 South Braun Way
Lakewood, CO 80228

DEC 30 2002

In re Application of	:	
David R. Hembree et al.	:	DECISION ON PETITION
Application No.: 09/302,576	:	TO WITHDRAW THE
Filing Date: April 30, 1999	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 96-876.1	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(A)" filed on November 25, 2002. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on February 14, 2002. A Notice of Abandonment was mailed on November 6, 2002.

Petitioner asserts that a response to the Office action of February 14, 2002 was timely mailed on May 14, 2002. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response (a Transmittal Form; a Fee Transmittal Form; an Amendment/Response to the Office Action dated 2/14/02; an Information Disclosure Statement; and a PTO Form 1449) by the Patent and Trademark Office (PTO) on June 5, 2002. The copy of the Amendment/Response includes a Certificate of Mailing dated May 14, 2002 and thus would have been considered timely under 37 C.F.R. § 1.8.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on June 5, 2002 is not of record in the application file and cannot be located. More specifically, the Transmittal Form, the Fee Transmittal Form and the PTO Form 1449 are of record in the application file but the Amendment/Response is not. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the Amendment/Response was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed November 6, 2002 is hereby **VACATED** and the holding of abandonment is withdrawn. The copy of the Amendment/Response submitted with the petition on November 25, 2002 is accepted since the Amendment/Response originally submitted was lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the Amendment/Response. The application file will then be forwarded to the examiner for prompt appropriate action.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 09/302,679 :
Filed: April 30, 1999 :
Attorney Docket No. 07977/165002 :

ON PETITION

This is a decision on the petition, filed July 1, 2004, 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 June 7, 2004, 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/05/06

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/302679** Patent No.: **6979882**

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**.

Certificates of Correction Branch

703-308-9390 ext. 123

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.

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2891

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 18, 2008**

TO SPE OF : ART UNIT **2195**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/302687** Patent No.: **7249356 B1**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

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** 2195

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

S H DWORETSKY
AT&T CORP
P O BOX 4110
MIDDLETOWN, NJ 07748

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Ashok N. Rudrapatna	:	
Application No. 09/302,762	:	DECISION GRANTING PETITION
Filed: April 30, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 113349	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 7, 2003, 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 above-identified application became abandoned on July 8, 2003. A Notice of Abandonment was mailed on April 6, 2004.

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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 7, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2666 for appropriate action on the concurrently filed reply.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC144
JUL 19 2001
PATENT & TRADEMARK OFFICE

RECD JUN 04 1999

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

COPY MAILED

JUN 2 1999

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Ronald C. Fedus
Enzo Diagnostics, Inc.
c/o Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York, New York 10022

In re Application of	:	
Dean L. Engelhardt et al.	:	
Application No. 09/302,816	:	DECISION GRANTING
Filed: February 3, 1998	:	PETITION
Attorney Docket No. Enz-52(C)	:	

This is a decision on the paper styled "Petition to Obtain a Filing Receipt and Application Serial Number under 37 CFR 1.53" filed April 16, 1999, requesting that the above-identified application be accorded a filing date of February 3, 1998 as a continuation application under 37 CFR 1.53(b) based on prior application No. 08/182,621.

Petitioners allege that the original application papers were filed under former 37 CFR 1.60[1] in the Patent and Trademark Office (Office) on February 3, 1998, and subsequently misplaced in the Office. In support, the petition is accompanied by a copy of petitioners' postcard receipt acknowledging receipt in the Office on February 3, 1998 of a "Request for Continuation Application under 37 CFR 1.60" and an "Application." A copy of the original application papers purportedly filed on February 3, 1998 was also supplied.

It is noted that petitioners' postcard receipt does not specify the number of pages of specification and drawings deposited on February 3, 1998. However, in view of petitioners' comments it is presumed that the "Application" indicated on the postcard is the specification and drawings for the above-identified continuation application. A statement included in the copy of the request for a continuation application, supplied with the present petition, verifies the accompanying continuation application papers as a true copy of prior application No. 08/182,621.

Pursuant to MPEP 201.06(a) "a continuation or divisional application filed under 37 CFR 1.60 on or after December 1, 1997, will automatically be treated as an application filed under 37 CFR 1.53(b)." Accordingly, petitioners' February 3, 1998 application filed under former 37 CFR 1.60 should be treated as though it were filed under 37 CFR 1.53(b).

---

[1] 37 CFR 1.60 was deleted from title 37 of the Code of Federal Regulation effective December 1, 1997. See Notice of Final Rule, 62 Fed. Reg. 53132 (October 10, 1997).

RECEIVED
JUL 24 2001
OFFICE OF PETITIONS

The original 37 CFR 1.60 application papers cannot be located. However, in view of the evidence presented, the petition to accord the application a filing date of February 3, 1998 as a continuation application under 37 CFR 1.53(b), is granted. No petition fee is required.

It is noted that the original application papers filed on February 3, 1998 were accompanied by a petition to revive prior application No. 08/182,621. Because the petition to revive was granted in a Decision mailed April 15, 1998, the prior application was pending on February 3, 1998. Therefore, continuity between the above-identified continuation application and prior application No. 08/182,621 has been established.

Since the original application papers cannot be located in the Office, the duplicate papers received April 16, 1999, will be used for examination purposes. The application has been assigned application No. 09/302,816.

Applicant should notify this Office if the original papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The application is being forwarded to the Office of Finance for charging the $395.00 filing fee to deposit account No. 05-1135, as authorized in the April 16, 1999 copy of the original request for a continuation application.

The application will then be forwarded to Initial Patent Examination Division for further processing as a continuation application under 37 CFR 1.53(b) based on prior application No. 08/182,621 with a filing date of February 3, 1998 using the application papers supplied on April 16, 1999. A filing receipt to that effect will be mailed in due course.

Thereafter, the application will be forwarded to Technology Center Art Unit 1634 for examination in due course.

Any inquiries related to this decision should be directed to James Engel at (703) 308-5106.

Fred Silverberg
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects
(703)305-9285

JJE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

RONALD C. FEDUS
ENZO BIOCHEM, INC.
527 MADISON AVENUE, 9TH FLOOR
NEW YORK, NY 10022

COPY MAILED

JUL 30 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	
Dean L. Engelhardt et al.	:	
Application No. 09/302,816	:	ON PETITION
Filed: March 31, 1998	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2001, 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 non-final Office action mailed April 19, 2000, 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 above-identified application became abandoned on July 20, 2000.

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 20

ENZO Life Sciences, Inc.
527 Madison Avenue, 9th Fl.
New York, NY 10022

COPY MAILED

JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Engelhardt et al. :
Application No. 09/302,816 : ON PETITION
Filed: March 31, 1998 :
Attorney Docket No. ENZ-52(C) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2002, 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 non-final Office action mailed August 9, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on November 10, 2001.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $55 will be refunded to petitioner in due course.

The application is being forwarded to Technology Center AU 1634 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
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

RONALD C FEDUS ESQ
ENZO BIOCHEM INC
527 MADISON AVENUE 9TH FLOOR
NEW YORK, NY 10022

COPY MAILED
MAY 18 2004
OFFICE OF PETITIONS

In re Application of
Dean L. Engelhardt, et al.
Application No. 09/302,816
Filed: March 3, 1998
Attorney Docket No. ENZ-52(C)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2003, 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.

The application became abandoned for failure to timely file a reply within the meaning of 37CFR 1.113 to the final Office action of February 24, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition on November 12, 2003, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. See attached Advisory Action.

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
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

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

RONALD C FEDUS ESQ
ENZO BIOCHEM INC
527 MADISON AVENUE 9TH FLOOR
NEW YORK, NY 10022

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Dean L. Engelhardt, et al.	:	
Application No. 09/302,816	:	ON PETITION
Filed: March 3, 1998	:	
Attorney Docket No. ENZ-52(C)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 29, 2004, 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 Examiner has indicated that the amendment filed with the renewed petition on July 29, 2004, *prima facie* places the application in condition for allowance; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 24, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 1600, Art Unit 1634 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 26

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED

APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Barbara J. Winslow, et al. :
Application No. 09/303,040 :
Filed: April 30, 1999 :
Attorney Docket No. SY01113Q :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on April 21, 2003, 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 26, 2002, 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]

The file is being forwarded to Technology Center AU 1648 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

[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
www.uspto.gov

Paper No. 15

LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO, IL 60603

COPY MAILED

MAY 13 2005

OFFICE OF PETITIONS

In re Application of	:	
David I. George et al	:	
Application No. 09/303,053	:	ON PETITION
Filed: April 30, 1999	:	
Attorney Docket No. G0635/7004	:	

This is a decision on the petition, filed June 14, 2004 which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 18, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. Petitioner has provided the USPTO Post Card Receipt, which indicates the reply was filed on September 12, 2003, which is in a timely fashion.

Since the reply was timely submitted, no petition fee is required. Therefore, the holding of abandonment will be withdrawn.

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

The application is being forwarded to Technology Center AU 2623 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
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

LESAVICH HIGH-TECH LAW GROUP,
P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO IL 60603

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Davida et al.	:	
Application No. 09/303053	:	ON APPLICATION FOR
Filing or 371(c) Date: 04/30/1999	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
03,112	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed May 20, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent should be a total of 3369 days, not 317 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **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 1462 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 14, 2009, 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 317 days.

On May 20, 2009, applicant timely submitted the present application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 317 days, as indicated on the Determination of PTA mailed May 14, 2009, to an adjustment of 3369 days. Applicant asserts that the Office (1) erred in assessing a reduction of 1317 days to application in connection with the filing of the Information Disclosure Statement ("IDS") filed January 22, 2008, and (2) that the Office erred in neglecting to apply an adjustment of 1834 days pursuant to 37 CFR 1.702(a)(1), for failure of the Office to mail at least one of a notification

[1] PALM records show that the Issue Fee payment was received in the Office on May 21, 2009.

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).
A review of the record reveals that the IDS was filed prior to the mailing of an Office action, and thus, prior to any reply to an Office action within the meaning of 37 CFR 1.704(c)(8). The first Office action was mailed on January 9, 2009, with a reply thereto being filed thereafter. As such, the IDS filed January 22, 2008 was not filed as a supplemental paper within the meaning of 37 CFR 1.704(c)(8). A review of the application history further confirms that the IDS was not otherwise filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The period of reduction of 1317 days entered for the IDS is not warranted and is being removed.

A further review of the record reveals that the present application was filed as a Continued Prosecution Application ("CPA") on May 29, 2002. Under the circumstances, the calculation of Office delay in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), for taking in excess of fourteen months to mail a first Office action, is properly calculated using the mailing date of the Office action on January 9, 2009. Accordingly, an adjustment of 1991 days is properly attributed to the Office for the period beginning on July 30, 2003, 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), and ending on January 9, 2009, the date of mailing of an action under 35 U.S.C. 132. There is no other basis for entry of a period of adjustment for Office delay. Thus the total period of delay is nineteen hundred ninety-one (1991) days.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 1991 days.

Applicant's deposit account has been charged the petition fee of $200.00 as authorized in the instant petition.

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 Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Day : Monday
Date: 3/22/2010

PALM INTRANET

Time: 14:03:22

PTA Calculations for Application: 09/303053			
Application Filing Date:	04/30/1999	PTO Delay (PTO):	1843
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1526
Post-Issue Petitions:	0	Total PTA (days):	1991
PTO Delay Adjustment:	1674		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	03/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1674		
88	05/14/2009	MAIL NOTICE OF ALLOWANCE			
87	05/12/2009	ISSUE REVISION COMPLETED			
86	05/12/2009	DOCUMENT VERIFICATION			
85	05/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	05/11/2009	NOTICE OF ALLOWABILITY			
80	03/27/2009	DATE FORWARDED TO EXAMINER			
79	02/13/2009	RESPONSE AFTER NON-FINAL ACTION			
78	02/17/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
77	02/11/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	01/09/2009	MAIL NON-FINAL REJECTION	1548		70
75	01/06/2009	NON-FINAL REJECTION			
74	01/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	01/05/2009	CASE DOCKETED TO EXAMINER IN GAU			
72	01/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	01/05/2009	DATE FORWARDED TO EXAMINER			
70	06/14/2004	RESPONSE AFTER NON-FINAL ACTION		209	58
69	07/01/2008	MAIL NOTICE OF RESCINDED ABANDONMENT			
68	06/30/2008	NOTICE OF RESCINDED ABANDONMENT IN TCS			
67	03/29/2006	MISCELLANEOUS INCOMING LETTER			

66	01/22/2008	REFERENCE CAPTURE ON IDS			
65	01/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1317	70
64	02/17/2005	MISCELLANEOUS INCOMING LETTER			
63	05/13/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
62	05/17/2005	PETITION TO REVIVE APPLICATION - GRANTED			
61	06/17/2004	PETITION ENTERED			
60	05/19/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION	295		28
59	05/17/2004	ABAND. FOR FAILURE TO RESPOND TO O. A.			
58	08/18/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
57	08/15/2003	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
56	01/05/2009	CASE DOCKETED TO EXAMINER IN GAU			
49	06/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
46	06/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
29	08/15/2003	DATE FORWARDED TO EXAMINER			
28	05/29/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
27	08/15/2003	DISPOSAL FOR A RCE / CPA / R129			
26	07/25/2003	MISCELLANEOUS INCOMING LETTER			
11	05/29/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

Theodore Naccarella
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia PA 19107

COPY MAILED

APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :

Katherine Grace August and Michelle McNerney :
Application No. 09/303,057 :
Filed: April 30, 1999 :
Attorney Docket No. 3376/34 :
Title: GRAPHICAL USER INTERFACE AND METHOD FOR MODIFYING PRONUNCIATIONS IN TEXT-TO-SPEECH AND SPEECH RECOGNITION SYSTEMS :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.137(a), filed on March 11, 2003, which is properly treated as a petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment.

The petition under 37 C.F.R. §1.181(a) is **GRANTED**.

The above-identified application became abandoned for failure to submit a proper reply to the non-final Office Action, mailed December 5, 2001, which set a 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 above-identified application became abandoned on March 6, 2002. A Notice of Abandonment was mailed on August 9, 2002.

Petitioner submits that the Office Action was never received. Petitioner has submitted: a copy of a docket report during the relevant period; a Revocation and New Power of Attorney that were filed with the Office, which appointed power of attorney to the petitioner, and; a copy of a notice sent to the petitioner indicating that the change in power of attorney had been made of record. A copy of this notice has been located in the file. Petitioner contends that the Office Action was never received. The copy of the Office Action in the file supports this contention, as it was erroneously mailed to the previous attorney of record.

As such, it is decided that Office Action of December 5, 2001 was sent to the wrong address. In view thereof, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

No petition fee is required. If the petitioner wishes to have the $110.00 petition fee refunded, he should submit a request for refund to the Office of Finance[1]. A copy of this decision should accompany any such request.

1 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Commissioner of Patents and Trademarks, Box 17, Washington, DC 20231. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

The application is being forwarded to Technology Center 2600 for processing of the amendment filed concurrently with the instant petition.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 22

COPY MAILED

JAN 0 2 2003

OFFICE OF PETITIONS

Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139

In re Application of :
Joseph L. Kim et al. :
Application No. 09/303,216 : ON PETITION
Filed: April 30, 1999 :
Attorney Docket No. VPI/97-101CIP CON :

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 26, 2002, 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 above-identified application became abandoned on May 27, 2002.

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1631 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 19

Oppenheimer Wolff & Donnelly
Attn: Bruce Canter
840 Newport Center Drive, Suite 700
Newport Beach, CA 92660

COPY MAILED

MAR 1 9 2003

OFFICE OF PETITIONS

In re Application of :
S. Ward Casscells III et al. :
Application No. 09/303,313 : ON PETITION
Filed: April 30, 1999 :
Attorney Docket No. 21120-106 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 a timely manner in reply to the Final Office action mailed March 7, 2001, which set a reply period of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on June 8, 2001.

The application is being forwarded to Technology Center AU 3762 for consideration of the petition pursuant to 37 CFR 1.84.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

RASHID A. KARMALI, PHD
99 WALL STREET
13TH FLOOR
NEW YORK NY

COPY MAILED

OCT 18 2006

Director's Office
Office of Patent Publication

In re Application of :
PEARLMAN, EUGENE S., et al. :
Application No. 09/303,315 :
Filed: April 30, 1999 :
Attorney's Docket No. 108604/002 :

The application was abandoned on July 10, 2006 for applicant's failure to timely file corrected drawings.

In response to the Notice of Abandonment, the Petition to Withdraw Holding Abandonment 37 CFR 1.181 was filed on July 19, 2006. However, the Petition referred to the filing of the PTOL-85, and therefore did not support the timeliness of the Corrected Drawings.

The Notice Of Rescinded Abandonment mailed October 3, 2006 is hereby **VACATED.**

The Petition to Withdraw Holding of Abandonment is **DISMISSED.**

Nina Motley

(for) Nina D Motley
Quality Control Assistant
Office of the Director
Office of Patent Publications

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

RASHIDA A. KARMALI, PhD
99 WALL STREET, 13TH FLOOR
NEW YORK, NY 10005

COPY MAILED

MAR 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Eugene S. **PEARLMAN**	:	
Application No. 09/303,315	:	DECISION ON PETITION
Filed: April 30, 1999	:	
Attorney Docket No. 108604/002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before May 9, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 9, 2006. Accordingly, the date of abandonment of this application is May 10, 2006.

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 $700, and corrected formal drawings , (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Publishing Division to oversee the review of the drawing filed October 23, 2006.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
David W. Bachmann et al	:	
Application No. 09/303,356	:	ON PETITION
Filed: April 29, 1999	:	
Attorney Docket No. AT9-98-955	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2006, 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 non-final Office action mailed February 11, 2006, 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) were obtained. Accordingly, the above-identified application became abandoned on May 12, 2006.

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

This matter is being referred to Technology Center AU 2162 for further processing.

Irvin Dingle
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 04/20/2010

Applicant	: MARION SCOTT BRIGHT	: DECISION ON REQUEST FOR
Patent Number	: 7606742	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/303,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/1999	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **630** 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.

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)
6,262,176	2001-07-17	09/303,426	1999-05-03	49024

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

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	/James Remenick #36,902/	Date (YYYY-MM-DD)	2009-08-21
Name	James Remenick	Registration Number	36902

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. 6262176
Issue Date: July 17,2001
Application No. 09303426
Filed: May 3,1999
Attorney Docket No. 49024

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 21,2009 . 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

COPY MAILED

JUL 20 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

RICHARD A JORDAN
P O BOX 81363
WELLESLEY HILLS, MA 02481-0004

In re Application of
Steven J Sistare et al.
Application No. 09/303,464
Filed: April 30, 1999
Attorney Docket No. P3949

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2000, 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 to File Missing Parts of Application (Notice) mailed May 24, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 25, 1999.

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination Unit.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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. None

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN TX 78767

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Application of Steven J. Sistare et al. Application No. 09/303,464 Filed: April 30, 1999 Attorney Docket No. P3949 Title: SYSTEM AND METHOD FOR CONTROLLING CO-SCHEDULING OF PROCESSES OF PARALLEL PROGRAM	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition filed August 21, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 30, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on July 1, 2006. A Notice of Abandonment was mailed on July 31, 2006.

With the present petition, Petitioner has asserted that the Notice of Allowance and Issue Fee Due was not received.

Receipt of the issue fee is acknowledged.

1 See MPEP §710.02(e).

RELEVANT PORTIONS OF THE MPEP AND C.F.R.

MPEP §711.03(c)(I)(A) sets forth, in toto:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
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 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

Petitioner has asserted that he failed to receive the notice in question. Petitioner has provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

It is not clear if Petitioner searched for the missing communication. Petitioner has failed to provide an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

CONCLUSION

Therefore, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply 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 Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

On renewed petition, Petitioner should provide an attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. 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
United States Patent and Trademark Office

Encl. Copy of the Notice of Allowance and Issue Fee Due

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
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 Petitioner's further action(s).

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 03/30/2006

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767

Courtesy Copy

EXAMINER
HO, ANDY

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 03/30/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,464	04/30/1999	STEVEN J. SISTARE	P3949	8397

TITLE OF INVENTION: SYSTEM AND METHOD FOR CONTROLLING CO-SCHEDULING OF PROCESSES OF PARALLEL PROGRAM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	06/30/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 01/06) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 03/30/2006

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,464	04/30/1999	STEVEN J. SISTARE	P3949	8397

TITLE OF INVENTION: SYSTEM AND METHOD FOR CONTROLLING CO-SCHEDULING OF PROCESSES OF PARALLEL PROGRAM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	06/30/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
HO, ANDY	2194	709-300000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 1.14. 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, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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.
09/303,464	04/30/1999	STEVEN J. SISTARE	P3949	8397

7590 03/30/2006

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER
HO, ANDY

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 03/30/2006

Determination of Patent Term Extension under 35 U.S.C. 154 (b)
(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 01/06) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)
	09/303,464	SISTARE ET AL
	Examiner	Art Unit
	Andy Ho	2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

Courtesy Copy

1. ☒ This communication is responsive to *the amendment filed 1/9/2006*.

2. ☒ The allowed claim(s) is/are *1-20*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
   1. ☐ Certified copies of the priority documents have been received.
   2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
   3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
   1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER
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
WWW.USPTO.GOV

Paper No. None

B. NOEL KIVLIN
CONLEY, ROSE & TAYON, P.C.
P.O. BOX 398
AUSTIN TX 78767

COPY MAILED

JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven J. Sistare et al.	:	
Application No. 09/303,464	:	DECISION ON RENEWED PETITION
Filed: April 30, 1999	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket No. P3949	:	
Title: SYSTEM AND METHOD FOR	:	
CONTROLLING CO-SCHEDULING OF	:	
PROCESSES OF PARALLEL PROGRAM	:	

This is a decision on the renewed petition filed September 29, 2006, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 30, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on July 1, 2006. A Notice of Abandonment was mailed on July 31, 2006.

The original petition was filed on August 21, 2006, along with an assertion that the Notice of Allowance and Issue Fee Due was not received, the issue fee, and a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

1 See MPEP §710.02(e).

The original petition was dismissed via the mailing of a decision on September 22, 2006, as Petitioner failed to provide an attestation to the fact that a search of the file jacket and docket records indicated that the Office communication was not received.

With this renewed petition, this deficiency has been rectified.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. 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
United States Patent and Trademark Office

---

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).

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. : 7,424,712 B1
Serial No. : 09/303,464
Inventor(s) : Sistare et al.
Issued : September 9, 2008
Title : **SYSTEM AND METHOD FOR CONTROLLING CO-SCHEDULING OF PROCESSES OF PARALLEL PROGRAM**
Docket No. : **5181-93900**

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 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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 Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
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: 571-273-8300 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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

MHKKG/SUN
P.O. BOX 398
AUSTIN TX 78767

ecw

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

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Application of
Ellen W. Collisson, et al.
Application No. 09/303,510
Filed: April 30, 1999
Attorney Docket No.: 54954/JPW/TV

ON PETITION

This is a decision on the petition, filed December 9, 2005, 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 November 29, 2005, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1648 for further processing of the request for continued examination under 37 CFR 1.114.

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 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

PAUL J. HIGGINS
STEINBERG & RASKIN PC
1140 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

SEP 2 6 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Viljanmaa, Oet al.
Application No. 09/303,587 : ON PETITION
Filed: May 3, 1999 :
Attorney Docket No. 990.1119CON :

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2000, to revive the above-identified application.

This application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application mailed May 25, 1999. A five month extension of time was obtained. Therefore, this application became abandoned on December 26, 1999.

All requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is **GRANTED**.

The file is being forwarded to Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Elenore Niu at (703) 305-0272.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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

STEINBERG & RASKIN, P.C.
1140 AVENUE OF THE AMERICAS
15TH FLOOR
NEW YORK, NY 10036-5803

COPY MAILED

MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Mika Viljanmaa et al :
Application No. 09/303,587 : ON PETITION
Filed: May 3, 1999 :
Attorney Docket No. 990.119CON :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 8, 2004. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on October 9, 2004. See MPEP 1215.04.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded Technology Center 3721 for processing of the request for continued examination under 37 CFR 1.114 filed October 7, 2004 and for consideration of the concurrently filed amendment.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
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

Paper No. 11

RAMBUS INC.
4440 EL CAMINO REAL
LOS ALTOS, CA 94022

COPY MAILED
FEB 10 2004
OFFICE OF PETITIONS

In re Application of	:	
Stefanos Sidiropoulos	:	
Application No. 09/303,669	:	ON PETITION
Filed: May 3, 1999	:	
Attorney Docket No. RMBS.002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed April 23, 2002. Accordingly, this application became abandoned on July 24, 2002. A Notice of Abandonment was mailed on May 19, 2003.

The file is being forwarded to Technology Center 2600.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MICHAEL J. POWELL, RICHARD C. TITMAS and RICHARD J. MASSEY

Appeal No. 2003-0743
Application No. 09/303,716

MAILED
JUN 22 2004
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before SCHEINER, MILLS and GRIMES, Administrative Patent Judges.

SCHEINER, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 36, 39, 42, 45 and 48; claims 26-34, 37, 40, 43, 46 and 49, also pending in the application, have been withdrawn from consideration; claims 1-25, 35, 38, 41, 44, 47 and 50-55 have been canceled. The claims on appeal are reproduced in the Appendix accompanying appellants' Brief.

The issue appellant would have us consider is whether the specification provides an adequate written description of the subject matter of claims 36, 39, 42, 45 and 48. For the reasons which follow, we reverse the examiner's rejection.

BACKGROUND

According to the specification, "antibodies and enzymes share a fundamental similarity in that both are specialized proteins that bind to other molecules" (page 3). "Antibodies bind molecules in their ground state while enzymes bind molecules in higher energy states." Normally, "[t]he binding of [ ] antibody to the [molecule] enables the [molecule] to be removed from the organism[,]" while "[e]nzymes are biological catalysts which bind a molecule in such a way that the activation energy of a reaction involving a molecule or substrate is lowered, thereby increasing the rate of the reaction" (id.). "[I]t has been discovered[, however,] that antibodies can be elicited to catalyze a variety of chemical reactions" (id., page 2).

"During the course of [a] chemical reaction, the reactants undergo one or more transitions through intermediate structures or transition states which are energetically less favorable than either the reactant or the product. The hydrolysis reaction of a peptide linkage or an ester bond in an aqueous medium passes through a tetrahedral carbon transition state . . . [wherein] a tetrahedral carbon atom is bonded to: a carbon atom of the acid portion of the peptide linkage or ester bond; two oxygen atoms, one corresponding to the carbonyl group and the other corresponding to a hydroxyl ion or water molecule of the medium; and either the oxygen atom of the alcohol portion of an ester or the nitrogen atom of the amine portion of the peptide linkage" (Specification, pages 3-4).

"The energy required to achieve a transition state is denoted as the activation energy, which may also be considered as the difference in energy between the energy of the transition state and the energy of the reactants" (Specification, pages 32-33).

"Catalysts increase chemical reaction rates by lowering the activation energy of a reaction. Antibodies elicited to a hapten . . . [which] resemble[s] the presumed transition state structure (i.e., a transition state analog), can catalyze reactions . . . [by] stabiliz[ing] the energy of the transition state relative to reactants and products[,] . . . [an] approach [that] has been successfully demonstrated in the generation of several catalytic monoclonal antibodies" (id, page 33).

DISCUSSION

Claims 36 and 39 are directed to catalytic antibodies elicited by an antigen comprising the boron-containing hapten of formula I; claim 42 is directed to a method for producing catalytic antibodies specific for the boron-containing hapten of formula I; and claims 45 and 48 are directed to catalyzing the cleavage or formation of a peptide linkage or an ester bond in a molecule using catalytic antibodies elicited by an antigen comprising the boron-containing hapten of formula I.[1]

According to the examiner, the hapten of formula I "has a very wide range of possibilities" but the specification "does not teach that any of the myriad possibilities . . . will make antibodies that have catalytic activity," much less "which molecules are substrates for cleavage or formation of an ester or peptide bond" (Answer, page 3), thus, the subject matter of the claims "was not described in the specification in such a way as to reasonably convey . . . that [appellants], at the time the application was filed, had possession of the claimed invention" (Answer, page 3).

---

[1] The boron-containing hapten depicted in the claims on appeal was originally designated "formula II." The designation of the hapten in the claims was changed to "formula I" by the preliminary amendment filed April 30, 1999 (paper no. 3), but the designation of the boron-containing hapten throughout the specification is still "formula II."

"Compliance with the written description requirement is essentially a fact-based inquiry that will 'necessarily vary depending on the nature of the invention claimed.'" Enzo Biochem v. Gen-Probe, Inc., 296 F.3d 1316, 1324, 63 USPQ2d 1609, 1613 (Fed. Cir. 2002) (citation omitted). In Enzo, the court explained that one way a claim may satisfy the written description requirement is by coupling a "functional characteristic . . . with a disclosed correlation between that function and a structure that is sufficiently known or disclosed" (id.).

More to the point, in Enzo, the court adopted the PTO's internal guidelines for determining compliance with the written description requirement (Guidelines for Examination of Patent Applications Under the 35 U.S.C. § 112, ¶ 1, "Written Description Requirement," 66 Fed. Reg. 1099 (January 5, 2001), also available at http://www.uspto.gov/web/patents/guides.htm), at least to the extent that "the PTO would find compliance with § 112, ¶ 1, for a claim to an 'isolated antibody capable of binding to antigen X,' notwithstanding the functional definition of the antibody, in light of 'the well defined structural characteristics for the five classes of antibody, the functional characteristics of antibody binding, and the fact that antibody technology is well developed and mature.'" Enzo, 296 F.3d at 1324-25, 63 USPQ2d at 1613 (Fed. Cir. 2002).[2]

---

[2] The example referred to here stipulates that antigen X has been isolated and characterized and that the specification includes a complete protocol for its isolation. "Considering the routine art-recognized method of making antibodies to fully characterized antigens, the well defined structural characteristics for the five classes of antibody, the functional characteristics of antibody binding, and the fact that antibody technology is well developed and mature," the guidelines indicate that the written description requirement is met because "one of skill in the art would have recognized that the spectrum of antibodies which bind to antigen X were implicitly disclosed as a result of the isolation of antigen X" ("Application of Guidelines," Example 16).

Here, as explained in the specification, the antibodies required by each of the claims on appeal are elicited by boron-containing haptens which "assume a tetrahedral like configuration upon reaction with water in an aqueous environment" (page 41), "mimic[king] the transition state in the cleavage or formation of a peptide linkage or an ester bond in a molecule" (pages 16-17). Moreover, "amino acid side-chain sub-sites on either side of the tetrahedral transition state analog . . . provide for the elicitation of catalytic antibodies capable of recognizing a specific amino acid sequence" and "catalyzing the selective cleavage or formation of a predetermined peptide linkage or an ester bond in a native polypeptide sequence" (id, page 18).

Thus, the specification teaches that a function of the claimed antibodies (the ability to catalyze a reaction, particularly the ability to catalyze the cleavage or formation of a peptide linkage or an ester bond) is coupled to a particular structure (the boron-containing transition state analog of formula I). The specification also teaches that the binding specificity of the catalytic antibodies (an additional function) is conferred by the structure of the amino acid side-chains carried by the tetrahedral transition state analog.

Having reviewed the claims and specification in light of the standard discussed in Enzo, we find that the claims are supported by an adequate written description. The rejection of the claims under the first paragraph of 35 U.S.C. § 112 is reversed.

REVERSED

Toni R. Scheiner Administrative Patent Judge	)
Demetra J. Mills Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
Eric Grimes Administrative Patent Judge	)

Kramer, Levin, Naftalis, & Frankel LLP
Intellectual Property Department
919 Third Avenue
New York, NY 10022

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

MAIL

Paper No. 8

FEB 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, Suite 100
SHREWSBURY NJ 07702
Attention: Eamon J. Wall

In re Application of
Arunachalam et al.
Application No. 09/303,718
Filed: April 30, 1999
For: SCALABLE HIGH SPEED ROUTER APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment filed December 11, 2003,pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On June 5, 2002, a non-final Office action was mailed (paper No. 4) in the subject application. A response from Applicants was not received and matched with the file. On November 10, 2003, a Notice of Abandonment was mailed (paper No. 5).

Petitioner alleges that the Office action of June 5, 2002 (paper No. 4) was not received. In support of this, Petitioner provides evidence of change of address (filed August 5, 2003), a declaration from a Ms. Clara J. Castle (identified in the petition as assistant to then attorney of record, Mr. Keith D. Nowak, Esq.) and copies of Lieberman & Nowak LLP' docket records.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish the failure to receive 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 "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice To File Missing Parts of May 1, 2001, was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the non-final Office action (paper No. 4) on the part of the Patent and Trademark Office.

The petitioner has not made a sufficient showing of non-receipt of the non-final Office action (paper No. 4, mailed June 5, 2002) in accordance with the requirements set forth above. The instant petition lacks a statement ***from the practitioner*** of record (at the time of mailing the Office action), indicating: (1) that the non-final Office action (paper No. 4, mailed June 5, 2002) was not received, (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Notice To File Missing Parts was not received and (3) reference to attached docketing records within practitioner's statement.

The petition is **DENIED.**

With respect to the Associate Power of Attorney/Change of Correspondence Address filed by facsimile on August 5, 2003 (paper No. 6), it is noted that this communication merely appoints attorneys as associate attorneys of record. There is no petition to revoke or withdraw attorneys of record in the application. Mr. Nowak, for example, has not been withdrawn as attorney of record, or powers revoked, in the application.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the deficiencies outlined above.

The application will be forwarded to TC2600's Technical Support Staff to update the correspondence address. Afterwards, the application will be held in the Technology Center for two months awaiting any requests for reconsideration of this decision.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

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

MAIL

MAY 1 8 2004

TECHNOLOGY CENTER 2600

Paper No. 10

MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY NJ 07702

In re Application of
Arunachalam et al.
Application No. 09/303,718
Filed: April 30, 1999
For: SCALABLE HIGH SPEED ROUTER APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Request for Reconsideration, filed March 30, 2004 via facsimile submission. The request for reconsideration is in response to the decision mailed February 26, 2004 (paper No. 8) which denied the original Petition to Withdraw Holding of Abandonment pursuant to MPEP §711.03(c)(II) and 37 C.F.R. § 1.181(a) (paper No. 7). The No fee is required.

On June 5, 2002, a non-final Office action was mailed (paper No. 4) in the subject application. A response from Applicants was not received and matched with the file. On November 10, 2003, a Notice of Abandonment was mailed (paper No. 5).

The original petition (paper No. 7) was denied as the petitioner not providing a sufficient showing of non-receipt of the non-final Office action (paper No. 4, mailed June 5, 2002). Specifically, the petition lacked a statement ***from the practitioner*** of record (at the time of mailing the Office action), indicating: (1) that the non-final Office action (paper No. 4, mailed June 5, 2002) was not received, (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received and (3) reference to attached docketing records within practitioner's statement.

Within the subject Request for Reconsideration, a declaration was provided by Keith D. Nowak, Practitioner of record. The declaration by Keith D. Nowak is deficient. The declaration provides a statement that the Office communication was not received and also references the docket record. However, the declaration does not provide a statement from the Practitioner of record which indicates that they personally searched the file jacket and docket records. Instead, the declaration states "If an Office Action had been received, it would have been docketed and given to me for a reply." This is insufficient to meet the second requirement of MPEP §711.03(c) section II.

For the above reasons, the Request for Reconsideration is **DENIED**.

Petitioner alternatively requests that the Request for Reconsideration be considered as an Unavoidable abandonment, presumably pursuant to 37 C.F.R. §1.137(a). The application will be forwarded to the Office of Petitions for the alternative consideration as a Petition to revive an abandoned application under 37 C.F.R. §1.137(a).

Dwayne D. Bost
Special Program Examiner
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

05 MAY 2006

PATTERSON & SHERIDAN, LLP/
LUCENT TECHNOLOGIES, INC
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

In re Application of Arunachalam et al. Application No. 09/303,718 Filed: April 30, 1999 For: SCALABLE HIGH SPEED ROUTER APPARATUS	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the renewed Request for Reconsideration, filed August 10, 2004. The request for reconsideration is in response to the decision mailed May 18, 2004 which denied the original Petition to Withdraw Holding of Abandonment pursuant to MPEP §711.03(c)(II) and 37 C.F.R. § 1.181(a). The No fee is required.

On June 5, 2002, a non-final Office action was mailed in the subject application. A response from Applicants was not received and matched with the file. On November 10, 2003, a Notice of Abandonment was mailed.

The original petition was denied as the petitioner not providing a sufficient showing of non-receipt of the non-final Office action. Specifically, the petition lacked a statement ***from the practitioner*** of record (at the time of mailing the Office action), indicating: (1) that the non-final Office action, mailed June 5, 2002 was not received, (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received and (3) reference to attached docketing records within practitioner's statement.

The petition now meets the requirements set forth above.

The Request for Reconsideration is **GRANTED**.

Due to the time lapse between the Office action of June 5, 2002 and the mailing of this decision, the file is being forwarded to the examiner for updating the search and other appropriate action. From there the file will be forwarded to the Technology Center's technical support staff for re-mailing the Office action. The period for response will be re-set to begin as of the mailing thereof. Any delay caused petitioner in treating the petition is regretted.

Kenneth A. Wieder
Special Program Examiner
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

JJGJr.: 07-06

COPY MAILED

JUL 1 0 2006

OFFICE OF PETITIONS

Paper No. __

RICHARD VOELLMY, DEPT. OF
BIOCHEMISTRY & MOLECULAR BIOLOGY
UNIVERSITY OF MIAMI SCHOOL OF MEDICINE
1011 N.W. 15TH STREET
MIAMI FL 33136

In re Patent No. 6,342,596	:	
Issued: 29 January, 2002	:	
Application No. 09/304,121	:	DECISION ON PETITION
Filed: 3 May, 1999	:	
Attorney Docket No.: 870109.409	:	
	:	

This is a decision on the renewed petition filed on 14 April, 2006, under 37 C.F.R. §1.378(c) seeking to reinstate the instant patent, Patent No. 6,342,596 (the '596 patent), which expired for failure to pay the maintenance fee and small surcharge then due.

For the reasons below, the instant petition is **GRANTED**.

I. JURISDICTION

The '596 patent issued on 29 January, 2002. The grace period for paying the first maintenance fee expired at midnight 29 January, 2006. Thus, the petition was timely filed within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e).

A petition under 37 C.F.R. §1.378(c) requires the petition, surcharge/fee for acceptance of the maintenance fee, statement of unintentional delay by the proper party in interest, and the maintenance fee due.

FACTS AND LAW

The Office may accept unintentionally delayed payments of a maintenance fee under 37 C.F.R. §1.378(c)[1] if the fee is paid within 24 months of the expiration of the patent and Petitioner: (a) files a petition, (b) pays the maintenance fee, (c) pays the surcharge, and (d) makes the statement of unintentional delay.

CONCLUSION

Petitioner has satisfied the statutory and regulatory requirements for the petition. Therefore, the instant petition under 37 C.F.R. §1.378(c) is **granted**, and the first maintenance fee is accepted as of the mail date of this decision.

The instant file is being released to IFW Files Repository.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.378 provide in pertinent part:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Commissioner may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Commissioner to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. If the Commissioner accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).

* * *

(c) Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20 (e) through (g);

(2) The surcharge set forth in § 1.20(i)(2); and

(3) A statement that the delay in payment of the maintenance fee was unintentional.

(d) 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. (e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(i) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY - 3 2002

Andrew J. Patch
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	
Mohamed CHOKRI et al	:	
Serial Number: 09/304,564	:	DECISION ON PETITION
Filed: May 4, 1999	:	

Paper No. 14

This is in response to applicant's "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT" filed March 27, 2002.

On August 14, 2001, an Advisory Action was mailed to applicant. The period for response was set to expire 4 months from the mailing date (March 27, 2001) of the final rejection. On November 6, 2001, a Notice of Abandonment for failure to timely file a proper reply was mailed. On March 27, 2002, the present petition was filed. The petition asserts that the Notice of Abandonment was not received until January 30, 2002 and that a reply was timely filed on August 27, 2001 in response to the Office action of August 14, 2001. The petition was accompanied with a copy of complete response filed on August 14, 2001.

The application and the evidence filed with the petition have been carefully reviewed. A reply was timely filed in response to the Office action dated August 14, 2001. Accordingly, the petition is Granted.

The application has been returned to pending status and will be forwarded to examiner for consideration after mailing of this letter.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 308-3890.

Cecilia Tsang for
John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 0 7 2000

Technology Center 2100

Paper No. 7

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park CA 94025

In re Application of: Peter M. Redford et al.	)	
Application No. 09/304,623	)	
Filed: May 3, 1999	)	
For: HOST DEVICE EQUIPPED WITH	)	DECISION ON PETITION
MEANS FOR STARTING A PROCESS IN	)	
RESPONSE TO DETECTING INSERTION	)	
OF A STORAGE MEDIA	)	

This is a decision on the petition, filed October 20, 2000, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required .

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

DO NOT SEND TO WAREHOUSE

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 2-3-03 **Paper No.:** 14

TO : **Supervisor, Art Unit** ~~2872~~ 2882

SUBJECT : Certificate of Correction Request in Patent No.: 6,198793

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

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.

Michelle Williams

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☑ **YES** ☐ **NO**

☐ **Comments:** _____

Supervisor **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

ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

COPY MAILED

JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
GUYAN, et al.	:	
Application No. 09/305,234	:	DECISION GRANTING PETITION
Filed: May 4, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10022/248**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 3, 2008, 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 15, 2008 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 2164 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.*

J. ERNEST KENNEY
EUGENE MAR
RICHARD E. FICHTER
THOMAS J. MOORE
ERIC S. SPECTOR
FELIX J. D'AMBROSIO
GEORGE A. LOUP
BENJAMIN E. URCIA*
JUSTIN J. CASSELL
JOHN R. SCHAEFER
PATRICK M. BUECHNER

GEORGE CHUNG CHIN CHEN‡

* BAR OTHER THAN VA.
‡ REG. PATENT AGENT

LAW OFFICES
BACON & THOMAS, PLLC
625 SLATERS LANE - FOURTH FLOOR
ALEXANDRIA, VIRGINIA 22314-1176
U.S.A.

TELEPHONE
(703) 683-0500

FACSIMILE
(703) 683-1080
(703) 683-0884

E-Mail
mail@baconthomas.com

FACSIMILE COMMUNICATION

To: USPTO, Certificate of Corrections Branch
Attn: Mr. Lewis

Fax #: 571-270-9965

Re: U.S. Patent No. 6,496,593 - granted 12/17/02

From: Ms. Holmes

Total pages: 20, Coversheet

Date: March 2, 2010

Confidential/Privileged
This communication contains confidential information that is intended to be received and read only by the party named as addressee (listed after "To:" at the left). This communication may contain information that is subject to the attorney/client privilege and/or a court order restricting its dissemination. No one else is entitled to read, use, copy or disseminate this communication or the information contained herein. If you are not the addressee, or the agent of the addressee, then contact us immediately by telephone (collect) or facsimile and arrangements will be made for the return to us of this communication.
Thank you, BACON & THOMAS, PLLC.

Message:

Mr. Lewis, please find attach a copy of the documents as filed in the Patent Office on December 15, 2008, including a copy of the stamped receipt card as well.

Please call if you need any further assistance.

Thanks.

Ms. Holmes

BACON & THOMAS

625 Slaters Lane 4th Fl., Alexandria, VA 22314

PATENT APPLICATION
(PENDING)

Serial No: 09/305,306
Patent No. 6,496,593 - granted 12/17/02)

Filed: May 5, 1999

Attorney: KRON3001/JZ/BEU

Due Date: NONE

Applicant(s): Norris J. KRONE, Jr. et al

☒ MAILROOM ☐ ART UNIT ☐

Special Instructions:

The PTO stamp hereon acknowledges receipt of:

- ☒ **Signed Declaration by ALL Inventors (4)**
- ☒ **Consent of Assignee to change of inventorship in patent**
- ☒ **Certificate of Correction**
- ☒ **Amendment, Petition and fee to correct inventorship (37 CFR § 1.324)**
- ☒ **Statement agreeing to change of inventorship in patent by correctly named inventors ((37 CFR § 1.324)**
- ☒ **Check - $230 ($100 - Certificate of Correction/$130 - Petition Fee)**

Filed By: BEU/jsh

DEC 15 2008
PATENT & TRADEMARK OFFICE
IAP81

MP

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: NORRIS J. KRONE, JR. ET AL
SERIAL NO.: 09/305,306 (Patent No. 6,496,593 - granted 12/17/02)
FILED: May 5, 1999
FOR: OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD

GROUP ART UNIT: unassigned
EXAMINER: unassigned
ATTY. REFERENCE: KRON3001/JZ/BEU

COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The below identified communication(s) or document(s) is(are) submitted in the above application or proceeding:

- ☒ **Signed Declarations by ALL inventors (4)**
- ☒ **Consent of Assignee to change of inventorship in patent (37 CFR § 1.324(b)(3))**
- ☐ Formal Drawings
- ☒ **Certificate of Correction**
- ☒ **Check - $230**
- ☒ **Amendment/Petition and fee to correct inventorship (37 CFR § 1.324)**
- ☒ **Statement agreeing to change of inventorship in patent by correctly named inventors (37 CFR § 1.324)**

☒ Please debit or credit **Deposit Account Number 02-0200** for any deficiency or surplus in connection with this communication. A duplicate copy of this sheet is provided for use by the Deposit Account Branch.

☐ Small Entity Status is claimed.

☐

23364
Customer Number

BACON & THOMAS, PLLC
625 SLATERS LANE - FOURTH FLOOR
ALEXANDRIA, VIRGINIA 22314
(703) 683-0500

DATE: December 15, 2008

Respectfully submitted,

Benjamin E. Urcia
Attorney for Applicant
Registration Number: 33,805

B&T-Copy of document transmittal.wpd

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 6,496,593	)	
	)	
Norris J. KRONE, Jr. *et al.*	)	Atty. Doc. KRON3001/JZ/BEU
	)	
Issue Date: December 17, 2002	)	
	)	
Filed As Ser. No. 09/305,306 (May 5, 1999)	)	

For: **OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD**

AMENDMENT, PETITION AND FEE TO CORRECT INVENTORSHIP (37 CFR §1.324)

Honorable Commissioner For Patents
Washington, D.C. 20231

Sir:

This amendment and petition is to correct the incorrect naming of inventors in the original declaration submitted on June 3, 1999.

Please add the following persons not named in the original declaration as inventors of this application: **Stanley MOROZ, John T. CAUFIELD, Patrick GOWER, and James McDONALD.**

The currently named inventors who are being retained in this application are **Norris J. KRONE, Duane A. BURCHICK, Roger B. PIERSON, Mehmet C. ERTEM, and Thomas J. IPPOLITO.**

Attached is:

(1) A statement by each of the added inventors that the inventorship error occurred without any deceptive intention his or her part. *37 CFR §1.324(b)(1)*

U.S. Patent No. 6,496,593
Petition for Correction of Inventorship

(2) A statement by each of the currently named inventors that they have no disagreement in regard to the change of inventorship of the above-identified patent. *37 CFR §1.48(b)(2)*

(3) The written consent of the assignee, University Research Foundation, Inc. *37 CFR §1.324(b)(3)*

(4) A check in the amount of $130.00. 37 CFR §1.20(b)

Respectfully submitted,

BACON & THOMAS, PLLC

By: BENJAMIN E. URCIA
Registration No. 33,805

Date: December 12, 2008

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, Virginia 22314

Telephone: (703) 683-0500

PAGE 5/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,496,593

DATED : December 17, 2002

INVENTOR(S) : Norris J. KRONE, Duane A. BURCHICK, Roger B. PIERSON, Mehmet C. ERTEM, and Thomas J. IPPOLITO

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

Amend the listed Inventors by adding:

–Stanley Moroz, Waldorf, MD (US); John T. Caufield, Santa Barbara, CA (US).; Patrick Gower, Rockville, MD (US); James McDonald, Raleigh, NC (US)–.

Mailing address of sender:

Patent No. 6,496,593

No. of add'l copies @ .30 per page

Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

Inventors: Moroz et al. U.S. Patent No. 6,496,593

DECLARATION OF THE INVENTORS

We the undersigned joint inventors of U.S. Patent No. 6,496,593, entitled "OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD," hereby declare that our respective contributions support the patent claims as listed below.

Under penalty of perjury, we declare the foregoing information to be true and correct to the best of our knowledge and belief under our hands and seals.

FULL NAME OF JOINT INVENTOR: Stanley Moroz
Claims: 1, 2, 3, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Waldorf, MD, USA
Citizenship USA
Mailing Address 8895 Brook Dr.
City, State, ZIP, Country Waldorf, MD 20603, USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: Stanley M Moroz
Date of Signature: 5/9/08

FULL NAME OF JOINT INVENTOR: John T. Caufield
Claims: 1, 2, 5, 6, 7, 8, 9, 10, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: Patrick Gower
Claims: 1, 4, and 11
Date of Contribution: 1994 through 1996

Inventors: Moroz et al. U.S. Patent No. 6,496,593

Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: James McDonald
Claims: 1, 2, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

Inventors: Moroz et al. U.S. Patent No. 6,496,593

DECLARATION OF THE INVENTORS

We the undersigned joint inventors of U.S. Patent No. 6,496,593, entitled "OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD," hereby declare that our respective contributions support the patent claims as listed below.

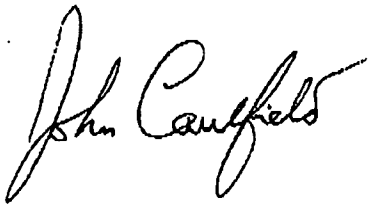
Under penalty of perjury, we declare the foregoing information to be true and correct to the best of our knowledge and belief under our hands and seals.

FULL NAME OF JOINT INVENTOR: Stanley Moroz
Claims: 1, 2, 3, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Waldorf, MD, USA
Citizenship USA
Mailing Address 8895 Brook Dr.
City, State, ZIP, Country Waldorf, MD 20603, USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature:
Date of Signature:

FULL NAME OF JOINT INVENTOR: John T. Caufield
Claims: 1, 2, 5, 6, 7, 8, 9, 10, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): 3718 Barcelona Dr.
Citizenship: US
Mailing Address: 3718 Barcelona Dr.,
City, State, ZIP, Country: Santa Barbara, CA 93015

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.



Signature:
Date of Signature: 8 May 2008

FULL NAME OF JOINT INVENTOR: Patrick Gower
Claims: 1, 4, and 11
Date of Contribution: 1994 through 1996

Inventors: Moroz et al. U.S. Patent No. 6,496,593

Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: James McDonald
Claims: 1, 2, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

DECLARATION OF THE INVENTORS

We the undersigned joint inventors of U.S. Patent No. 6,496,593, entitled "OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD," hereby declare that our respective contributions support the patent claims as listed below.

Under penalty of perjury, we declare the foregoing information to be true and correct to the best of our knowledge and belief under our hands and seals.

FULL NAME OF JOINT INVENTOR: Stanley Moroz
Claims: 1, 2, 3, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Waldorf, MD, USA
Citizenship USA
Mailing Address 8895 Brook Dr.
City, State, ZIP, Country Waldorf, MD 20603, USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: John T. Caufield
Claims: 1, 2, 5, 6, 7, 8, 9, 10, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: Patrick Gower
Claims: 1, 4, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Rockville MD USA
Citizenship: USA
Mailing Address: 1527 Baylor Ave
City, State, ZIP, Country: Rockville, MD 20850 USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.

Signature: _____
Date of Signature: 11 May 2008

FULL NAME OF JOINT INVENTOR: James McDonald
Claims: 1, 2, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

Inventors: Moroz et al.

U.S. Patent No. 6,496,593

DECLARATION OF THE INVENTORS

We the undersigned joint inventors of U.S. Patent No. 6,496,593, entitled "OPTICAL MUZZLE BLAST DETECTION AND COUNTERFIRE TARGETING SYSTEM AND METHOD," hereby declare that our respective contributions support the patent claims as listed below.

Under penalty of perjury, we declare the foregoing information to be true and correct to the best of our knowledge and belief under our hands and seals.

FULL NAME OF JOINT INVENTOR: Stanley Moroz
Claims: 1, 2, 3, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Waldorf, MD, USA
Citizenship USA
Mailing Address 8895 Brook Dr.
City, State, ZIP, Country Waldorf, MD 20603, USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: John T. Caufield
Claims: 1, 2, 5, 6, 7, 8, 9, 10, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: Patrick Gower
Claims: 1, 4, and 11
Date of Contribution: 1994 through 1996

Inventors: Moroz et al.

U.S. Patent No. 6,496,593

Residence (City, State, Country): _____
Citizenship: _____
Mailing Address: _____
City, State, ZIP, Country: _____

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: _____
Date of Signature: _____

FULL NAME OF JOINT INVENTOR: Jimmie R. McDonald
Claims: 1, 2, and 11
Date of Contribution: 1994 through 1996
Residence (City, State, Country): Raleigh, NC, USA
Citizenship: U.S.
Mailing Address: City, State, ZIP, 2628 Hunters Meadow Lane, Raleigh, NC 27513
Country: USA

Pursuant to 37 C.F.R. 1.324, I confirm that the inventorship error of omitting my name occurred without any deceptive intention on my part.
Signature: Jimmie R. McDonald
Date of Signature: 5/23/2008

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Date of Issue: 12/17/2002

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CONSENT OF ASSIGNEE TO CHANGE OF INVENTORSHIP IN PATENT (37 C.F.R. § 1.324(b)(3))

NOTE: The assignee of each person who is being added or deleted and from the current inventor(s) who are not being added or deleted as inventor must file a consent to the change of inventorship. 37 C.F.R. § 1.324(b)(3).

NOTE: 37 C.F.R. 1.324 does not require a statement from an inventor who is being deleted that the inventorship error occurred without any deceptive intent on his or her part. It may be useful to have that statement on record anyway. In any event, the statement by the inventor being deleted agreeing to the change of inventorship or stating that there is no disagreement to the requested change is still necessary under 37 C.F.R. 1.324(b)(2).

University Research Foundation, Inc.
(type or print name of assignee)

owner by assignment of the above patent,

(check and complete the applicable item below)

☐ in the assignment being recorded concurrently herewith,

☒ in the assignment recorded in the PTO on 7/23/1999 *(Date of recordal)*
Frame 010122
Reel 0596

hereby consents to the amendment of the inventorship of this patent as requested

☒ in the accompanying papers.

☐ in the papers mailed to the PTO on _____.

(complete the following, if applicable)

☐ Attached is a "STATEMENT UNDER 37 CFR 3.73(b)," establishing the right of the assignee to take action in this case.

Date: 3/2/10

Signature

Dr. Norris J. Krone
(type or print name of signatory)

President
Title of signatory if signing on behalf of an entity

PAGE 15/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Application No.: 09/305,306

Date of Issue: 12/17/2002 Filed: 05/05/1999

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT AGREEING TO CHANGE OF INVENTORSHIP IN PATENT BY CORRECTLY NAMED INVENTORS (37 C.F.R. § 1.324(b)(2))

NOTE: "Under 37 C.F.R. 1.324(b)(2), all current inventors who did not submit a statement under 37 C.F.R. 1.324(b)(1) must submit a statement either agreeing to a change of inventorship, or stating that they have no disagreement with regard to the requested change. 'Current inventors' include the inventor(s) being retained as such and the inventor(s) to be deleted. These current inventors need not make a statement as to whether the inventorship error occurred without deceptive intention." See § 1481, MPEP, 8th Edition.

NOTE: "If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04." See § 1481, MPEP, 8th Edition.

NOTE: "Nothing more is required. The examiner will determine only whether the statement contains the required language; the examiner will not make any comment as to whether or not it appears that there was in fact deceptive intention (see MPEP § 2022.05)." See § 1481, MPEP, 8th Edition.

I, an inventor signing below and

☒ who is being retained as an inventor,

☐ who is being deleted as an inventor

in the above identified patent, make the following statement in support of the petition to correct the inventorship of this patent:

☐ I agree to the change of inventorship of this patent.

☒ I have no disagreement in regard to the requested change of inventorship of this patent.

Norris J. Krone, Jr.
(Type name of inventor being added)

Norris J. Krone Jr.
SIGNATURE

Duane A. Burchick
(Type name of inventor being added)

SIGNATURE

PAGE 16/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Application No.: 09/305,306

Date of Issue: 12/17/2002 Filed: 05/05/1999

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT AGREEING TO CHANGE OF INVENTORSHIP IN PATENT BY CORRECTLY NAMED INVENTORS (37 C.F.R. § 1.324(b)(2))

NOTE: "Under 37 C.F.R. 1.324(b)(2), all current inventors who did not submit a statement under 37 C.F.R. 1.324(b)(1) must submit a statement either agreeing to a change of inventorship, or stating that they have no disagreement with regard to the requested change. 'Current inventors' include the inventor(s) being retained as such and the inventor(s) to be deleted. These current inventors need not make a statement as to whether the inventorship error occurred without deceptive intention." See § 1481, MPEP, 8th Edition.

NOTE: "If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04." See § 1481, MPEP, 8th Edition.

NOTE: "Nothing more is required. The examiner will determine only whether the statement contains the required language; the examiner will not make any comment as to whether or not it appears that there was in fact deceptive intention (see MPEP § 2022.05)." See § 1481, MPEP, 8th Edition.

I, an inventor signing below and

☒ who is being retained as an inventor,

☐ who is being deleted as an inventor

in the above identified patent, make the following statement in support of the petition to correct the inventorship of this patent:

☐ I agree to the change of inventorship of this patent.

☒ I have no disagreement in regard to the requested change of inventorship of this patent.

Norris J. Krone, Jr.
(Type name of inventor being added)

SIGNATURE

Duane A. Burchick
(Type name of inventor being added)

D. Burchick
SIGNATURE

PAGE 17/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Application No.: 09/305,306

Date of Issue: 12/17/2002 Filed: 05/05/1999

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT AGREEING TO CHANGE OF INVENTORSHIP IN PATENT BY CORRECTLY NAMED INVENTORS (37 C.F.R. § 1.324(b)(2))

NOTE: "Under 37 C.F.R. 1.324(b)(2), all current inventors who did not submit a statement under 37 C.F.R. 1.324(b)(1) must submit a statement either agreeing to a change of inventorship, or stating that they have no disagreement with regard to the requested change. 'Current inventors' include the inventor(s) being retained as such and the inventor(s) to be deleted. These current inventors need not make a statement as to whether the inventorship error occurred without deceptive intention." See § 1481, MPEP, 8th Edition.

NOTE: "If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04." See § 1481, MPEP, 8th Edition.

NOTE: "Nothing more is required. The examiner will determine only whether the statement contains the required language; the examiner will not make any comment as to whether or not it appears that there was in fact deceptive intention (see MPEP § 2022.05)." See § 1481, MPEP, 8th Edition.

I, an inventor signing below and

☒ who is being retained as an inventor,

☐ who is being deleted as an inventor

in the above identified patent, make the following statement in support of the petition to correct the inventorship of this patent:

☐ I agree to the change of inventorship of this patent.

☒ I have no disagreement in regard to the requested change of inventorship of this patent.

Roger B. Pierson
(Type name of inventor being ~~added~~) retained RBP

SIGNATURE

Mehmet C. Ertem
(Type name of inventor being added)

SIGNATURE

PAGE 18/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Application No.: 09/305,306

Date of Issue: 12/17/2002 Filed: 05/05/1999

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT AGREEING TO CHANGE OF INVENTORSHIP IN PATENT BY CORRECTLY NAMED INVENTORS (37 C.F.R. § 1.324(b)(2))

NOTE: "Under 37 C.F.R. 1.324(b)(2), all current inventors who did not submit a statement under 37 C.F.R. 1.324(b)(1) must submit a statement either agreeing to a change of inventorship, or stating that they have no disagreement with regard to the requested change. 'Current inventors' include the inventor(s) being retained as such and the inventor(s) to be deleted. These current inventors need not make a statement as to whether the inventorship error occurred without deceptive intention." See § 1481, MPEP, 8th Edition.

NOTE: "If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04." See § 1481, MPEP, 8th Edition.

NOTE: "Nothing more is required. The examiner will determine only whether the statement contains the required language; the examiner will not make any comment as to whether or not it appears that there was in fact deceptive intention (see MPEP § 2022.05)." See § 1481, MPEP, 8th Edition.

I, an inventor signing below and

☒ who is being retained as an inventor,

☐ who is being deleted as an inventor

In the above identified patent, make the following statement in support of the petition to correct the inventorship of this patent:

☐ I agree to the change of inventorship of this patent.

☒ I have no disagreement in regard to the requested change of inventorship of this patent.

Roger B. Pierson
(Type name of inventor being added)

SIGNATURE

Mehmet C. Ertem
(Type name of inventor being added)

SIGNATURE

PAGE 19/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

Practitioner's Docket No. KRON3001/JZ **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent: 6,496,593 Application No.: 09/305,306

Date of Issue: 12/17/2002 Filed: 05/05/1999

Name of Patentee: Krone, Jr. et al.

Title of Invention: Optical Muzzle Blast Detection and Counterfire Targeting System and Method

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT AGREEING TO CHANGE OF INVENTORSHIP IN PATENT BY CORRECTLY NAMED INVENTORS (37 C.F.R. § 1.324(b)(2))

NOTE: "Under 37 C.F.R. 1.324(b)(2), all current inventors who did not submit a statement under 37 C.F.R. 1.324(b)(1) must submit a statement either agreeing to a change of inventorship, or stating that they have no disagreement with regard to the requested change. 'Current inventors' include the inventor(s) being retained as such and the inventor(s) to be deleted. These current inventors need not make a statement as to whether the inventorship error occurred without deceptive intention." See § 1481, MPEP, 8th Edition.

NOTE: "If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, since the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04." See § 1481, MPEP, 8th Edition.

NOTE: "Nothing more is required. The examiner will determine only whether the statement contains the required language; the examiner will not make any comment as to whether or not it appears that there was in fact deceptive intention (see MPEP § 2022.05)." See § 1481, MPEP, 8th Edition.

I, an inventor signing below and

☒ who is being retained as an inventor,

☐ who is being deleted as an inventor

in the above identified patent, make the following statement in support of the petition to correct the inventorship of this patent:

☐ I agree to the change of inventorship of this patent.

☒ I have no disagreement in regard to the requested change of inventorship of this patent.

Thomas J. Ippolito
(Type name of inventor being added)

Thomas J. Ippolito 11/5/2008
SIGNATURE

(Type name of inventor being added)

SIGNATURE

PAGE 20/20 * RCVD AT 3/2/2010 11:24:58 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/41 * DNIS:2709965 * CSID:7036831080 * DURATION (mm-ss):02-20

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. 32

ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

NOV 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Guyan et al.	:	LETTER REGARDING
Application No. 09/305,331	:	PATENT TERM ADJUSTMENT
Filed: May 4, 1999	:	
Atty Docket No. 10022/246-1	:	
	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed January 28, 2005, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is granted. The determination of PTA at the time of the mailing of the Notice of Allowance is ZERO (0) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ZERO (0) days (including 175 days of Office delay and 180 days of applicant delay). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 27, 2004, 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 34 days. Applicants submit no basis for

their assertion that this PTA determination was calculated in error.

A review of the application history reveals that the entry of a period of adjustment of 175 days for Office delay is correct. The notice of allowance mailed October 27, 2004 was mailed, four months and 175 days, after receipt of applicants' response received January 5, 2004. Thus, the period of adjustment is 175 days. See 1.703(a)(2). Moreover, the reduction of 7 days associated with applicants' filing on November 21, 2002 of a response after non-final is correct. See 1.704(b).

Although it is correct that the periods of reduction associated with applicants' filing of responses to the non-final Office action mailed June 30, 2003 total 134 days, the specific allocation is incorrect. The periods of reduction should be 106 days and 28 days, not 103 days and 31 days, as a response was received on January 8, 2004, not January 5, 2004 (the supplemental response was received on February 5, 2004).

Finally, a review of the record reveals that a period of reduction of 39 days should have been entered for applicant delay in replying to the final rejection mailed December 20, 2002. As the amendment filed February 20, 2003 was not in compliance with § 1.113(c), the period for reply to the final rejection mailed December 20, 2002, continued to run. The proper reply, an RCE, was not received in the Office until April 28, 2003. Thus, pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 39 days for applicant delay from March 21, 2003 to April 28, 2003.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is ZERO (0) days (175 - (7 + 39 + 106 + 28).

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment (PTA) indicated on the patent will include any patent term accrued for Office delay in issuing the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PALM calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 3

LOUIS WEINSTEIN
WEINSTEIN & KIMMELMAN
THE BELLEVUE, SIXTH FLOOR
BROAD STREET AT WALNUT
PHILADELPHIA, PA 19102

COPY MAILED

JAN 12 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Ornstein, et al. :
Application No. 09/305,562 :
Filed: June 8, 1999 :
Attorney Docket No. ORN 3.0-004 :

ON PETITION

This is a decision on the petition under 37 CFR 1.53(c), filed August 5, 1999, requesting that the above-identified application be accorded a filing date of May 5, 1999, with drawings of Figures 1-11 as a part of the original disclosure. Alternatively, petitioner requests that the application be accorded a filing date of June 8, 1999, the date drawings of Figures 1-11 were filed. The application file was recently forwarded to the Office of Petitions. The Office sincerely apologizes for any inconvenience caused by the delay.

On May 5, 1999, petitioner filed the above-identified application without twenty (20) sheets of drawings containing Figures 1-11. Upon receipt of the Official Filing Receipt, petitioner realized he inadvertently omitted Figures 1-11. Thereafter, petitioner hand-carried twenty (20) sheets of drawings containing Figures 1-11 to Art Unit 3713 on June 8, 1999.

A review of the record reveals, as petitioner admits, that the application papers deposited on May 5, 1999, did not include Figures 1-11. Whether the drawings filed on June 8, 1999, contain new matter or not is not the issue. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. Obviously, Figures 1-11 were not present in the Office on May 5, 1999. Therefore, the application cannot be accorded the May 5, 1999 filing date with the drawings of Figures 1-11 as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

In the alternative, the petition requests that the application be accorded a filing date of June 8, 1999, the date the drawings containing Figures 1-11 were received in the Office. In view of petitioners' alternative request, the application will be accorded a filing date of June 8, 1999, with the drawings containing Figures 1-11 as a part of the original disclosure.

The petition is <u>granted</u> to the extended indicated above.

The application is being returned to the Office of Initial Patent Examining for correction of the filing date to June 8, 1999, using the twenty (20) sheets of drawings filed on that date.

Thereafter, the application file will be forwarded to Technology Center 3700 for examination in due course with a filing date of June 8, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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

TERRY B. MORRIS
MORRIS & ASSOCIATES
1636 POPPS FERRY ROAD
SUITE 216
BILOXI, MS 39532

COPY MAILED

AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Marvin A. Ornstein et al :
Application No. 09/305,562 :
Filed: June 8, 1999 :
Attorney Docket No. ORN-3.0-004 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2007, 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 pay the issue fee on or before September 15, 2004, as required by the Notice of Allowance and Fee(s) Due mailed June 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on January 27, 2005.

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), (2) and (3).

As to item (1), the issue fee is currently $700. Accordingly, the $665 issue fee payment received is deficient by $35.

As to item (2), the statute at 35 U.S.C. § 41(a)(7) requires submission of a fee for revival of an application under the provisions of 37 CFR 1.137(b). Accordingly, as this application currently claims small entity status, a $750 petition fee is required to revive this application.

Lastly, as to item (3), a statement is required 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.**"

In sum, a $35 balance is due for the issue fee, a fee of $750 is due for the petition to revive, 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**" are required to revive this application. The items noted above must be accompanied by a renewed petition 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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

Best Available Copy

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

Terry B. Morris
P. O. Box 1016
Oxford, MS 38655

COPY MAILED

NOV 08 2007

OFFICE OF PETITIONS

In re Application of
Marvin A. Ornstein et al
Application No. 09/305,562
Filed: June 8, 1999
Attorney Docket No. ORN-3.0-004

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2007, 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 pay the issue fee on or before September 15, 2004, as required by the Notice of Allowance and Fee(s) Due mailed June 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on January 27, 2005.

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), (2) and (3).

Best Available Copy

As to item (1), the issue fee is currently $700. Accordingly, the $665 issue fee payment received is deficient by $35.

As to item (2), the statute at 35 U.S.C. § 41(a)(7) requires submission of a fee for revival of an application under the provisions of 37 CFR 1.137(b). Accordingly, as this application currently claims small entity status, a $750 petition fee is required to revive this application.

Lastly, as to item (3), a statement is required 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.**"

In sum, a $35 balance is due for the issue fee, a fee of $750 is due for the petition to revive, 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**" are required to revive this application. The items noted above must be accompanied by a renewed petition under 37 CFR 1.137(b).

The decision on this petition was originally mailed on August 27, 2007, but was returned to the Office as undeliverable. A change of address should be filed in this case in order that all correspondence may be timely received. The period for replying to this decision runs from the date of the re-mailing of this decision.

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.**

Best Available Copy

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Terry B. Morris
C/O MAO Gaming
1636 Popps Ferry Road
Suite 224
Biloxi, MS 39532

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

Terry B. Morris
C/0 MAO inc.
1636 Popps Ferry Rd.
Ste. 224
Biloxi MS 39532

COPY MAILED

JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Marvin A. Ornstein et al.	:	
Application No. 09/305,562	:	ON PETITION
Filed: June 8, 1999	:	
Attorney Docket No. ORN-3.0-004	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 16, 2004.

The petition decision mailed August 28, 2007 (remailed November 8, 2007) indicates the petition under 37 CFR 1.137(b) filed January 10, 2007 was dismissed as failing to provide the required issue fee, petition fee and statement that the abandonment was unintentional.

The renewed 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 the issue fee; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication..

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
www.uspto.gov

In re Patent No. 6149594
Issue Date: November 21,2000
Application No. 09305612
Filed: May 5,1999
Attorney Docket No. 10980609-1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 June 2,2009 .
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)
6149594	2000-11-21	09305612	1999-05-05	

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

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	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

Glen E. Books, Esq.
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

COPY MAILED

AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of :
Zhenan Bao, et al. :
Application No. 09/305,722 :
Filed: May 5, 1999 :
Attorney Docket No. BAO-9-1-13 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37CFR 1.113 in a timely manner to the non-final Office action mailed September 25, 2001, 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 26, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1700, Art Unit 1746.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Joseph S. Tripoli
Thomson Multimedia Licensing Inc.
P.O. Box 5312
Princeton, NJ 08543-5312

COPY MAILED

MAY 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Clarence C. Rudd :
Application No. 09/306,038 : ON PETITION
Filed: May 6, 1999 :
Attorney Docket No. RCA 88,959 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37CFR 1.113 in a timely manner to the final Office action mailed May 4, 2001, 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 August 5, 2001.

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.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on February 7, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2600, Art Unit 2643.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

cc: Frank Y. Liao
2 Independence Way
Princeton, NJ 08540

DATE : May 28,2003 Paper No.: 7

TO : Supervisor, Art Unit 2731

SUBJECT : Certificate of Correction Request in Patent No.: 6501763

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

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.

PLEASE DO NOT SEND THIS FILE TO THE WAREHOUSE.
RETURN TO ME ASAP THANKS.

Magdalene Talley

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, by placing a check mark (✓) in the box that reflects your decision, which corresponds to the question checked above.

☒ YES ☐ NO ☐ Comments below

☐ Comments:

Supervisor

2732637

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,501,763 B1
DATED : December 31, 2002
INVENTOR(S) : Vijay K. Bhagavath et al.

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

Title page,
Item [63], delete **Related U.S. Application Data** in its entirety.

Signed and Sealed this

Twenty-second Day of July, 2003

JAMES E. ROGAN
Director of the United States 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
www.uspto.gov

ROBERT H RINES
RINES AND RINES
ATTORNEYS AT LAW
81 NORTH STATE STREET
CONCORD, NH 03301

COPY MAILED

MAY 25 2004

OFFICE OF PETITIONS

In re Application of :
Jan Vijg :
Application No. 09/306,333 : ON PETITION
Filed: May 6, 1999 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2003, 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 non-final Office action mailed May 20, 2003, 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 above-identified application became abandoned on August 21, 2003.

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Pursuant to petitioner's authorization, Deposit Account No. 18-1425 was charged $665.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being referred to Technology Center AU 1634.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

ROBERT E. ROSENTHAL
DUANE, MORRIS & HECKSCHER LLP
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396

COPY MAILED

SEP 2 4 2001

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark K. Malmros et al :
Application No. 09/306,662 :
Filed: May 5, 1999 :
Attorney Docket No. D6080-00001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2001, 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 non-final Office action mailed January 30, 2001, 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 above-identified application became abandoned on May 1, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on September 13, 2001.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DHH/PMU

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

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

COPY MAILED
DEC 14 2004
OFFICE OF PETITIONS

In re Application :
Tway :
Application No. 09/306,664 : PATENT TERM ADJUSTMENT
Filed: November 27, 2002 :
Dkt. No.: 005205.00018 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 (b)," filed July 26, 2004. The instant application was timely filed at the time of payment of the issue fee.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 62 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 22 days as indicated on the Determination of Patent Term Adjustment mailed July 1, 2004 to 62 days.

A review of the application history reveals that an adjustment of 62 days under 37 CFR 1.702(a)(1) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began January 28, 2004, the day after the date that is fourteen months from the date the application was filed, and ended March 29, 2004, the date the non-final Office action was mailed. There were no further delays attributed to the Office.

The Office errantly entered June 3, 2003 as the date of reply to the Notice to File Missing Parts of Nonprovisional application, mailed January 24, 2003, rather than the correct date of April 24, 2003.

005205.00018

DEC 16 2004

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 62 days.

The required fee of $200.00 for an application for patent term adjustment has been submitted.

This 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 Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 09-01

Paper No. 12

RICHARD J MOURA
JENKENS & GILCHRIST, P.C.
3200 FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TX 75202-2799

COPY MAILED

SEP 28 2001

OFFICE OF PETITIONS

In re Application of	:	
Larsson et al.	:	
Application No. 09/306,684	:	ON PETITION
Filed: 6 May, 1999	:	
Attorney Docket No. INPA:037	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 15 May, 2001, to revive the above-identified application.

The petition is **GRANTED**.

---

[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)).

The application became abandoned on 22 December, 2000, for failure to timely reply to the final Office action mailed on 21 September, 2000, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on 24 April, 2001.

Since this application is revived for purposes of continuity only with the Continued Prosecution Application (CPA) filed on 15 May, 2001, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced CPA.

Receipt is also acknowledged of petitioners' "Second Status Inquiry Regarding Notice of Missing Parts" in which petitioners state that a Notice to File Missing Parts of Application has not been received. A review of the Official File reveals no Notice was mailed. The application is being forwarded to the Office of Initial Patent Examination to determine if a Notice to File Missing Parts should be mailed. Thereafter, the application will be forwarded to Technology Center 2800 for examination of the CPA and request for reconsideration.

This application is being forwarded to the Office of Initial Patent Examination to determine if a Notice to File Missing Parts should be mailed. Subsequently, the application will be forwarded to Technology Center 2800 for processing of the CPA and Request for Reconsideration filed on 15 May, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

COPY MAILED

MAR 23 2001

OFFICE OF PETITIONS
A/C PATENTS

SAMUEL H. DWORETSKY
AT&T CORP., P.O. BOX 4110
MIDDLETOWN NJ 07748-4801

In re Application of :
Jack Denenberg et al :
Application No. 09/306,761 : ON PETITION
Filed: May 7, 1999 :
Attorney Docket No. 1999-0044 :

This is a decision on the petition under 37 CFR 1.182, filed December 27, 2000, to change the name of one of the inventors.

The petition is granted.

This application is being forwarded to Technology Center 2600 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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

In re Patent No. 6702037
Issue Date: March 9,2004
Application No. 09307018
Filed: May 7,1999
Attorney Docket No. POST-PND.AB2

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 16,2008 ,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 16,2008 . 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.

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)
6702037	2004-03-09	09307018	1999-05-07	

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

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	/G.F.Gallinger/	Date (YYYY-MM-DD)	2008-09-16
Name	Glen F. Gallinger	Registration Number	34168

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 record s.

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

RONALD J. MEETIN, ATTORNEY AT LAW
210 CENTRAL AVENUE
MOUNTAIN VIEW CA 94043-4869

COPY MAILED

MAY 16 2006

OFFICE OF PETITIONS

In re Application of
Duboc et al.
Application No. 09/307,044
Filed: May 7, 1999
Attorney Docket No. CT-M117 US
For: DISPLAY WITH ACTIVE CONTRAST ENHANCEMENT

: Decision on Petition for
: Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on the paper labeled "Query Re Patent Term Adjustment," which was received on December 14, 2005, for the above-identified application. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701. The paper is being treated as a petition under 37 CFR 1.181. Further requests or a request for reconsideration of this decision for patent term extension, must be filed under 37 CFR 1.182 or 37 CFR 1.183, and include the required fee.

The petition is dismissed.

Petitioner notes that the above-identified application was filed on May 7, 1999, a Final Office Action was mailed on January 15, 2002, which was later withdrawn. Petitioner argues that due to the long nature of the prosecution, the application should receive a patent term adjustment.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The above-identified application was filed on May 7, 1999, which is after June 8, 1995 and before May 29, 2000, and, as a result is an application that may be eligible for patent term extension under 35 U.S.C. § 154. The application was not issued due to an adverse determination of patentability by the Board of Patent Appeals and Interferences (BPAI), was not delayed due to an interference proceeding, nor was it subject to a secrecy order, as a result, this application is not eligible for the extension under 35 U.S.C. 154 and 37 CFR 1.701. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The delay in issuance of petitioner's application is regretted.

The paper submitted by applicant's representative does not comply with 37 CFR 1.705 for requesting recalculation of the patent term adjustment, as it does not include the required fee. Applicant's representative is reminded that letters after the Notice of Allowance delay issuance of the patent.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. 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

Paper No.

MAILED

MAR 17 2010

OFFICE OF PETITIONS

BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA FL 32922

In re Application of :
Bucher et al. :
Application No. 09/307,120 :
Patent No. 6,309,183 : DECISION ON PETITION
Filed: May 7, 1999 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: October 30, 2001 :
Attorney Docket Number: PC-665CIP :
Title: BLADE ARM :

This is a decision on the petition filed on November 24, 2009 under 37 C.F.R. §1.378(c),[1] to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The patent issued on October 30, 2001. The grace period for paying the 7½-year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on October 30, 2009, with no payment received. Accordingly, the patent expired on October 30, 2009 at midnight.

The present petition under 37 C.F.R. §1.378(c) is **GRANTED**.

The 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.

1 A grantable petition pursuant to 37 CFR §1.378(c) must be accompanied by:
(1) The maintenance fee as set forth in 37 CFR §§1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 CFR § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

After this decision is mailed, the application file will be forwarded to Files Repository.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 08

FEB 20 2002

Mark w. Triplett
MCDONNELL, BOEHNEN,
HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE, SUITE 3200
CHICAGO, IL 60606

In re Application of:	:	
PESHKIN, *et al.*	:	DECISION ON PETITION
Application No. 09/307,357	:	TO WITHDRAW HOLDING
Filed: May, 07, 1999	:	OF ABANDONMENT
Attorney Docket No.: 98.609	:	

This is a decision on the petition filed September 10, 2001, to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on December 12, 2000. A Notice of Abandonment was mailed on June 20, 2001.

Petitioner asserts that a response including a petition for extension of time of three months with the required fee and a response to the Office action of December 12, 2000, was mailed in the above-identified application on June 12, 2001. To support this assertion, petitioner has provided, *inter alia*, a copy of the response and a copy of a return postcard that properly identifies and acknowledges receipt of each of the above items by the United States Patent and Trademark Office (PTO) on June 14, 2001.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed but has since been matched therewith. The response of record bears a Certificate of Mailing under 37 CFR 1.8(a) showing a date of deposit with the United States Postal Service on June 12, 2001. Accordingly, the response is considered timely.

For the above-stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for appropriate action, including

consideration of the response received by the Office on June 14, 2001.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

EJG:lmm

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

JOHNNY M. JONES
P.O. BOX 1751
CHAMPAIGN, IL 61824

COPY MAILED

AUG 0 8 2008

In re Application of	:	
Johnny M. JONES et al.	:	
Application No. 09/307,413	:	DECISION ON PETITION
Filed: May 08, 1999	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2008 and supplemental petition filed 02-28-08, 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 27, 2003, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 28, 2004.

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).

Petitioner asserts that a draft of the papers for the petition to revive was sent to Mr. Jones, advising him that he would have to advance the fee for revival of the application. Petitioner further asserts that Mr. Jones did not do so. The showing of record raises questions as to whether the abandonment of this application was unintentional, especially in view of the fact that the date was February 16, 2006, almost two (2) years from the date the petition was submitted. Has Mr. Jones decided to abandon the invention? Were the other inventors involved and/or aware of the February 16, 2006 communication?

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 (almost three and one-half 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 June 08, 2004. 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). As Jay Kesan (Kesan) was the party having the right to reply at the date of abandonment, Kesan should explain why this application became abandoned while it was under his control and what efforts Kesan made to further reply and with whom this matter was discussed. When did Kesan,

Johnny M. Jones (Jones), Felix K. Yin (Yin) and Allen T. Chang (Chang) become aware of the abandonment of this application? Additionally, Kesan, Jones, Yin and Chang must explain the circumstances surrounding the discovery of the abandonment of this application almost four (4) years after the mailing of the Notice of Abandonment.

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), Jones, Yin and Chang and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) 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 i1982 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, almost four (4) 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 and the responsible person(s) 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).

The request for withdrawal of attorney filed with the petition on February 13, 2008 has been accepted and made of record.

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 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
www.uspto.gov

013107

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE N W
GRAND RAPIDS MI 49503-2250

COPY MAILED

JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of:
Charles Ruelke et al.
Application No. 09/307,443
Filed: May 10, 1999
Attorney Docket No. CM02872J

DECISION ON PETITION

This is a decision on the petition, filed May 24, 2002,[1] which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application or, alternatively, under the unintentional provisions of 37 CFR 1.137(b) in view of the statement of unintentional delay appearing in the petition.

The petitions are dismissed.

Any request for reconsideration of the decision under 37 CFR 1.137(b) 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. *Note also* 37 CFR 1.181(f).

The application was held abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 18, 2001, which set a shortened statutory period for reply of three (3) months. A three-month extension of time was obtained under the provisions of 37 CFR 1.136(a). A Notice of Abandonment was mailed on March 27, 2002.

Petitioner asserts that a reply, consisting of a response with a certificate of mailing executed on October 18, 2001, a petition for extension of time with authorization to charge petitioner's Deposit Account and an affidavit, was timely filed and received in the USPTO on February 20,

[1] This petition was only recently brought to the attention of the Office of Petitions. Any inconvenience caused petitioner by the delay in replying to the petition is sincerely regretted.

2002 as evidenced by a copy of the postcard receipt. A copy of the reply was also submitted. Petitioner also requests that the petition fee of $130 be refunded.

DISCUSSION OF PETITION UNDER 37 CFR 1.181

A review of the file record indicates that the above-identified reply to the final Office action was timely submitted and received in the USPTO but was not matched with the file for consideration by the examiner prior to the mailing of the Notice of Abandonment. A Notice of Appeal was not filed.

STATUTE, REGULATIONS AND PRACTICE[1]

37 C.F.R. § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's or patent owner's response is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116...

37 C.F.R. §§ 1.116(a) and (b) state that:

> (a) After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or save the application from abandonment under § 1.135.
> (b) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon showing of good and sufficient reasons why they are necessary and were not earlier presented.

M.P.E.P. § 706.07(f) states in part that:

> All final rejections setting a three (3) month shortened statutory period (SSP) for response should contain one of the Form Paragraphs (7.39; 7.40; 7.41) advising applicant that if the response is filed within two (2) months of the date of the final Office action, the shortened statutory period will expire at three (3) months from the date of the final rejection or on the date the advisory action is mailed, whichever is later. Thus, a variable response period will be established. In no event can the statutory period for response expire later than 6 months from the date of the final rejection.

[1] The statute, rules and practice were applicable at the time the final Office action was issued.

...
Advisory Actions

(4) Where the final Office action sets a variable response period as set forth in paragraph 1 above, AND applicant files a complete first response to the final Office action within 2 months of the date of the final Office action, the examiner must determine if the

...
(c) Response does not put the application in condition for allowance - then the advisory action should inform applicant that the SSP for response expires 3 months from the date of the final rejection or as of the mailing date of the advisory action, whichever is later, by checking the appropriate box at the top portion of the Advisory Action form, PTOL – 303.

...
For example, if applicant initially responds within 2 months from the date of mailing of a final rejection and the examiner mails an advisory action before the end of 3 months from the date of mailing of the final rejection, the shortened statutory period will expire at the end of 3 months from the date of mailing of the final rejection. In such a case, any extension fee would then be calculated from the end of the 3 - month period. If the examiner, however, does not mail an advisory action until after the end of 3 months, the shortened statutory period will expire on the date the examiner mails the advisory action and any extension fee may be calculated from that date.

OPINION

The reply to the final Office action on February 20, 2002, and the Certificate of Mailing under 37 C.F.R. § 1.8(a) dated October 18, 2001 establish that a proposed after-final amendment was timely submitted. The issue to be determined is whether the reply constitutes a proper response to the final Office action within the meaning of 37 C.F.R. § 1.113 and thus stopped the statutory period for reply set in the final Office action.

Under current practice, after an Office action is made final, it is incumbent upon an applicant to take appropriate steps to ensure against the abandonment of his/her application. Because the reply to the final Office action submitted is not deemed to place the application in condition for allowance, the reply required may be a Notice of Appeal or the filing of a Request for Continued Examination (RCE) and requisite fees. While it is regrettable that the USPTO did not timely consider the proposed after final amendment and an Advisory Action was not mailed before the expiration of the maximum statutory period, there is no provision in the statute or rule that permits stopping or resetting a statutory period in an Advisory Action.

In view of the absence of a timely filing of (1) an amendment that places the application in condition for allowance, (2) a Notice of Appeal, or (3) a request for continued examination

(RCE) under 37 CFR 1.114, the application became abandoned by operation of law. The petition to withdraw the holding of abandonment cannot be granted.

DISCUSSION OF PETITION 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).

OPINION

The instant petition lacks items (1) and (2).

With regard to item (1), as noted above, 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 18, 2001. 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), an RCE, or the filing of a continuing application under 37 CFR 1.53(b).

As to item (2), the statute requires at 35 U.S.C. 41(a)(7) payment of a petition fee. The petition was not accompanied by the $1,500 petition fee required by statute.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is dismissed.

The petition to revive under 37 CFR 1.137(b) is dismissed as the required reply to continue prosecution and payment of the $1,500 petition fee have not been submitted.

A petition under 37 CFR 1.181 does not require a fee. Therefore, the request to refund the $130 fee for filing the petition is granted.

A courtesy copy of the Advisory Action accompanies this decision on 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 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) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Copy of the Advisory Action in response to the Amendment After Final Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/307,443	Applicant(s) RUELKE, CHARLES R.	
	Examiner Benny Lee	Art Unit 2817	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2006 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 5 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 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): The prior art rejection regarding cls 30, 31.
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: *1*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *2,3; 4-11; 12-24; 25-29; 30,31*.
   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: _____.

Benny Lee

BENNY T. LEE
PRIMARY EXAMINER
ART UNIT 2817

Continuation of 3. NOTE: For example, the amendments to cl 25 broadens the scope of the claim thus raising new issues. The added limitations to cl 12 regarding isolating outside interference raises new matter issues.

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

PRICE HENEVELD COOPER DEWITT & LITTON LLP
695 KENMOOR S.E.
P. O. BOX 2567
GRAND RAPIDS, MI 49501

COPY MAILED

JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles Ruelke et al	:	
Application No. 09/307,443	:	DECISION ON PETITION
Filed: May, 10, 1999	:	
Attorney Docket No. MOT03 P340	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 23, 2007, 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 May 18, 2001, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 19, 2001. A Notice of Abandonment was mailed on March 27, 2002. A petition to revive this application was timely filed on May 24, 2002, and a decision dismissing the petition was not mailed until January 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 18, 2001 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2817 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
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.go

Paper No. 17

J. M. (Mark) Gilbreth
GILBERTH & ASSOCIATES, P.C.
P O BOX 2428
HOUSTON TX 77402-2428

COPY MAILED

OCT 1 6 2003

OFFICE OF PETITIONS

In re Application of
Boyce D. Burts, Jr.
Application No. 09/307,545
Filed: May 7, 1999
Attorney Docket No. 23267/16DC1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2003, 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 non-final Office action mailed September 6, 2002, 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 above-identified application became abandoned on December 7, 2002.

Receipt is acknowledged of the Change of Address filed September 25, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 1700, Art Unit 1711.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
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

J.M. (MARK) GILBRETH
GILBERTH & ASSOCIATES
PO BOX 2428
HOUSTON, TX 77402-2428

COPY MAILED

SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Boyce D. BURTS, JR.	:	
Application No. 09/307,545	:	DECISION ON PETITION
Filed: May 7, 1999	:	
Attorney Docket No. 23267/16DI	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) and supplement to the petition , filed December 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 9, 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 August 10, 2005.

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.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 2 1/2 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 August 10, 2005. If possible, 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). As J.M. Gilbreth (Gilbreth) was the party having the right to reply at the date of abandonment, Gilbreth has stated , in the supplement to the petition filed December 10, 2007, that a copy of the Notice of Abandonment was never received as it was returned to US PTO on December 28, 2005. Gilbreth should explain in any renewed petition what efforts he made to further reply and with whom this matter was discussed. Gilbreth states he became aware of the abandonment during an online check of the status and promptly prepared a response. The record does not show with substantiating evidence what the intent was with regard to this application prior to the date of abandonment on August 10, 2005.

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), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) 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 1/2 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.

An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

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 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.

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09307545 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
12/11/2007	00008116	4	2453	$770.00	12/10/2007	DA 071245
12/11/2007	00008117	4	2801	$405.00	12/10/2007	DA 071245
09/30/2003	00000096	1	2453	$650.00	09/25/2003	CK
06/10/2002	00000010	1	231	$355.00	06/04/2002	CK
02/28/2001	00000117	1	217	$445.00	02/23/2001	CK
05/19/1999	00000090	1	201	$380.00	05/07/1999	CK

PTO/SB/64 (11-07)
Approved for use through 11/30/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 23267/16DC1

First named inventor: BOYCE D. BURTS, JR.

Application No.: 09/307,545 Art Unit: 1711

Filed: MAY 7, 1999 Examiner: U. RAJGURU

Title: WELL KILL ADDITIVE, WELL KILL TREATMENT FLUID MADE THEREFORM, AND METHOD OF KILLING A WELL

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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 an 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; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☑ Small entity-fee $ 770 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of RCE (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(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 1.0 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. **SEND TO: Mail Stop Petition, 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.

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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. 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. [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), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	12/10/07 Date
J. M. GILBRETH Typed or printed name	33,388 Registration Number, if applicable
P O BOX 2428 Address	713 667 1200 Telephone Number
BELLIARE, TX 77402-2428 Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: RCE

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICANT: Boyce D. Burts, Jr.	§	**ART UNIT NO.: 1711**
	§	
FILED: May 7, 1999	§	**EXAMINER: Umakant K. Rajguru**
	§	
SERIAL NO.: 09/307,545	§	
	§	
TITLE: *Well Kill Additive, Well Kill Treatment Fluid Made Therefrom, and Method of Killing a Well*	§	**ATTY DOCKET NO. 23267/16DC1**
	§	
	§	

SUPPLEMENT TO PETITION FOR REVIVAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This application was unintentionally abandoned.

The applicant has aways fully intended to prosecute this application. Applicant's attorney inadvertently failed to respond to the Office action of April 19, 2005.

The Notice of Abandonment which might have provided notice was never received as it was returned to the USPTO way back in December 28, 2005, because of what appears to be a printing mishap on the front of the envelop (see Exhibit A, attached hereto).

Only recently did Applicants attorney discover the abandonment during an online check of the status of this application and noticed that it was abandoned, and promptly prepared a Response.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicants' attorney Mark Gilbreth at (713) 667-1200, or, in his absence, Dr. Mary Gilbreth, Agent.

Respectfully submitted,

Date: December 10, 2007

J. M. (Mark) Gilbreth,
Registration No. 33,388
Attorney for Applicants

Gilbreth & Associates, P.C.
P.O. Box 2428
Bellaire, TX 77402-2428
T (713) 667-1200
F (713) 667-4424

EXHIBIT A

UNDELIVERED

RETURNED NOTICE

Organization TC1700 Bldg./Room REMSEN

UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
If Undeliverable Return In Ten Days

Official Business
Penalty For Private Use, $300

RETURN TO SENDER

AN EQUAL OPPORTUNITY EMPLOYER

RETURN TO [illegible]

U.S. OFFICIAL MAIL
PENALTY FOR PRIVATE USE $300
PITNEY BOWES
$ 00.37⁰
DEC 06 2005
MAILED FROM ZIP CODE 22314

RECEIVED
DEC 28 2005
USPTO MAIL CENTER

PO Box
Greater Point

77252+2426-[illegible]1450

BEST AVAILABLE COPY

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.
09/307,545	05/07/1999	BOYCE D. BURTS, JR.	23267/16D1	5004

7590 12/06/2005

J. M. (Mark) Gilbreth
GILBERTH & ASSOCIATES, P.C.
P O BOX 2428
HOUSTON, TX 77402-2428

OIPE
DEC 28 2005
PATENT & TRADEMARK OFFICE

EXAMINER
NUTTER, NATHAN M

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 12/06/2005

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

OIPE DEC 28 2005 IAP72 PATENT & TRADEMARK OFFICE

OIPE DEC 28 2005 IAP72 PATENT & TRADEMARK OFFICE

Notice of Abandonment	Application No.	Applicant(s)	
	09/307,545	BURTS, JR., BOYCE D.	
	Examiner	Art Unit	
	Nathan M. Nutter	1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 9 May 2005.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Nathan M. Nutter
Primary Examiner
Art Unit: 1711

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PTO/SB/30 (11-07)
Approved for use through 11/30/2007. 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 contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/307,545
Filing Date	5/7/99
First Named Inventor	BOYCE D. BURTS, JR.
Art Unit	1711
Examiner Name	U. RAJGURU
Attorney Docket Number	23267/16D1

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
   - a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
     - i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
     - ii. ☐ Other _____
   - b. ☑ Enclosed
     - i. ☑ Amendment/Reply
     - ii. ☐ Affidavit(s)/ Declaration(s)
     - iii. ☐ Information Disclosure Statement (IDS)
     - iv. ☐ Other _____
2. Miscellaneous
   - a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
   - b. ☑ Other PETITION TO REVIVE ATTACHED.
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
   - a. ☑ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 07-1245. I have enclosed a duplicate copy of this sheet.
     - i. ☑ RCE fee required under 37 CFR 1.17(e)
     - ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
     - iii. ☑ Other FEE FOR PETITION TO REVIVE
   - b. ☐ Check in the amount of $ _____ enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	
Name (Print/Type)	J. M. GILBRETH	Registration No.	33,388

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)		Date	

This collection of information is required by 37 CFR 1.114. 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: Mail Stop RCE, 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

COPY MAILED

NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
James R. Schneider	:	
Application No. 09/307,956	:	DECISION ON PETITION
Filed: May 10, 1999	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 13394	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 15, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor James R. Schneider stating that he is 65 years old or more and a copy of Mr. Schneider's California Driver's License showing his date of birth. Accordingly, the above-identified application has been accorded "special" status.

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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3738 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Bozicevic Field & Francis LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025

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

BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

COPY MAILED

NOV 03 2005

OFFICE OF PETITIONS

In re Application of :
James R. Schneider :
Application No. 09/307,956 :
Filed: May 10, 1999 :
Attorney Docket No. 13394 :

ON PETITION

This is a decision on the petition filed, February 1, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 7, 2003, 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) were obtained. Accordingly, the above-identified application became abandoned on August 8, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 1, 2005.

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

This application is being forwarded to Technology Center AU 3738 for further processing.

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

Paper No. 23

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York NY 10022

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Luke Nicholas Bennett
Application No. 09/308,005
Filed: May 10, 1999
Attorney Docket No. 2703/FBR
Title: GAMING MACHINE

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on July 28, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed June 5, 2000, which set a shortened statutory period for reply of three (3) months. On October 13, 2000, an amendment was received (certificate of mailing dated October 5, 2000) along with a one-month extension of time. On November 16, 2000, an advisory action was mailed. On January 3, 2001, a subsequent after-final amendment was received along with a one-month extension of time, and an advisory action was mailed on April 5, 2001. No further extensions of time were possible, and as such, the application became abandoned on November 6, 2000. A Notice of Abandonment was mailed on April 24, 2001.

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language

1 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;
(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 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 § 1.20(d)) required pursuant to paragraph (d) of this section.

required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the instant petition, petitioner has filed a Continued Prosecution Application (CPA), the associated fee, the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

The CPA has been accepted as the required reply under 37 C.F.R. §1.137(b)(1).

As such, the petition is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing Application No. 09/308,005.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for processing of the CPA filed with the instant petition.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States 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
www.uspto.gov

Paper No. 24

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York NY 10022

COPY MAILED

DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of
Luke Nicholas Bennett
Application No. 09/308,005
Filed: May 10, 1999
Attorney Docket No. 2703/FBR
Title: GAMING MACHINE

CORRECTION TO DECISION GRANTING PETITION UNDER 37 C.F.R. §1.137(b)

On September 30, 2003, a decision was mailed, granting the petition filed on July 28, 2003, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application.

The decision set forth

The CPA has been accepted as the required reply under 37 C.F.R. §1.137(b)(1).

After this decision is mailed, the application will be forwarded to Technology Center 3700 for processing of the CPA filed with the instant petition.

This was in error, as the applicant submitted a Request for Continued Examination (RCE), along with an amendment to serve as the submission.

As such, after the mailing of this correction, the application will be forwarded to Technology Center 3700 for processing of both the RCE and the concurrently filed amendment.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States 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
www.uspto.gov

In re Patent No. 6318021
Issue Date: November 20,2001
Application No. 09308023
Filed: July 6,1999
Attorney Docket No. UDL1P030

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 15,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 July 15,2010 . 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.

1 8 APR 2003

#29

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peacock Myers and Adams PC
PO Box 26927
Albuquerque, NM 87125-6927

In re Application of VAN VEROOIJ, et al. Application No.: 09/308,150 PCT No.: PCT/NL97/00624 Int. Filing Date: 14 November 1997 Priority Date: 15 November 1996 Attorney Docket No.: 30394-1027 For: PEPTIDE DERIVED FROM ... DETECTING AUTOIMMUNE ANTIBODIES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Petition Under 37 C.F.R. §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 30 September 1999.

BACKGROUND

On 14 November 1997, applicants filed international application PCT/NL97/00624. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 June 1998, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 1999 (15 May 1999 was a Saturday).

On 13 May 1999, applicants 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 06 July 1999, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 30 September 1999, applicants filed "Petition Under 37 C.F.R. §1.47(a)" accompanied by, a declaration and the fee for a two month extension of time.

On 03 November 1999, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 102(e) date of 30 September 1999 and a 35 U.S.C. 371 date of 30 September 1999.

DISCUSSION

As an initial matter, it was brought to the Office's attention that Mr. Gerardus A. Schellekens was erroneously omitted as an inventor on the published application. The Office's records have been corrected.

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 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), (3) and (4) have been met. The petition fee has been paid. The petition lists the last known address of the non-signing inventor Gerardus A. Schellekens as Zwanenveld 37-03; NL-6538 XV Nijmegen; the Netherlands. Office records indicate a correspondence address for Mr. Schellekens of Tondeldoos 36; 5231 WB Den Bosch; The Netherlands, as of 03 November 2002.

As to item (2), under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. Applicants are alleging a refusal to sign the declaration. However, it is not clear that applicants sent a full copy of the application papers including the specification to the non-signing inventor. Additionally, though applicants indicate that the inventor refused to sign the documents in a letter, applicants have not furnished that letter. Additionally, applicants have supplied a copy of the DHL shipping label, but have not furnished the tracking records for the package.

CONCLUSION

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

The Notification of Acceptance mailed 03 November 1999 is hereby **VACATED**.

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. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the 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 further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

Enclosure: Letter from Mr. Gerard A. Schellekens

24 SEP 200

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

Peacock Myers and Adams PC
PO Box 26927
Albuquerque, NM 87125-6927

In re Application of VAN VEROOIJ, et al. Application No.: 09/308,150 PCT No.: PCT/NL97/00624 Int. Filing Date: 14 November 1997 Priority Date: 15 November 1996 Attorney Docket No.: 30394-1027 For: PEPTIDE DERIVED FROM ... DETECTING AUTOIMMUNE ANTIBODIES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Supplemental Petition Decision Response" filed in the United States Patent and Trademark Office (USPTO) on 15 July 2003.

BACKGROUND

On 14 November 1997, applicants filed international application PCT/NL97/00624. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 June 1998, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 1999 (15 May 1999 was a Saturday).

On 13 May 1999, applicants 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 06 July 1999, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 30 September 1999, applicants filed "Petition Under 37 C.F.R. §1.47(a)" accompanied by, a declaration and the fee for a two month extension of time.

On 03 November 1999, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 102(e) date of 30 September 1999 and a 35 U.S.C. 371 date of 30 September 1999.

On 18 April 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice and vacating the Notification of Acceptance mailed 03 November 1999.

On 17 June 2003, applicants submitted by facsimile "Petition Decision Response and Renewed Petition Under 37 C.F.R. §1.47(a)".

On 15 July 2003, applicants submitted "Supplemental Petition Decision Response," and a petition for a one month extension of time.

DISCUSSION

As applicants have located the non-signing inventor and obtained his signature, the petition under 37 CFR 1.47(a) is moot.

However, the declaration does not satisfy the national stage entry requirements. The 18 USC 1001 statement is partially obscured and the declaration contains untranslated notations in a foreign language, which are not permitted under 37 CFR 1.69.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

A declaration in compliance with 37 CFR 1.497(a)-(b) must be filed 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 should be addressed to the 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.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

0 7 DEC 2004

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

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of VAN VEROOIJ, et al. Application No.: 09/308,150 PCT No.: PCT/NL97/00624 Int. Filing Date: 14 November 1997 Priority Date: 15 November 1996 Attorney Docket No.: 30394-1027 For: PEPTIDE DERIVED FROM AN ANTIGEN RECOGNIZED BY AUTOANTIBODIES FROM PATIENTS WITH RHEUMATOID ARTHRITIS, ANTIBODY DIRECTED AGAINST SAID PEPTIDE, A COMBINATORIAL ANTIGEN, AND A METHOD OF DETECTING AUTO-IMMUNE ANTIBODIES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Petition Under 37 CFR §1.181" filed in the United States Patent and Trademark Office (USPTO) on 09 November 2004.

BACKGROUND

On 14 November 1997, applicants filed international application PCT/NL97/00624. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 June 1998, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 1999 (15 May 1999 was a Saturday).

On 13 May 1999, applicants 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 06 July 1999, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 30 September 1999, applicants filed "Petition Under 37 C.F.R. §1.47(a)" accompanied by, a declaration and the fee for a two month extension of time.

On 03 November 1999, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 102(e) date of 30 September 1999 and a 35 U.S.C. 371 date of 30 September 1999.

On 18 April 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice and vacating the Notification of Acceptance mailed 03 November 1999.

On 17 June 2003, applicants submitted by facsimile "Petition Decision Response and Renewed Petition Under 37 C.F.R. §1.47(a)".

On 15 July 2003, applicants submitted "Supplemental Petition Decision Response," and a petition for a one month extension of time.

On 24 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants' petition as moot, as applicants had obtained the inventor's signature, but requiring a new declaration.

On 09 November 2004, applicants submitted a petition under 37 CFR 1.181 accompanied by copies of a petition under 37 CFR 1.47(a) that applicants claim was submitted on 24 March 2004.

DISCUSSION

Applicants indicate that the petition under 37 CFR 1.47(a) is a copy of the petition they submitted on 24 March 2004. The accompanying postcard receipt lists the petition and is date stamped 24 March 2004. The petition under 37 CFR 1.47(a) is accepted as having been received on 24 March 2004.

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 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), (3) and (4) have been met. The petition fee has been paid. Applicants supplied a letter from the inventor refusing to sign the declaration. The petition lists the last known address of the non-signing inventor Gerardus A. Schellekens as Tondeldoos 36; 5231 WB Den Bosch; The Netherlands. A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

CONCLUSION

For the above reasons, applicants' 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.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

07 DEC 2004

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

Gerardus A. Schellekens
Tondeldoos 36
5231 WB Den Bosch
The Netherlands

In re Application of
VAN VEROOIJ, et al.
Application No.: 09/308,150
PCT No.: PCT/NL97/00624
Int. Filing Date: 14 November 1997
Priority Date: 15 November 1996
Attorney Docket No.: 30394-1027
For: PEPTIDE DERIVED FROM AN ANTIGEN RECOGNIZED BY AUTOANTIBODIES FROM PATIENTS WITH RHEUMATOID ARTHRITIS, ANTIBODY DIRECTED AGAINST SAID PEPTIDE, A COMBINATORIAL ANTIGEN, AND A METHOD OF DETECTING AUTO-IMMUNE ANTIBODIES

Dear Mr. Schellekens:

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 M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

24 SEP 200

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

Peacock Myers and Adams PC
PO Box 26927
Albuquerque, NM 87125-6927

DOCKETED

Reply due 11.24.03
6 mos = 3.24.04

In re Application of
VAN VEROOIJ, et al.
Application No.: 09/308,150
PCT No.: PCT/NL97/00624
Int. Filing Date: 14 November 1997
Priority Date: 15 November 1996
Attorney Docket No.: 30394-1027
For: PEPTIDE DERIVED FROM ... DETECTING AUTOIMMUNE ANTIBODIES

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is in response to applicants' "Supplemental Petition Decision Response" filed in the United States Patent and Trademark Office (USPTO) on 15 July 2003.

BACKGROUND

On 14 November 1997, applicants filed international application PCT/NL97/00624. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 June 1998, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 1999 (15 May 1999 was a Saturday).

On 13 May 1999, applicants 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 06 July 1999, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 30 September 1999, applicants filed "Petition Under 37 C.F.R. §1.47(a)" accompanied by, a declaration and the fee for a two month extension of time.

On 03 November 1999, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 102(e) date of 30 September 1999 and a 35 U.S.C. 371 date of 30 September 1999.

EXHIBIT 1

On 18 April 2003, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice and vacating the Notification of Acceptance mailed 03 November 1999.

On 17 June 2003, applicants submitted by facsimile "Petition Decision Response and Renewed Petition Under 37 C.F.R. §1.47(a)".

On 15 July 2003, applicants submitted "Supplemental Petition Decision Response," and a petition for a one month extension of time.

DISCUSSION

As applicants have located the non-signing inventor and obtained his signature, the petition under 37 CFR 1.47(a) is moot.

However, the declaration does not satisfy the national stage entry requirements. The 18 USC 1001 statement is partially obscured and the declaration contains untranslated notations in a foreign language, which are not permitted under 37 CFR 1.69.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

A declaration in compliance with 37 CFR 1.497(a)-(b) must be filed 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 should be addressed to the 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.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455 571-272-
Facsimile: (703) 308-6459 3292

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN 2 1 2001

#10

MORRISON & FOERSTER
200 PENNSYLVANIA AVENUE NW
WASHINGTON , DC 20006-1888

In re Application of	:
Alan G. Baxter	:
Serial No.: 09/308,192	: PETITION DECISION
Filed: July 14, 1999	:
Attorney Docket No.: 22975200600	:

This is in response to applicants' petition under 37 CFR 1.144, filed February 20, 2001, requesting withdrawal of an improper lack of unity requirement.

A review of the file history is shows that this application was filed under 35 U.S.C. 371 as the National Phase of PCT/AU97/00770. The application, as filed, contains claims 1-22. In a first Office action mailed July 25, 2000, the examiner set forth a restriction/lack of unity requirement under 35 U.S.C. 121 dividing the claims into six groups, as follows:

> Group I, claims 1-4, 7-10 and 20-21, drawn to a treatment method for autoimmune diabetes;
> Group II, claims 1, 5-10, 20 and 22, drawn to a treatment method for anti-tumor response carcinoma;
> Group III, claims 11-14, drawn to a method of treatment in pancreas transplant replacement;
> Group IV, claims 11-14, drawn to a treatment method for IDDM;
> Group V, claims 15-16, drawn to a composition of MAPG;
> Group VI, claims 17-19, drawn to a method of isolating components of MAPG.

Applicants elected Group I, with traverse as to Group II, in reply to the Office action. Applicants argued that the restriction was improper according to PCT guidelines and that the claims of Groups I and II should be examined together based on use of the same components - cell wall components of *Mycobacterium*, in the treatment methods. No traverse of Groups III-VI was made. The examiner considered the traversal, but maintained the lack of unity requirement based on the treatment methods involving different objectives, method steps and final outcomes and made the requirement Final in the Office action mailed December 14, 2000. This petition followed. Petitioner argues that the examiner held that the claims lack unity based on the use of the *mycobaterium* cell wall components in immunomodulatory therapy as exemplified by Adams et al (cited in the International Search Report). However applicant argues that the examiner failed to cite Adams et al in the Office action relying on other references to reject the elected invention

over prior art. Applicant argues that this is tacit support that Adams et al fails to support the examiner's conclusions for maintaining the lack of unity requirement. Applicant further agues that several claims are common to both Groups I and II and there is no evidence to support a holding of multiple inventions in these claims.

DISCUSSION

The applicable guidance for making lack of unity/restriction requirements is set forth below:

Annex B of the PCT Administrative Instructions gives guidance on Unity of Invention as follows:

(a) Unity of Invention. Rule 13.1 deals with the requirement of unity of invention and states the principle that an international application should relate to only one invention or, if there is more than one invention, that the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept.
(b) Technical Relationship. Rule 13.2 defines the method for determining whether the requirement of unity of invention is satisfied in respect of a group of inventions claimed in an international application. Unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression special technical features is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).
(c) Independent and Dependent Claims. Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By dependent claim is meant a claim which contains all the features of another claim and is in the same category of claim as that other claim (the expression category of claim referring to the classification of claims according to the subject matter of the invention claimed for example, product, process, use or apparatus or means, etc.).
(I) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. Equally, no problem arises in the case of a genus species situation where the genus claim avoids the prior art. Moreover, no problem arises in the case of a combination subcombination situation where the subcombination claim avoids the prior art and the combination claim includes all the features of the subcombination.
(ii) If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. Similar considerations apply in the case of a genus species or combination subcombination situation..

As explained above, the examiner must first look to the independent claims to determine whether unity of invention exists. This the examiner has done according to part (c) above with respect to independent claims 1, 11, 15 and 17, placing them in different groups as lacking unity because there is no special technical feature relating them to each other. Further consideration was then given to each independent claim to determine whether they encompassed more than one independent and distinct invention. Claims 1 and 11 were found to meet this criteria. With respect to claim 1, it was determined that it encompassed within the claims dependent on it two independent inventions. (See 37 CFR 1.475(e).) Claim 1, per se, relates only to methods of treatment by administering *mycobacterium* cell wall components and analogs or equivalents. As evidenced by Adams et al (and 17 other references cited on the International Search Report and applied in the International Examination Report) these components are known in the prior art and cannot be relied on as the special technical feature to support unity of invention. A review of the dependent claims shows that they relate to two separate and distinct methods of treatment for two distinctly different conditions, specifically an autoimmune disease identified as diabetes and an anti-tumor immune response identified as cancer. Thus the special technical feature on which lack

of unity is based is the combination of the disease or condition being treated and the treatment agent (the *mycobacterium* components). Because the diseases are unrelated to each other as well as their cause and their treatment, lack of unity exists. Petitioner's argument that the examiner failed to use Adams el al in rejecting the claims at issue is irrelevant. The examiner is presumed to have used the best prior art to reject the examined claims. Adams et al (as well as many other references) is sufficient to show that the *mycobacterium* cell components are well known in the art and cannot be used to establish unity of invention as could any of the other references actually used in the prior art rejection.

DECISION

Applicants' petition is **DENIED** with respect to any error in finding lack of unity between Groups I and II. No traversal of the requirement between Groups III-VI has been requested or considered.

The application will be forwarded to the examiner for further consideration no inconsistent with this decision..

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230..

Any request for reconsideration of this decision must be made within TWO MONTHS of the mailing date of this decision and should be addressed to the Office of Petitions.

Jasemine Chambers
Director, Technology Center 1600

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

COPY MAILED

MAR 0 6 2006

OFFICE OF PETITIONS

MORRISON & FOERSTER
200 PENNSYLVANIA AVENUE NW
WASHINGTGON DC 20006-1888

In re Application of	:	
Alan George Baxter	:	
Application No. 09/308,192	:	ON PETITION
Filed: July 14, 1999	:	
Attorney Docket No. 229752000600	:	

This is a decision on the petition, filed March 3, 2006, 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 9, 2006, 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]

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. 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.

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 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).

The examiner of Technology Center AU 1645 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MORRISON & FOERSTER
1650 TYSONS BLVD., SUITE 300
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

MAILED

NOV 13 2000

Technology Center 2600

Greenblum & Bernstein, P.L.C.
1941 Roland Clark Place
Reston, VA 20191

In re Application of
Goldstein
Application No. 09/308,245
Filed: May 25, 1999
Attorney Docket No. P17917.W01
For: Method For Activating Echo Suppression in a Communication Network

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed September 26, 2000.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

As to (3), an Office Action has not yet been mailed for the instant application. Therefore, the request meets all the above-listed requirements.

Accordingly, the request is **granted**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant in accordance with 37 C.F.R. § 1.33. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

The effective date of withdrawal will be the date this decision is mailed.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: MR. LAURENCE GREENBERG
LERNER AND GREENBERG
2200 HOLLYWOOD BOULEVARD
HOLLYWOOD, FL 33020

AUG 3 1 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Ronald E. Greigg
Greigg & Greigg P.L.L.C.
1423 Powhatan Street, Unit One
Alexandria, VA 22314

In re Application of MULLER et al	:	
U.S. Application No.: 09/308,269	:	
Int. Application No.: PCT/DE98/01892	:	DECISION
Int. Filing Date: 09 July 1998	:	
Priority Date: 18 September 1997	:	
Attorney Docket No.: R.32491	:	
For: DEVICE FOR MEASURING THE MASS OF A FLOWING MEDIUM	:	

This is in response to applicants' "Response to Withdraw Notice of Abandonment" filed 18 June 2001, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 July 1998, applicants filed international application PCT/DE98/01892, which claimed priority of an earlier Germany application filed 18 September 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 25 March 1999. The twenty-month period for paying the basic national fee in the United States expired at midnight on 18 May 1999.

On 17 May 1999, applicants filed national stage papers in the United States. The submission was accompanied by, *inter alia*, an authorization to charge the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 July 1999, 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 that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The Notification of Missing Requirements set a one month period for response.

On 09 June 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 18 June 2001, applicants filed the present petition to withdraw the holding of abandonment. The petition states that it is accompanied by a copy of a response to the Notification of Missing Requirements purportedly filed on 08 July 1999. The petition further states that it is accompanied by a copy of a return postcard which bears a USPTO date stamp of 08 July 1999.

DISCUSSION

The evidence of record is sufficient to establish that a proper response to the Notification of Missing Requirements was originally filed on 08 July 1999. Specifically, the copy of the return postcard, which includes an "EXECUTED DECLARATION" in its itemized contents and which bears a USPTO date stamp of 08 July 1999, serves as *prima facie* evidence that the declaration was received by the USPTO on 08 July 1999.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) is hereby VACATED.

The application has an International Filing Date of 09 July 1998 and a date under 35 U.S.C. 371 of 08 July 1999.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

COPY MAILED

MAY 2 0 2002

OFFICE OF PETITIONS

MARTIN A FARBER
866 UNITED NATIONS PLAZA
SUITE 473
NEW YORK, NY 10017

In re Application of :
Bandemer et al. :
Application No. 09/308,314 :
Filed: CPA filed January 22, 2002 :
Attorney Docket No. 1996P80115WOUS(3446) :

ON PETITION

This is a decision on the petition filed March 26, 2002, to accord the CPA a filing date of January 22, 2002, instead of November 12, 2001.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the CPA will be accorded a filing date of January 22, 2002.

The file is now being forwarded to Technology Center 1700 to take the following steps:
(1) Change the filing date of the CPA to January 22, 2002,
(2) Change the filing date of the request for a one month extension of time to January 22, 2002,
(3) Charge petitioner's deposit account for a one month extension of time,
(4) Change the attorney docket number to 1996P80115WOUS(3446) per the request contained in the CPA transmittal letter, and
(5) Await a reply to the Final Rejection the Office mailed on March 4, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

D PETER HOCHBERG CO LPA
1940 EAST 6TH STREET
6TH FLOOR
CLEVELAND OH 44114-2294

COPY MAILED

SEP 23 2002

OFFICE OF PETITIONS

In re Application of
Koch, et al.
Application No. 09/308,407
Filed: July 8, 1999
Attorney Docket No. RO0230US

DECISION ON PETITION

This is a decision on the petition filed April 29, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to timely file a proper Appeal Brief. A final Office action was mailed on December 14, 2000, which set a shortened statutory period for reply of three months. Petitioner replied with a Notice of Appeal on March 16, 2001 (Certificate of Mailing dated March 14, 2001). Accordingly, petitioner had two months from the filing of the Notice of Appeal, or until May 16, 2001, to file an Appeal Brief in triplicate. Petitioner filed a Notice of Appeal on May 16, 2001 (Certificate of Mailing dated May 14, 2001). However, a Notification of Non-Compliance with 37 CFR 1.192(c) was mailed on July 25, 2001. This Notification set a period for reply of one month for petitioner to file an Appeal Brief in compliance with 37 CFR 1.192(c). No Appeal Brief having been received and no extensions of time having been obtained, the above-identified application became abandoned on August 26, 2001. A Notice of Abandonment was mailed on November 6, 2001.

With the instant petition, petitioner filed a corrected Appeal Brief in triplicate and met all other requirements for a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to Technology Center 1700 for review of the Appeal Brief by the examiner.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
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

Clarence A. Green
Perman & Green, LLP
425 Post Road
Fairfield, CT 06430

MAILED

AUG 16 2006

Technology Center 2100

In re Application of: Schwartz et al.
Application No. 09/308,451
Attorney Docket No. 8001.104/00
Filed: May 19, 1999
For: TECHNIQUE FOR EFFECTIVELY GENERATING MULTI-DIMENSIONAL SYMBOLS REPRESENTING POSTAL INFORMATON

SUA SPONTE
WITHDRAWAL OF HOLDING OF ABANDONMENT *under 37 CFR 1.181*

The petition under 37 CFR 1.181 for withdrawal of the holding of abandonment, filed August 19, 2005 is acknowledged.

A review of the application reveals that a Notice of Abandonment was mailed to the Applicant on August 10, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to timely file a response to the Office action mailed September 7, 2004 (Final Rejection). Applicant timely filed a Notice of Appeal on December 2, 2004 as well as an Appeal Brief on December 16, 2004 in response thereto, both of which are currently located in the file. The Appeal Brief bearing a certificate of mailing under 37 CFR § 1.8(a) of December 10, 2004.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**. The Office regrets any inconvenience this may have caused.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status and to **ENTER** the Notice of Appeal and Appeal Brief (both of record). The application will then be forwarded to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 24

WENDEROTH LIND & PONACK
2033 K STREET NW
SUITE 800
WASHINGTON DC 20006

COPY MAILED

APR 07 2003

OFFICE OF PETITIONS

In re Application of
Duncan Akporiaye et al
Application No. 09/308,562
Filed: July 16, 1999
Attorney Docket No. 35/101053

ON PETITION

This is a decision on the petition, filed by facsimile transmission on April 4, 2003, 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 24, 2002 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 the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1744 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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).

19 DEC 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Frederick H. Rabin
Fish & Richardson
45 Rockefeller Plaza
Suite 2800
New York, NY 10111

In re Application of McKechnie et al Application No.: 09/308,860 PCT No.: PCT/US97/03317 Int. Filing Date: 03 December 1997 Priority Date: 04 December 1996 Attorney's Docket No.: 08291/600001 For: METHOD OF CONTROLLING AND REMOVING DUST AND OTHER PARTICLES FROM A MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision in response to Applicants' Renewed Petition under 37 C.F.R. 1.181 received 15 September 2000. The petition is GRANTED.

BACKGROUND

On 17 June 1999, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 USC 371 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing the oath or declaration later than 30 months from the priority date must be filed in U.S. Serial No. 08/308,860. The notification set a one-month time limit in which to respond.

On 09 November 1999, applicants filed a Status Request regarding the status of the U.S. national stage filing of PCT/GB97/03317. Applicants stated that the return-receipt postcard acknowledge Office receipt of Form PTO-1390, filed 26 May 1999, had not been received.

On 28 March 2000, the United States Designated/Elected Office mailed a Notification of Abandonment of U.S. Serial No. 08/308,860 under 35 USC 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/909) indicating that the applicant failed to respond to the Notification of Missing Requirements.

On 03 April 2000, applicants filed a petition to revive U.S. Serial No. 09/423,399 under 37 CFR 1.137(a) including, inter alia, a copy of a return-receipt post card stamped with Serial No. 09/423,399, a statement that the abandonment was unavoidable, a copy of Form PTO 1390, and applicants' mail log for the dates 17 June through 6 July 1999. Applicants noted receipt of a

Notice of Abandonment of Serial No. 09/308,860, and that while identifying data other than the serial number matched, Applicants had no record of an application bearing the Serial No. 09/308,860.

On 16 June 2000, the United States Designated/Elected Office mailed a Response to Status Inquiry indicating that the presumption that Office Notifications were properly mailed may be overcome by establishing a showing that they were not in fact received, or by filing a petition to revive under 37 CFR 1.137(a). The showing requires firstly a statement attesting to the fact that a search of the file jacket and docket records indicate that the Office action was not received, and secondly that 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 statement.

On 21 June 2000, applicants filed a letter (a status inquiry, treated as a petition under 37 CFR 1.181), asking for Office review of the Petition to Revive.

On 14 August 2000, applicants filed a Supplement to Petition to Revive including practitioner's docket report for the dates 16, 17, & 18 July 1999.

On 05 September 2000, the United States Designated/Elected Office mailed a Response to the petition filed 21 June 2000 and the Supplement to Petition filed 14 August 2000, indicating that practitioner's docket report for the date 17 July 1999 was not accompanied by applicants' statement referencing the docket report and attesting to the fact that a search of the file jacket and docket records indicate that the Office action was not received. The Response noted that Office error had resulted in assignment of new Serial No. 09/423,399 to the transmittal letter submitted with the status Request filed 09 November 1999, and that all papers in application Serial No. 09/423,399 had been transferred to application Serial No. 09/308,860.

On 15 September 2000, applicants filed the instant Renewed Petition Under 37 CFR 1.181 requesting reconsideration of the Office decision mailed 05 September 2000, stating that a search of the file jacket and docket records indicates that the Office action was not received, and attaching copies of practitioner's docket reports for the dates 16, 17, & 18 July 1999.

DISCUSSION

Although USPTO records indicate that the Notification of Missing Requirements (PCT/DO/EO/905) was mailed, the showing submitted by Applicant, in compliance with the the revised policy published at 1156 OG 53, *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, is sufficient to establish that the Notification was not received.

CONCLUSION

For the reason above, the petition under 37 CFR 1.181 is GRANTED.

The holding of abandonment of application Serial No. 09/308,860 will be withdrawn.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C., 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Joseph Pelham
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-1315
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

2 1 NOV 2000

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

I. ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

In re Application of	:
Yakov I. Levin	:
Application No.: 09/308,913	:
PCT No.: PCT/RU96/00364	:
Int. Filing Date: 26 December 1996	: DECISION
Priority Date: 01 November 1996	:
Attorney Docket No.: None	:
For: METHOD FOR INFLUENCING THE ORGANISM	:

This is a decision on applicant's 'Petition to Revive Unintentionally Abandoned Application" filed on 09 August 2000.

BACKGROUND

On 26 December 1996, applicant filed international application No. PCT/RU96/00364 which claimed priority of an earlier Russian application filed 01 November 1995. A copy of the international application had been communicated earlier to the United States Patent and Trademark Office from the International Bureau on 14 May 1998.

On 28 April 1998, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 June 1999.

On 26 May 1999 applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, fees for a small entity for the basic national fee and an English translation of the international application.

On 09 July 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to provide the full U.S. basic national fee by the thirty month deadline and thus, the application was abandoned.

On 09 August 2000, applicant filed a petition to revive with the petition fee of $605 for a small entity. Applicant, in effect, requests the withdrawal of the holding of abandonment.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant has submitted the proper reply with the submission of the basic national fee, satisfying item (1). With regard to item (2), applicant has provided the appropriate petition fee. As for item (4), since the application was filed after 08 June 1995, no terminal disclaimer is necessary in this application.

With regard to item (3), applicant's statement that "the late filing of the U.S. application was unintentional and therefore the abandonment of the application was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office "[t]he entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of $605 has been charged to applicant's deposit account and all of the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing. The 35 U.S.C. 371(c) and 102(e) date is 26 May ~~2000~~. 1999 cmk

Cynthia M. Kratz

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467

Request for Legal Staff Consideration

RECEIVED

Serial No. 09/308913 11 SEP 2000 Date 09 Sept. 2000

Legal Staff
International Division

Request: Legal, Applicant sent in a petition to revive unintentionally abandoned application. Can you look at it.

Thanks

Requestor Christina Washington Supervisor Cathy Short

Response: Granted

By: EKurtz Date 21 Nov 00

5023

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Yakov I. Levin :
Application No. 09/308,913 :
Filed: May 26, 1999 :
Title: METHOD FOR INFLUENCING THE :
ORGANISM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 25, 2003, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed June 22, 2001. Accordingly, this application became abandoned on September 23, 2001. A Notice of Abandonment was mailed on February 13, 2002.

Petitioner asserts that a proper response was in fact timely filed in the form of an amendment on September 22, 2001. In support, Petitioner has submitted a copy of the originally filed amendment. The amendment contains an executed Certificate of Mailing under 37 CFR 1.8 dated September 22, 2001.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

The file is being forwarded to Technology Center 3700 for further examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States 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
www.uspto.gov

Paper No. 16

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Levin, Yakov I.
Application No. 09/308,913
Filed: May 26, 1999
Title: Auditory Therapy System For Impacting The Nervous System Of A Living Organism

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 3, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 27, 2003. A Notice of Abandonment was mailed on January 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Notice of References Cited	Application/Control No. 09/308,913	Applicant(s)/Patent Under Reexamination LEVIN, YAKOV I.	
	Examiner Frances P. Oropeza	Art Unit 3762	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
	A	US-5356368-	10-1994	Monroe	600	28
	B	US-5267942-	12-1993	Saperston	600	28
	C	US- -				
	D	US- -				
	E	US- -				
	F	US- -				
	G	US- -				
	H	US- -				
	I	US- -				
	J	US- -				
	K	US- -				
	L	US- -				
	M	US- -				

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification	
	N	- -					
	O	- -					
	P	- -					
	Q	- -					
	R	- -					
	S	- -					
	T	- -					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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. 32

MAIL

JUN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of :
Charles H. Reynolds :
Application No. 09/309,321 : DECISION ON PETITION
Filed: May 11, 1999 :
For: **METHOD AND APPARATUS FOR A REMOTELY SWITCHABLE POWER SUPPLY** :

This is a decision on the petition filed January 26, 2004, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment. This decision is also responsive to the supplemental information filed via facsimile on May 4, 2004.

The application was held abandoned for failure to respond in a timely manner to the Final Rejection mailed June 10, 2003. The application became abandoned when no further response was received. A Notice of Abandonment was mailed January 15, 2004.

Petitioner alleges to have timely submitted a response to the Office Action. In support of the petition, the Petitioner has included a copy of the return postcard evidencing receipt by the US Patent and Trademark Office (PTO) on October 14, 2003, wherein the postcard itemizes a transmittal letter, fee transmittal, Notice of Appeal, a Return post card Receipt, and Request for One (1) month Extension of Time, all filed on October 9, 2003.

Furthermore, in order to supplement the originally filed petition, on May 4, 2004 petitioner submitted copies of the transmittal sheet, Appeal Brief, request for extension of time, and postcard evidencing timely filing of these items with a Certificate of Mailing dated March 15, 2004 and a copy of a date-stamped postcard evidencing receipt by the PTO of these itemized items on March 19, 2004.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers (the Notice of Appeal, the Appeal Brief, and their accompanying Requests for Extension of time)

were timely filed in the Patent and Trademark Office but not matched with the application file. The PTO sincerely regrets the inconvenience to petitioner.

In view of the above, the Notice of Abandonment mailed January 15, 2004 is hereby vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application will be forwarded to Technology Center's technical support staff for processing of the copy of the Notice of Appeal and its associated Notice of Appeal Fee and Request for ONE month Extension of Time, and for processing of the Appeal Brief. A review of the PTO Revenue and Accounting and Management (RAM) System finds that the fees in the amount of $640 submitted with the Brief were received and processed on March 19, 2004. From there, the file will be forwarded to the examiner for appropriate action in due course

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
703- 205- 4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 24

Thelen, Reid and Priest, LLP
P. O. Box 640640
San Jose, CA 95164-0640

COPY MAILED

JUN 1 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Lee J. Burrows	:	
Application No. 09/309,361	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. CALT-2806 (NUFO-002)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2002, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center ~~2874~~ 1765 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/16/05

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction on Patent No.: 09/309361 6770132

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:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
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 (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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 G. NORTON
SUPERVISORY PATENT EXAMINER

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/22/2010

Applicant	: KENNETH M. LASSESEN	: DECISION ON REQUEST FOR
Patent Number	: 7607085	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/309,372	: OF WYETH
Filed	: 05/11/1999	:
		:

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.

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.11

B. Noel Kivlin
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, Texas 78767-0398

MAIL

FEB 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
RICE et al.
Application No. 09/309,480
Filed: May 10, 1999
For:
TEXTURE MAPPING METHOD AND APPARATUS FOR COMPUTER IMPLEMENTED GRAPHICAL IMAGE PROCESSING

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed November 18, 2002, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application became abandoned for failure to timely submit the issue fee within the statutory period of three (3) months from the Notice of Allowance mailed March 8, 2002. A Notice of Abandonment was mailed on July 17, 2002.

Petitioner asserts that he did not receive the Notice of Allowance mailed March 8, 2002. In support of the petition, Petitioner provides a copy of the docket records showing Non-receipt of the Notice of Allowance. Furthermore, a review of the record finds a Change of Address filed with the Patent and Trademark Office on December 22, 1999. A review of the record also finds that the Notice of Allowance mailed on March 8, 2002 was improperly sent to the previous address of record. Therefore, there was an irregularity in the mailing of the Notice of Allowance on March 8, 2002, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to the petitioner.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn. The Notice of Allowance is also vacated.

The petition is **GRANTED**.

Since it has been determined that petitioner failed to receive the Notice of Allowance, it is presume that applicant also failed to receive the Notice of Allowability mailed therewith. Furthermore, due to the time lapse from the mailing of the Notices and this decision, the file is being forwarded to the examiner for updating the search and the Notice of Allowability, as appropriate.

Accordingly, a new Notice of Allowability will be sent with the new Notice of Allowance, and the period for response will be set to run from the new mailing date thereof.

Joseph J. Rolla Jr., Director
Technology Center 2600
Communications

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

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/22/2010

Applicant	: DANIEL S. RICE	: DECISION ON REQUEST FOR
Patent Number	: 7652673	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/309,480	: OF WYETH
Filed	: 05/10/1999	:
		:

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.

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 May-07

Paper No.

STEPHEN E FELDMAN PC
12 EAST 41ST STREET
NEW YORK NY 10017

COPY MAILED

MAY 30 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,253,198 :
Issued: 26 June, 2001 :
Application No. 09/309,681 :
Filed: 11 May, 1999 :
For: PROCESS FOR MAINTAINING :
ONGOING REGISTRATION FOR PAGES :
ON A GIVEN SEARCH ENGINE :

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 7 November, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on 26 June, 2001. The window for payment of the first maintenance fee installment with a surcharge closed on 26 June, 2005. Therefore, since this petition was filed within twenty-four (24) months of 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).

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.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

---

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(I)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

The file is being forwarded to Files Repository.

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

cc: Kenneth A. Roddy
2916 West T.C. Jester, Suite 100
Houston TX 77018

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

APR 29 2004

KRISTYNE A. BULLOCK
AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

In re Application of	:
Orentreich et al.	:Petition to Withdraw Finality
Serial No. : 09/309,689	:Under 37 C.F.R. 1.181(a)
Filed : May 11, 1999	:
Attorney Docket No.: 4555-45US	:

This is in response to applicants petition under 37 CFR 1.181, filed October 27, 2003 requesting withdrawal of the finality of the Office action mailed September 17, 2003 following the filing of an RCE application pursuant to 37 CFR 1.114. The delay in acting on this petition is regretted.

BACKGROUND

In the final Office action (dated 1/9/03) addressing claims 1-22, the Examiner raised the following prior art rejections:

a. two anticipation rejections of claims 1, 5-6, 8 and 22 over Coleman or Pollack; and
b. obviousness rejection of claims 1-22 over Coleman or Pollack in view of Grabarek or Wong or Wang.

In response to the Final Office action, applicant filed a Request for Continued Examination (RCE), the fee, and an amendment which included:

a. cancellation of claims 1-22;
b. addition of new claims 23-42; and a
c. 37 C.F.R. 1.132 Declaration by Rozylyn Krajcik.

In making the first Office action (dated 9/17/03) final, the Examiner withdrew the anticipation rejections, while retaining the obviousness rejection as applied to new claims 23-42.

RELEVANT AUTHORITY

An "action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP Section 706.07(b) for making a first action final in a continuing application are met". See MPEP 706.07(h)(VIII).

I. In accordance with MPEP 706.07(b) "Final Rejection, When Proper on First Action", a first office action final rejection is proper where:

> *(A) the new application is a continuation application of ... an earlier application, and*
> *(B) all claims of the new application*
> *(1) are drawn to the same invention claimed in the earlier application, and*
> *(2) would have been properly finally rejected on the grounds of the art of record in the next Office action if they had been entered in the earlier application.*
>
> *However, it would not be proper to make final a first Office action in a continuing or subsequent application where the application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because*
> *(A) new issues were raised that required further consideration and/or search, or*
> *(B) the issue of new matter was raised.*

II. In accordance with MPEP 706.07 "Final Rejection", before final rejection, a clear issue should be developed between the examiner and applicant. In this regard:

> *The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application. But the applicant who dallies in the prosecution of his or her application ... can no longer find a refuge in the rules to ward off a final rejection.*
>
> *The Examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.*

DISCUSSION

Applicant argues that the final rejection of the RCE application was improper since it failed to comport with the guidelines in MPEP 706.07 insofar that applicant filed an RCE to secure admittance of amended claims and a Rule 132 Declaration and the making of a premature final rejection:

a. denies applicant the opportunity to address the Examiner's objections without being under final;
b. penalizes applicant for undertaking to streamline the after-final process;
c. places application in position for appeal without a fully developed record on the claims to which appeal is directed; and
d. places applicant in position of responding to an unclear rejection set forth under 35 USC 103(a).

Applicant's last argument has merit. In particular, it is unclear from the rejection whether Grabarek, Wong and Wang can be substituted one for another in the rejection or whether they are used together in the rejection. The rejection statement lists these three references in the alternative while the reasoning in the rejection appears to require and build upon different teachings from each reference to develop the obviousness rejection. From the body of rejection, it appears the Barbarek is relied upon for the teaching of limitations in claims 25, 26 and 38; Wong is relied upon for the teaching of limitations in claim 36. Wang appears to teach limitations in claims 27 and 33. For these reasons, the finality was improper. Clarification of the obviousness rejection is required.

DECISION

Applicant's petition to withdraw finality of the first Office action mailed September 17, 2003 is **GRANTED** for the reasons set forth above.

Finality of the Office action mailed September 17, 2003 is withdrawn. This application will be forwarded to the examiner for preparation of an Office action in conformance with this decision.

Applicant may consider a petition for reimbursement of the $165.00 fee for the Notice of Appeal filed on 12/22/03.

Should there be any questions regarding this decision, please contact Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by facsimile transmission at (571) 305-7230.

Bruce Kisliuk
Director, Technology Center 1600.

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. 6681331
Issue Date: January 20,2004
Application No. 09309755
Filed: May 11,1999
Attorney Docket No. MUNS0002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 17,2009 ,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 March 17,2009 .
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)
6681331	2004-01-20	09309755	1999-05-11	

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

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	/David H. Judson/	Date (YYYY-MM-DD)	2009-03-17
Name	David H. Judson	Registration Number	30467

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

BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas C. Mielenhausen	:	
Application No. 09/309,831	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. 90021-3	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 16, 2007, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely respond pursuant to 37 CFR 1.304 to a decision by the Board of Patent Appeals and Interferences mailed September 29, 2006. A Notice of Abandonment was mailed December 18, 2006. In response, 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 a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2178 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) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

#18
DW

OCT 16 2002

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

OCT 16 2002

Office of the Director
Group 3600

Paul J. Maginot
Maginot Addison & Moore
Bank One Center/Tower
111 Monument Circle Suite 3000
Indianapolis IN 46204-5130

In re Application of
William Pack
Application No. 09/309,844
Filed: May 11, 1999
For: MOUNTING ARRANGEMENT FOR A RADIATOR ASSEMBLY OF A WORK MACHINE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on September 16, 2002. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that an Office action was mailed on January 31, 2002 wherein a three-month shortened statutory period for response was set. Since no response has been matched with the file, the application was held abandoned in the Notice of Abandonment mailed on September 5, 2002.

Applicant's petition includes a copy of an amendment and request for an extension of time bearing a Certificate of Mailing date of May 16, 2002 signed by John Cheek. The petition includes a statement by John Cheek attesting to the personal knowledge of mailing the response and extension of time on May 16, 2002. This is acceptable evidence that a timely response was filed.

Since a timely response to the Office letter was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the Primary Examiner for prompt action on the merits of the claims.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth J. Dorner at (703) 308-0866.

Gerald Goldberg, Director
Patent Technology Center 3600
(703) 308-1134

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 15

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

AUG 1 7 2004

Director's Office
Office of Patent Publication

In re Application of	:	
Akio Saigusa, et al.	:	
Application No. 09/309,872	:	**DECISION ON PETITION**
Filed: May 11, 1999	:	
Attorney's Docket No. 135.C13505	:	

This is a decision on the Request For Withdrawal Of Erroneously Issued Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on July 22, 2004, which is being treated as a Petition To Withdraw Holding Of Abandonment under 37 CFR. 1.181.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice of Allowance and Fee(s) Due, mailed January 26, 2004, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on July 8, 2004.

The petition is **DISMISSED**

Petitioner states that the Applicant's timely paid the Issue Fee on October 7, 2003. Petitioner also acknowledges receipt of the Corrected Notice of Allowance And Fee(s) Due (Notice), mailed by the USPTO on January 26, 2004. And further notes that since the issue fee had already been paid, no action on the Applicant's part was required in connection with the January 26, 2004 Notice.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on October 7, 2003, which is present in the application file and the check in the amount of $1,345 ($1,330 for the issue fee, $15 for advance order copies).

Petitioner's attention is directed to the first page of the Notice of January 26, 2004, which states in bold print:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Although, the Notice indicates that $0 fee(s) is due, the applicant was required to return the Notice or the application would be regarded as abandoned. The applicant did not return the Notice as instructed, and as a result thereof, the proper abandonment of the application.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Further correspondence with respect to the Petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 703-305-9282 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-8380.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 17

COPY MAILED

MAY 19 2005

Director's Office
Office of Patent Publication

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of :
Akio Saigusa, et al. :
Application No. 09/309,872 : **DECISION ON PETITION**
Filed: May 11, 1999 :
Attorney's Docket No. 135.C13505 :

This is a decision on the Petition Under 37 CFR § 1.181(a) Requesting Reconsideration Of Decision Dismissing Request For Withdrawal Of Erroneously Issued Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on March 31, 2005.

The petition is **DISMISSED.**

Applicant, by petition, request reconsideration of the Decision on Petition, mailed August 17, 2004, dismissing the Request For Withdrawal Of Erroneously Issue Notice of Abandonment, treated as a Petition To Withdraw Holding Of Abandonment Under 37 CFR § 1.181.

The dismissal was based on the applicant's failure to return the PTOL-85B, Part B – Fee(s) Transmittal, as required by the Corrected Notice Of Allowance and Fee(s) Due mailed January 26, 2004. The petitioner's attention was also directed to the first page of the Corrected Notice Of Allowance and Fee(s) Due, which states in bold print:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Petitioner states that "...there is no legal basis for any absolute requirement for the return of the PTOL – 85B Form to the USPTO with payment of the issue fee, let alone that the Form be returned after the issue fee has already been paid and when no additional fee is due."

Petitioner argues:

- They know of no basis in the Patent Laws, Code of Federal Regulations or the Manual of Patent Examining Procedure (MPEP) which would required that the PTOL – 85B Form (or an equivalent) be returned
- 35 U.S.C § 151, Issue of Payment, states that upon payment of the issue fee the patent shall issue (and does not require return of any PTOL – 85B Form)
- The Corrected Notice of Allowance was issued as a result of a USPTO error and no action was required on the Applicants' part.

On August 27, 2003, the Office received the Applicants Request For Corrected Notice Of Allowance to correct the title of the invention on the Notice of Allowance mailed on August 12, 2003. In response to the Applicants request, a Corrected Notice of Allowance was mailed on January 26, 2004. As previously explained in the Decision of August 17, 2004, the Corrected Notice of Allowance indicated that $0 fee(s) is due. The Applicant was required to return the Notice or the application would be regarded as abandoned as noted in the bold text, which states in part: ...**THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.**

And, clearly noted in **HOW TO REPLY TO THIS NOTCE:**
II. PART B – FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B – Fee(s) should be completed and returned.

Further, if the Applicant feels the Corrected Notice of Allowance was issued only as result of a USPTO error — although the Applicant requested the Corrected Notice of Allowance — the Applicant should have replied in writing (see 37 CFR § 1.2) or contacted the examiner, rather then ignoring the Office requirement to return the PTOL – 85B.

The holding of abandonment will not be withdrawn at this time.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov) Petitioner may contact Karin Ferriter, Legal Advisor, in the Office Of Patent Legal Administration (OPLA) at 571-272-7701 to explain the US patent law and Office policies and procedures in regards to this decision.

Further correspondence with respect to the Petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 703-305-9282 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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

Fitzpatrick, Cella, Harper, & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

FEB 21 2007

In re Application of
Akio Saigusa et al
Application No. 09/309,872
Filed: May 11, 1999
Attorney Docket No. 03500.013505

DECISION ON PETITION

This is a decision on the petition entitled "Request for Review of Decision on Petition under 37 CFR 1.181, Contingent Petition under 37 CFR 1.183 to Suspend Rules, Contingent Petition under 37 CFR 1.182, and Contingent Petition under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application" filed on November 8, 2005, a copy of which was also filed on September 18, 2006. The present petition under 37 CFR 1.181 requests that the holding of abandonment in the above-identified application be withdrawn.

This petition has been forwarded to the Acting Director of the Office of Patent Legal Administration for decision.

The petition under 37 CFR 1.181 is **granted**. The petition decisions mailed on August 17, 2004, and May 19, 2005 are improper and are therefore **vacated**. The holding of abandonment has been **withdrawn**. The notice of allowance mailed January 26, 2004, has been **vacated**. The contingent petitions under 37 CFR 1.183, 37 CFR 1.182, and 37 CFR 1.137(b) have been rendered **moot.**

REVIEW OF THE FACTS

- On December 20, 2001, a first Office action was mailed, requiring a new title of the invention.

- On May 27, 2003, an amendment in response to the first Office action was received. The remarks accompanying the amendment state that "[t]he title has been amended to make it more descriptive, as required by the Office [a]ction." The title on the cover page of the amendment refers to the title "as amended." The amendment to the title, however, was apparently inadvertently omitted.

- On August 12, 2003, a notice of allowance was mailed, requiring an issue fee payment on or before November 12, 2003. The notice of allowance was accompanied by an examiner's amendment to the title of the invention. The examiner's amendment to the title is duplicative of the title appearing on the cover page of the May 27, 2003

amendment, with the exception that the last word of the title "Signal" was erroneously amended to "Signals."

- On August 27, 2003, a request for a corrected notice of allowance was received, requesting that the Office correct the title of the invention as amended by the examiner. The correction reflected the title appearing on the cover page of the May 27, 2003 amendment.

- On October 7, 2003, the issue fee was timely paid in response to the notice of allowance mailed August 12, 2003.

- On January 26, 2004, a corrected notice of allowance was mailed, requiring a reply, in the form of a completed Part B of form PTOL-85, or an equivalent, on or before April 26, 2004. To date, no reply to the January 26, 2004 notice of allowance has been received.

- On July 8, 2004, a notice of abandonment, for failure to pay the issue fee, was mailed.

- On July 22, 2004, a petition to withdraw the holding of abandonment was received.

- On August 17, 2004, a decision dismissing the petition received July 22, 2004, was mailed.

- On March 31, 2005, a petition under 37 CFR 1.181 to request reconsideration of the August 17, 2004 decision, was received.

- On May 19, 2005, a decision dismissing the petition received March 31, 2005, was mailed.

- On November 14, 2005, the present petition, entitled "Request for Review of Decision on Petition under 37 CFR 1.181, Contingent Petition under 37 CFR 1.183 to Suspend Rules, Contingent Petition under 37 CFR 1.182, and Contingent Petition under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application," was received.

- On September 21, 2006, a copy of the petition received on November 14, 2005, was received.

DECISION

The issue fee was timely paid in response to the notice of allowance mailed August 12, 2003. Since it was not necessary to mail a second, corrected notice of allowance restarting the time period for reply in order to correct the title of the invention[1], the second notice of allowance mailed on January 26, 2004, has been vacated. Therefore, no reply to the second notice of allowance, in the form of a completed Part B of form PTOL-85, or equivalent, is required. Furthermore, the petition decisions mailed on August 17, 2004, and May 19, 2005, are improper and are therefore vacated.

For the reasons given above, the petition under 37 CFR 1.181 has been **granted**. The second notice of allowance mailed January 26, 2004, has been **vacated.** The holding of abandonment has been **withdrawn**. The petition decisions mailed on August 17, 2004, and May 19, 2005, have been **vacated**. The alternative petitions under 37 CFR 1.182, 37 CFR 1.183, and 37 CFR 1.137(b), have been rendered **moot**.

No further action being required, this file will be forwarded to the Office of Publications for issuance of the patent.

Any questions concerning this matter may be directed to Cynthia L. Nessler, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7724.

Robert A. Clarke

Robert A. Clarke
Acting Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The Office also notes that the August 27, 2003 request for a corrected notice of allowance requested the correction of an error of the Office. The request for correction of the title of the invention was made in response to the examiner's requirement that the title be corrected in the first Office action mailed December 20, 2001. The August 12, 2003 examiner's amendment to the title of the invention contained a typographical error (see the above review of the facts). The August 27, 2003 request for a correction of the title corrected the typographical error and, therefore, was filed to correct an error of the Office.

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. 12

Daniel Robinson
1867 Ygnacio Valley Road 1008
Walnut Creek, CA 94598

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Anthony Nugent, et al.	:	
Application No. 09/309,879	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2004, 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.

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 lacks item (3).

Only the first named applicant signed the statement of unintentional delay. MPEP 403 states in pertinent part:

> In a joint application with no attorney or agent, the applicant whose name first appears in the papers receives the correspondence, unless other instructions are given. **All applicants must sign the replies**." Emphasis added.

In view thereof, both named inventors must sign the petition and reply. Additionally, it is noted that applicants have appointed a registered attorney to prosecute the application. 37 CFR 1.33 states when an attorney has been duly appointed to prosecute the application correspondence will be held with the attorney unless some other correspondence address has been given. Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. Nevertheless, a courtesy copy of this decision will be mailed to the petitioner at the address listed on the petition. However, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
220 20th Street
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Anthony Nugent
112 Crestpoint Court
Cary, NC 27513

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

Daniel Robinson
1867 Ygnacio Valley Road 1008
Walnut Creek, CA 94598

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Anthony Nugent, et al.	:	
Application No. 09/309,879	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
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

ANTHONY D. NUGENT
112 CRESTPOINT CT.
CARY NC 27513

COPY MAILED

DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of
Anthony D. Nugent et al.
Application No. 09/309,879
Filed: May 11, 1999

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2007, 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 above-identified application became abandoned for failure to file corrected drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed July 18, 2007 which set a statutory period for reply of sixty (60) days. Accordingly, by operation of law, the above-identified application became abandoned on September 18, 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 Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3). The statement of unintentional delay was signed only by one of the two inventors.

Application No. 09/309,879

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 Carl Friedman at (571) 272-6842.

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
www.uspto.gov

ANTHONY D. NUGENT
112 CRESTPOINT CT.
CARY NC 27513

COPY MAILED

JAN 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony Dean Nugent et al.	:	
Application No. 09/309,879	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to provide corrected drawings in a timely manner to the Notice To File Corrected Application Papers mailed July 18, 2007, which set a statutory period for reply of sixty (60) days. Accordingly, by operation of law, the above-identified application became abandoned on September 18, 2007.

The petition decision mailed December 7, 2007 indicates the petition under 37 CFR 1.137(b) filed November 5, 2007 was dismissed as failing to provide the required statement of unintentional delay in that it was signed by only one of the two inventors.

The renewed petition includes the statement of unintentional delay signed by both inventors.

The renewed 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 corrected drawings; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the filing of corrected drawings is accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.

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
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

JUN 01 2005

OFFICE OF PETITIONS

In re Application of
Dunn-Coleman et al.
Application No. 09/310,001
Filed: May 11, 1999
Attorney Docket No. CL 1244 US NA

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed February 10, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 3, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 4, 2004. A Notice of Abandonment was mailed on February 9, 2005.

The instant petition requests revival of the application. 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.

The examiner will be informed the application has been revived and will review the papers filed on February 10, 2005, in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP20
JUL 07 2009
PATENT & TRADEMARK OFFICE

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

RICHARD E GAMACHE
DIKE BRONSTEIN ROBERTS AND CUSHMAN LLP
130 WATER STREET
BOSTON MA 02109

COMPLETED

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 6,215,271	:	
Issue Date: April 10, 2001	:	
Application No. 09/310,052	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. 47705.47706	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 5, 2009, 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** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

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 above items.

However, the petition 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 undividing 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.

If the instant petition is on the behalf of the assignee, petition 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.

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 delay in filing a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, 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 patent.

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.

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 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) 272-7751.

The patent file is being forwarded to Files Repository.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Daniel Gladkowski
Satcon Technology Corporation
27 Drydock Avenue
Boston, MA 02210

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED
MAY 2 7 2008
OFFICE OF PETITIONS

In re Application of	:	
Harm J. W. Belt, et. al.	:	
Application No. 09/310,086	:	ON PETITION
Filed: May 11, 1999	:	
Attorney Docket No. PHN16638V	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed June 13, 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 and terminal disclaimer under 37 CFR 1.321 with the $130 fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2615 for further processing.

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

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUH, MA 01581

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Yassir K. Elley et al	:	
Application No. 09/310,165	:	ON PETITION
Filed: May 10, 1999	:	
Attorney Docket No. SMY-013.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings on or before September 5, 2006 in reply to the Notice of Allowability, mailed June 5, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 6, 2006. A Notice of Abandonment was mailed on October 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of June 5, 2006 is accepted as being 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 undersigned at (571) 272-3218.

This application is being referred to the Publishing Division for further processing in accordance with this decision on petition.

Frances Hicks
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

In re Patent No. 6206224
Issue Date: March 27,2001
Application No. 09310234
Filed: May 12,1999
Attorney Docket No. 2535-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 8,2009 . 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)
6206224	2001-03-27	09310234	1999-05-12	

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

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	/donn harms/	Date (YYYY-MM-DD)	2009-05-08
Name	Donn K. Harms	Registration Number	38911

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
WASHINGTON, DC 20231
www.uspto.gov

MAIL

AUG 13 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 13

FOLEY, HOAG & ELIOT, LLP
PATENT GROUP
ONE POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of: Y. Schmeidler et al.
Application No.: 09/310,294
Filed: May 12, 1999
For: METHOD AND APPARATUS FOR SECURE CONTENT DELIVERY OVER BROADBAND ACCESS NETWORKS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 9, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Finally, applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not meet the requirements for special status in that it does not clearly include an indication regarding references "deemed most closely related to the subject matter encompassed by the claims" as per M.P.E.P. §708.02, Section II. While petitioner has indicated that "the assignee has made or caused to be made a careful and thorough search of the prior art", and the assignee has stated that they "have asked our attorney to perform a careful and thorough search", no art has been provided with this petition identified as "references deemed most closely related to the subject matter encompassed by the claims". Also, there is no representation made that the art already of record, e.g. the Information Disclosure Statements filed prior to the petition, are the "references deemed most closely related". As a result, there is no clear indication that applicant has provided one copy of each reference deemed most closely related.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, & Electronic Commerce
703 305 9780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

MAILED

MAR 0 7 2002

Technology Center 2100

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of: Y. Schmeidler et al.
Application No.: 09/310,294
Filed: May 12, 1999
For: METHOD AND APPARATUS FOR SECURE CONTENT DELIVERY OVER BROADBAND ACCESS NETWORKS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the response filed January 3, 2002 to the decision mailed August 13, 2001 regarding the petition filed July 9, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special. In light of the certificate of mailing of October 15, 2001 and recent postal issues, the response is seen as timely.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Finally, applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Applicant's submissions filed July 9, 2001 and January 3, 2002 together meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, & Electronic Commerce
703 305 9780

US 093102940MP1

Creation date: 12-06-2004
Indexing Officer: BENGEDA - BERHANU ENGEDA
Team: OIPEBackFileIndexing
Dossier: 09310294

Legal Date: 04-17-2002

No.	Doccode	Number of pages
1	SRNT	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

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

JJGJR.: 06-04

Paper No: 28

WILMER CUTLER PICKERING
HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

COPY MAILED
JUN 2 5 2004
OFFICE OF PETITIONS

In re Application of
Schmeidler, et al. :
Application No. 09/310,294 : DECISION ON PETITION
Filing Date: 12 May, 1999
Attorney Docket No. 111283.137 US2 :

This is a decision on the petition filed on 11 June, 2004, alleging, inter alia, non-receipt of an Office action by present Counsel and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **DISMISSED**,

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.181, or 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b) (as to unintentional delay) **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(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on8 January, 2003, with reply due absent extension of time on or before 8 April, 2003;
- the application went abandoned by operation of law after midnight 8 April, 2003;
- the Office mailed a Notice of Abandonment on 4 August, 2003;
- a Revocation Power of Attorney was filed on 18 August, 2003, and accepted by the Office on 10 November, 2003;
- with the instant petition and fee, Petitioner submitted a reply, in the form of an Amendment, and made the statement of unintentional delay, however he provides no support of any kind for the allegation of non-receipt.

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).[1]

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. 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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is

---

[1] 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.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[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).

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).[4] And the Petitioner must be diligent in attending to the matter.[5] 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.[6] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

---

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] 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.

[7] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(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 the *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 orreviewed 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.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

of a holding of abandonment.[8]

Petitioner has made no showing and provided no documentary support that the Office action in question was not received by the then-Counsel of record at the then-address of record.

Thus, Petitioner fails to satisfy his burden under 37 C.F.R. §1.181

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

The instant file is held in the Office of Petitions to consider another matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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

JJGJR.: 06-04

Paper No: 30

WILMER CUTLER PICKERING
HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

COPY MAILED
JUN 3 0 2004
OFFICE OF PETITIONS

In re Application of
Schmeidler, et al. :
Application No. 09/310,294 : DECISION ON PETITION
Filing Date: 12 May, 1999
Attorney Docket No. 111283.137 US2 :

This is a decision on the petition filed on 11 June, 2004, to revive the instant application (alleging unintentional delay) under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**,

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on8 January, 2003, with reply due absent extension of time on or before 8 April, 2003;
- the application went abandoned by operation of law after midnight 8 April, 2003;
- the Office mailed a Notice of Abandonment on 4 August, 2003;
- a Revocation Power of Attorney was filed on 18 August, 2003, and accepted by the Office on 10 November, 2003;
- with a petition alleging non-receipt and requesting withdrawal of the holding of abandonment (and so considered under 37 C.F.R.§1.181), Petitioner submitted a reply, in

the form of an Amendment, but provided no support for the allegation of non-receipt, and the petition was dismissed;

- the instant petition (with fee) is accompanied by the statement of unintentional delay and a reply in the form of an Amendment.

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).[1]

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. 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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] 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).[4] And the Petitioner must be diligent in attending to the matter.[5] 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

---

[1] 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.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[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] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]

Allegations as to
Unintentional Delay

Petitioner has submitted a petition (with fee), accompanied by the statement of unintentional delay and a reply in the form of an Amendment.

Therefore, Petitioner has satisfied the requirements under 37 C.F.R. §1.137(b).

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant file is forwarded to Technology Center 2700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] 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.

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 10

GARLICK & ASSOCIATES
PO BOX 160727
AUSTIN TX 78716-0727

COPY MAILED

AUG 11 2003

OFFICE OF PETITIONS

In re Application of
Thomas W. Lynch
Application No. 09/310,508
Filed: May 12, 1999
Attorney Docket No. THS003

DECISION GRANTING PETITION

This is a decision on petition under 37 CFR 1.137(a), filed July 28, 2003 to revive the above-identified application which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 1.181 is **Granted**.

This application became abandoned for failure to timely file a proper reply to the Notice of Non-Compliant Amendment mailed October 31, 2002. This application became abandoned December 2, 2002. This decision precedes the mailing of a Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) a proposed response to continue prosecution of the abandoned application, or filing of a continuation application, unless either has been previously filed; (2) the petition fee required by 37 CFR 1.17(l); (3) an adequate verified showing of the cause of unavoidable delay; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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). Specifically, reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable. An application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887). The

Petitioner claims to have timely filed the response via facsimile transmission on November 13, 2002. The showing submitted by petitioner establishes that on November 13, 2002, a facsimile was successfully transmitted and received by the United States Patent and Trademark Office, however no such submission has been matched with the file herein.

The confirmation report does in fact indicate that on November 13, 2002, 13 pages were sent via facsimile transmission to 703-746-7239 and thus, the proof presented does indicate that petitioner diligently filed a timely reply although the PTO does not have a record of having received the reply to the Notice of Non-Compliant Amendment via facsimile transmission.[1]

In light of this showing, it is concluded that reasonable care was taken by the petitioner to file a timely reply. Accordingly, the **Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.** No fee is required for a petition to withdraw the holding of abandonment. Therein, the petition fee under 37 CFR 1.137 (a) in the amount of $55.00 will be refunded.

This file is being forwarded to Technology Center 2142 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1]A certificate of facsimile transmission is provided as proof of petitioner's diligence.

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

COPY MAILED

MAR 03 2006

OFFICE OF PETITIONS

In Application of :
Mericas :
Application No.: 09/310,912 : ON PETITION
Filed: May 13, 1999 :
Attorney Docket No.: AT9-99-073 :
For: METHOD AND SYSTEM FOR COUNTING NON-SPECULATIVE EVENTS IN A SPECULATIVE PROCESSOR

This is a decision on the petition under 37 CFR 1.181, filed January 23, 2006 (certificate of mailing date January 18, 2006) to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and corrected formal drawings in response to the June 28, 2005 Notice of Allowance and Fee(s) Due and Notice of Allowability, which set a three month period for reply. No reply being received, the Office contended that this application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on December 8, 2005.

Petitioner alleges that the June 28, 2005 Notices were not received.

The showing required to establish non-receipt of an Office communication must include:

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.

2. 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.[1]

Petitioner has proven nonreceipt. The petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2193 for the re-mailing of the June 28, 2005 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

FAX TO: MIS YU and ANTHONY CAPUTA
FAX 703-746-5282

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FYI

Petition office did not send this to you on Feb 11th they are now sending it MAR. 27th 2003
Thank you:
Ashley.

Note

Paper No. 22

COPY MAILED
FEB 1 1 2003
OFFICE OF PETITIONS
ON PETITION

CYTOSKELETON INC.
1830 S. ACOMA ST.
DENVER CO 80223

In re Application of
Davis, et al.
Application No. 09/310,981
Filed: May 13, 1999
Attorney Docket No. 5170
For: LYOPHILIZED TUBULINS

This is a decision on the petition, filed November 13, 2002, requesting revival of the above-identified application under the unavoidable standard of 37 CFR 1.137(a).

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

The Office mailed a non-final Office action on April 9, 2002. A review of the application file reveals that petitioners filed a reply on May 17, 2002 and a supplemental reply on June 4, 2002. While these replies may be informal, they are nonetheless *timely* replies to which the Office must respond.

The application is not abandoned. As such, a petition to revive is not required. The $55.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

After the mailing of this decision, the application file will be forwarded to Technology Center 1600 for consideration of the replies filed on May 17, 2002 and June 4, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

OIPE JC139
OCT 07 2003
PATENT & TRADEMARK OFFICE

B

Cytoskeleton

1830 S. Acoma St., Denver, CO 80223, USA.
Tel: 303-322-2254 Fax: 303-322-2257 E-mail: ashleyd@cytoskeleton.com

October 1st 2003

Manager of Petitions
Commissioner of Patents
USPTO
Mail Stop: Petitions
Alexandria, VA 22313-1450.

Ref.: Lyophilized Tubulins 09/310,981 four and a half years for approval.

Term Extension under 37 CFR 1.701 using rule 37 CFR 1.181

Dear Manager of Petitions:

We are applying for a Patent Term Extension under 37 CFR 1.701 using rule 37 CFR 1.181 for application 09/310,981 which has just been approved. It has taken four and a half years to approve this patent which reduces its effective enforcement time by 25%.

The provisional was applied for in May 1998, and the full version in May 1999. The first Office action was received January 5th 2001, a full 1 year and 8months after submission. This was after a letter from our then attorney (Dorsey and Whitney) requesting Status of Review in September 2000. In addition we contend that there was an ill equipped Examiner (Nathalie Davis, PhD) who could not distinguish the difference between tubulin and DNA or antibodies, and the difference between isolating tubulin and its lyophilization (see correspondence from 1-5-2001 and 4-9-2002). We expect there was poor productivity from Dr. N. Davis during her employment, it might be possible to check this by contacting Dr. Anthony Caputa the head examiner of this Unit. As a comparison the replacement examiner Dr. Misook Yu resolved all issues within 8 months.

Finally, the accompanying letter acknowledges by the USPTO that there was lost time between the examiner (Nathalie Davis Ph.D.) terminating employment at the USPTO, and notification that there was no correspondence coming from this examiner.

In total the lost time amounted to approximately two years which consisted of a slow start to examination, a poorly equipment examiner and the assumption of abandonment. We respectively ask for your consideration in extending the Patent Term to allow two additional years.

Respectively Yours,

Ashley Davis Ph.D.
Vice-President
Cytoskeleton Inc.

Kim Middleton Ph.D.
President.
Cytoskeleton Inc.

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

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	:	
Joost Kemnk	:	
Application No. 09/311,128	:	ON PETITION
Filed: May 13, 1999	:	
Attorney Docket No. PHA-23.501	:	

This is a decision in response to the petition, filed August 4, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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. However, in accordance with 37 CFR 1.34(a), the signature of William A. Munck appearing on the petition 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. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Munck desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 4, 2005. A Notice of Abandonment was mailed on November 1, 2005. In response, on August 4, 2005, 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 an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 2193 for consideration of the amendment filed August 4, 2006.

[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 the statement is not made by an attorney of record, 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 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

cc: WILLIAM A. MUNCK
900 THREE GALLERIA TOWER
13155 NOEL ROAD
DALLAS, TX 75240

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

DIW 04-00

Paper No. 6

COPY MAILED

MAY 1 0 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

DANIEL M. BECKER
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, N.Y. 10020-1104

In re Application of
Worthington et al.
Application No. 09/311,329
Filed: 11 May, 1999
Attorney Docket No. BURST-3-CIP1

: DECISION DISMISSING PETITION

This is a decision on the petition filed on 27 October, 1999, requesting that the above-identified application be accorded a filing date of 14 May, 1999, instead of the presently accorded filing date of 11 May, 1999.

Petitioner alleges that the application was deposited in Express Mail service on 14 May, 1999, and that the United States Postal Service (USPS) made an incorrect "date-in" entry. In support of the petition, petitioner submitted, *inter alia,* (a) a copy of Express Mail receipt No. EL188598031US (the same Express Mail number found on the transmittal letter filed with the original application papers located in the official file) showing a "date-in" of 11 May, 1999; (b) a copy of an "Express Mail" certificate of mailing dated 14 May, 1999, showing the Express Mail receipt number and the docket number for this case, and signed by Susan Snider; (c) a copy of the post card receipt and check for the filing fees, both dated 14 May, 1999; (d) an "Express Mail Order Slip" dated 14 May, 1999, and containing the Express Mail number listed above as well as the docket number for the instant case and purportedly showing that the above-referenced application was received by the USPS on 14 May, 1999, and (e) a filing receipt for the instant application showing a filing date of 11 May, 1999.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The instant petition lacks items (1) and (3) of 37 CFR 1.10(d)(1). In regards to item (1), petitioner concedes that it received notice of the purportedly incorrect filing date on or about 30 June, 1999, but did not file the instant petition until nearly four months later. As the showing of record indicates a lack of diligence,

petitioner must explain in detail, in its renewed petition, why the instant petition should not be dismissed out of hand as untimely.

In regards to item (3), petitioner has not made an adequate showing that the requested filing date is the date the correspondence was deposited in the Express Mail service. Petitioner has submitted no evidence from the USPS which would corroborate petitioner's assertion, that is, the "date-in" was incorrectly entered by the USPS. The return receipt postcard submitted by petitioner has not been date-stamped by the U.S. Patent and Trademark Office (USPTO) and therefore cannot serve as evidence of receipt of the instant application by the USPTO. Furthermore, the copy of the check for $3,714.00 dated May 14, 1999, by petitioner is not persuasive because postdated checks may be paid prior to the date indicated on the check.

The "Express Mail Order Slip" is also not persuasive because does not bear any official notation entered by the USPS showing that the application was deposited on the asserted date of deposit. Petitioner may submit with a renewed petition evidence from the USPS, including but not limited to an Express Mail Corporate account Mailing Statement, to establish that the application was deposited in Express Mail on a date other than the "date-in" on the Express Mail mailing label. Alternatively, petitioner should submit evidence that came into being after deposit and within one business day of the date of deposit of the application, including but not limited to a log book with an entry made after mailing, a letter to the client after mailing, or an affidavit or declaration by the person who deposited the application in "Express Mail Post Office to Addressee".

Petitioners should also note that while the requirement of 37 CFR 1.10(d) for a certificate of mailing by "Express Mail" has been waived by the Commissioner,[1] the other requirements of 37 CFR 1.10(d), including the requirement that the correspondence must have the number of the Express Mail mailing label placed thereon prior to mailing, have not been waived. In accordance with 37 CFR 1.10(d)(3), the Express Mail certificate of mailing may not serve as evidence of timely mailing because it was created prior to the deposit of the application in Express Mail.

The petition filed on 27 October, 1999, is not accompanied by the corroborating evidence required by the rule. Accordingly, the petition is dismissed.

---

[1] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

Any request for reconsideration (no further petition fee is required) must be filed within TWO MONTHS of the date of this decision in order to be considered timely [37 CFR 1.181(f)]. The request should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza 4
Room 3-C23
2201 South Clark Place
Arlington, VA 22202

The application is being forwarded to the Office of Initial Patent Examination for further processing with the presently accorded filing date of 11 May, 1999.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

tion
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. 19

MAIL

DEC 3 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PHILIPS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
580 WHITE PLAINS ROAD
TARRYTOWN NY 10591

In re Application of
Zimmerman et al.
Application No. 09/311,333
Filed: May 13,. 1999
For: IN-THE-FIELD ADAPTATION OF A LARGE VOCABULARY AUTOMATIC SPEECH RECOGNIZER (ASR)

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment which will be considered as having been filed under 37 CFR § 1.181(a), on April 14, 2003, in response to a Notice of Abandonment. No fee is required.

This application was held abandoned for failure to file an Appeal Brief or otherwise timely response to the outstanding final Office action (paper No. 7) mailed May 21, 2002. A Notice of Abandonment (paper No. 12) was mailed on March 24, 2003.

In support of the petition Applicant states and provides a copy of a continuing prosecution application (CPA) transmittal request, a Preliminary Amendment and a stamped mailroom receipt itemizing the CPA transmittal, a PTO form 1449, certificate of mailing and authorization to charge a deposit account.

A review of the file record indicates that the CPA transmittal and Preliminary Amendment (filed October 8, 2002) have been matched with the application and that the application fee of $740.00 was processed on October 18, 2002. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued.

The petition is **GRANTED**. The Notice of Abandonment is vacated.

The application file is being forwarded to the Examiner for appropriate action.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

COPY MAILED

FEB 01 2007

OFFICE OF PETITIONS

In re Application of :
Zimmerman, et al. :
Application No. 09/311,333 : ON PETITION
Filed: May 13, 1999 :
Attorney Docket No. A 23,960 :
For: IN-THE-FIELD ADAPTATION OF A LARGE VOCABULARY AUTOMATIC SPEECH RECOGNIZER (ASR)

This is a decision on the petition under 37 CFR 1.181, filed February 22, 2005 (certificate of mailing date February 18, 2005) and supplemented on November 9, 2005 (certificate of mailing date November 7, 2005) to withdraw the holding of abandonment.

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

The Office contends that the above-identified application became abandoned for failure to submit a reply to the July 28, 2004 final Office action which set an extendable three month period for reply. No extensions of time or timely reply being received, the Office considered this application abandoned on October 29, 2004. A Notice of Abandonment was mailed on October 6, 2005.

Petitioners allege that the July 28, 2004 final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

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.
2. 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.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

A review of the record indicates no irregularity in the mailing of the July 28, 2004 final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record.

While the February 22, 2005 (certificate of mailing date February 18, 2005) petition argues that the correspondence was mailed to an incorrect former address, the official record shows that the last correspondence address direction was found in an October 15, 2002 associate power of attorney that specified that all correspondence should be mailed to the Tarrytown, NY address, not the Briarcliff Manor, NY address. The Notice of Customer Number Record Change dated December 18, 2003 does not mention this application. Therefore, the Office properly mailed the July 28, 2004 correspondence to the Tarrytown, NY address.

The presumption that the correspondence was received at that address may be overcome by a showing that the aforementioned communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include:

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.
2. 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.[1]

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the July 28, 2004 final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the July 28, 2004 non-final Office action was fruitless. It is noted that the attorney making the statement is Daniel J. Piotrowski, who has been associated with the Tarrytown, NY mailing address, rather than the Briarcliff Manor, NY mailing address.

Petitioners have established non-receipt. The petition is granted, the holding of abandonment is withdrawn, and the October 6, 2005 Notice of Abandonment is vacated.

Petitioners filed an amendment in response to the July 28, 2004 final Office action on February 22, 2005 (certificate of mailing date February 18, 2005). As such, there is no need to re-mail the July 28, 2004 final Office action with a new period set for reply.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

After the mailing of this decision, the application will be returned to Technology Center A.U. 2626 for consideration of the amendment filed on February 22, 2005 (certificate of mailing date February 18, 2005).

Telephone inquiries may 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

John P. White (Reg. No. 28,678)
0575/54205-B/JPW/AJM/NS
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

Application Number: 09/311,428
Filing Date: May 13, 1999
In re Application: JOHN O'CONNOR ET AL.

DECISION ON PETITION

This is a decision on the petition, filed October1, 2001, a faxed courtesy copy received February 23, 2005, to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

In accordance with the petitioner's request, Galina Kovalevskaya will be listed in the above identified application as a joint inventor.

Long V. Le
Supervisory Patent Examiner
Art Unit 1641
(571) 272-0823

Lisa V. Daniels-Cook
Patent Examiner
Art Unit 1641
(571) 272-0816
Remsen 3C-59

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER EIGHTH FLOOR
SAN FRANCISCO CA 94111

COPY MAILED

JUL 17 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Adams et al.
Application No. 09/311,890
Filed: May 14, 1999
Attorney Docket No.

DECISION
GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 2, 1999, which is being treated as a petition under 37 CFR 1.181 (no fee) to accord the above-identified application a filing date of May 14, 1999. The delay in treating the petition is regretted

The petition is **GRANTED**.

In support of the petition, submitted in reply to the Notices of Missing Parts and Incomplete Application, both mailed June 16, 1999, which indicated a total absence of the referenced drawings, petitioner includes a copy of a postcard receipt itemized with respect to the instant application papers and bearing the PTO date stamp of May 14, 1999. The receipt establishes that twenty nine (29) sheets of drawings were among the instant application papers received at the PTO. As such, petitioner has adequately established that the drawings in question were received at the PTO and subsequently misplaced, and that this application is entitled to a filing date of May 14, 1999. The Notices of May 14, 1999 were mailed in error and are vacated.

The $130 fee has been credited, as unnecessary, to deposit account No. 20-1430.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 14, 1999, and an indication that the application papers as filed contained 29 sheets of drawings, using the 29 sheets of drawings filed July 2, 1999 .

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Special Projects Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MSP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

AUG 1 2 2004
PATENT & TRADEMARK OFFICE

Paper No. 6
COPY MAILED

JONES & ASKEW, LP
2400 MONARCH TOWER
3424 PEACHTREE ROAD, NE
ATLANTA, GA 30326

JUL 2 1 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of Dietz, Mayo and Reteneller Application No. 09/312,120 Filed: May 14, 1999 Attorney Docket No. 03628-0320 For: Engagement of Non-Employee Workers	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a) AND DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.47(a), filed August 30, 1999.

This is also a decision on the petition under 37 CFR 1.137(b), filed June 26, 2000, to revive the above-identified application.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Consideration under 37 CFR 1.47(a):

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the complete application papers. Specifically, a Statement of Facts of Michael S. Pavento, attorney of record, established that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

RECEIVED SCANNED
JUL 2 7 2000
JONES & ASKEW

BEST AVAILABLE COPY

Consideration under 37 CFR 1.137(b):

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Application mailed June 11, 1999, which set forth a two (2) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 12, 1999. A Notice of Abandonment was mailed on June 12, 2000.

The Notice to File Missing Parts of Application of June 11, 1999, required the submission of an executed oath or declaration and a $130.00 surcharge for its late filing. Because this application has been accorded Rule 1.47(a) status by this decision, the reply requirement of the Notice has been met.

The file is being forwarded to Technology Center 2700 for examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

OIPE JC90
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

R. KELLY MAYO
1146 PRINCETON WALK
MARIETTA, GA 30068

COPY MAILED

JUL 2 1 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Dietz, Mayo and Reteneller
Application No. 09/312,120
Filed: May 14, 1999
For: Engagement of Non-Employee Workers

LETTER

Dear Mr. Mayo:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint 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 make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JONES & ASKEW, LP
2400 MONARCH TOWER
3424 PEACHTREE ROAD, NE
ATLANTA, GA 30326

OIPE JC180
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Dietz, et. al.

Serial No. **09/312,120**

Filed: **May 14, 1999**

For: **Engagement of Non-Employee Workers**

PETITION UNDER 37 C.F.R. 1.47(a)

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

The undersigned attorney of record in the patent application identified above hereby petitions to have the application considered complete for filing wherein one of the joint inventors refuses to join in the application. This petition is filed under 37 CFR § 1.47(a) and is accompanied by:

(1) Exhibit A: page two of the originally submitted declaration with the signature block of the nonsigning inventor left blank;

(2) Exhibit B: copies of the cover letters sent to the inventors with instructions for execution of the patent application;

(3) Exhibit C: a declaration by the undersigned attorney of record setting forth the fact which are relied upon to demonstrate that a diligent effort was made to reach the nonsigning inventor;

(4) Exhibit D: copies of correspondence with the nonsigning inventor in support of the attached declaration; and

(5) payment of $130 for the fee set forth in 37 CFR § 1.17(i).

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, DC 20231, on August 25, 1999

Michael S. Pavento

Michael S. Pavento - Reg. No. 42,985

Page two of the originally submitted declaration (submitted herewith as Exhibit A), along with page one and page three already on file with the Office comprise an "oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor left blank," which "may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor, unless otherwise indicated." MPEP 409.03(a)(A). As shown by the cover letters to the inventors attached as Exhibit B, each inventor was aware of that the application was being filed on behalf of Janice Gold Dietz, R. Kelly Mayo and Daniel P. Reteneller.

The last known address for the nonsigning inventor is as follows:

R. Kelly Mayo
1146 Princeton Walk
Marietta, Georgia 30068

Respectfully submitted,

Michael S. Pavento

Michael S. Pavento
Reg. No. 42,985

JONES & ASKEW, LLP
2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, Georgia 30326
(404) 949-2400
J&A Docket: 03628-0320

OIPE JC90
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Dietz, et. al.

Serial No. **09/312,120**

Filed: **May 14, 1999**

For: **Engagement of Non-Employee Workers**

TRANSMITTAL OF MISSING PARTS AND FILING FEE

Box Missing Parts
Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Notice of Missing Parts mailed May 21, 1999, the undersigned attorney for applicant hereby transmits:

1. a duplicate copy of PTO-1533 (Notice to File Missing Parts of Application—Filing Date Granted);
2. Petition Under 37 C.F.R. 1.47(a) and including Exhibits A-D;
3. one check in the amount of $130.00 to cover the surcharge for the late filing of these parts;
4. one check in the amount of $130.00 to cover the fee set forth in 37 CFR § 1.47(a); and

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, DC 20231, on August 25, 1999.

Michael S. Pavento

Michael S. Pavento Reg. No. 42,985

Serial No. 09/312,120

The filing fee is calculated as follows:

			SMALL ENTITY		OTHER THAN SMALL ENTITY	
FOR:	NO. FILED	NO. EXTRA	RATE	FEE	RATE	FEE
BASIC FEE						
TOTAL CLAIMS	56 - 20 =	36	x9 =		x18 =	
INDEP. CLAIMS	- 3 =		x39 =		x78 =	
☐ MULTIPLE DEPENDENT CLAIM PRESENTED			+130 =		+260 =	
☒ LATE-FILING SURCHARGE			+ 65 =	$65	+130 =	130.00
☐ FOREIGN LANGUAGE SURCHARGE			+130=		+130=	
☒ PETITION UNDER 37 C.F.R. 1.47(a)			+130=		+130=	130.00
			TOTAL		TOTAL	260.00

It is believed that the submission of these papers and this payment completes the filing of all necessary papers and it is therefore respectfully requested that the application be passed to the appropriate examining group for action on the merits.

Respectfully submitted,

Michael S. Pavento

By: Michael S. Pavento
Reg. No. 42,985

JONES & ASKEW, LLP
2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, Georgia 30326
(404) 949-2400
J&A Docket: 03628-0320

DECLARATION AND POWER OF ATTORNEY Attorney's Docket No. 03628-0320

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **"Engagement Of Non-Employee Workers"** the specification of which:

OIPE
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

☐ is attached hereto.

☒ was filed on May 14, 1999 as Application No. 09/312,120.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I do not know and do not believe that the same was ever known or used by others in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to the date of this application. I further state that the invention was not in public use or on sale in the United States of America more than one year prior to the date of this application. *I understand that I have a duty of candor and good faith toward the Patent and Trademark Office,* and I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a)-(d) of the foreign application(s) for patent or inventor's certificate listed below, and have also identified below any foreign application for patent or inventor's certificate disclosing subject matter in common with the above-identified specification and having a filing date before that of the application on which priority is claimed:

Application No.	Country	Filing Date	Priority Claimed Under 35 USC §119
None			Yes_____ No_____

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

None			
(Application No.)	(Filing Date)	(Application No.)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter disclosed and claimed in the present application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status: patented, pending, abandoned
None		

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

POWER OF ATTORNEY: The following attorneys are hereby appointed to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Anthony B. Askew - 24,154; Roger T. Frost - 22,176; Jeffrey E. Young - 28,490; Robert E. Richards - 29,105; John R. Harris - 30,388; Stephen M. Schaetzel -31,418; Larry A. Roberts - 31,871; Thomas A. Hodge, - 22,602; Gregory T. Gronholm - 32,415; Dale Lischer - 28,438; Peter G. Pappas - 33,205; James Dean Johnson - 31,771; W. Scott Petty - 35,645; Daniel J. Warren - 34,272; Leona G. Young - 37,266; Jamie L. Greene-32,467; Holmes J. Hawkins III - 38,913; Mary Anthony Merchant - 39,771; Michael J. Mehrman - 40,086; William L. Warren - 36,714; Brenda Ozaki Holmes - 40,339; James D. Withers - 40,376; Kimberly J. Prior - 41,483; William B. Lafferty - 39,259; Theodore M. Green - 41,801; Christopher J. Leonard - 41,940; Christos S. Kyriakou - 42,776; John K. McDonald - 42,860; Michael S. Pavento - 42,985; Suzanne Seavello Shope - 37,933; M. Scott Boone - 42,341; Sima Singadia Kulkarni - P43,732; A. Shane Nichols - P43,836; Christopher J. Chan - P44,070.

Send correspondence to: **JONES & ASKEW, LLP**
2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, GA 30326

Direct telephone calls at **(404) 818-3700**

Michael S. Pavento, Esq.

Full name of second inventor: R.Kelly Mayo	Citizenship: United States of America
Inventor's signature	Date:
Residence and Post Office Address: 1146 Princeton Walk, Marietta, Georgia 30068	

OIPE JC180
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

PATENT, TRADEMARK AND COPYRIGHT
LAW AND RELATED LITIGATION

2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

TEL 404-949-2400
FAX 404-949-2499

WWW.JONESASKEW.COM

April 21, 1999

Daniel P. Reteneller
1137 Oak Brook Way
Atlanta, Georgia 30319

Re: U.S. Patent Application entitled "ENGAGEMENT OF NON-EMPLOYEE WORKERS"
Our File: 03628-0320

Dear Mr. Reteneller:

We have revised the enclosed patent application per recent comments supplied by co-inventor Janice Dietz. Incorporating these recent comments served to more particularly describe certain aspects of the invention. However, no substantive changes were made to the patent specification or the patent claims. Still, in light of these revisions, we must ask you to review the patent application one last time according to the following guidelines.

Inventorship

We understand you, R. Kelly Mayo and Janice Gold Dietz are the joint inventors of the invention defined by the claims in this application. Accordingly, each of you should review the entire application for technical accuracy and compliance with the requirements set forth in this letter. In addition, please advise whether others contributed to the conception or reduction to practice of the claimed invention, so we can consider whether to name any other persons as inventors.

Best Mode and Enabling Description

While reviewing the application, please keep in mind that a patent application must describe the invention so completely as to "enable" one of ordinary skill in the pertinent art, such as an engineer who works in the field, to make and use the invention. Furthermore, the patent application must also describe the "best mode" contemplated by the inventor for carrying out the invention, *i.e.*, concealing the best mode of practicing the invention is not permitted. Please ensure that the application discloses the best mode contemplated by you, when filing this patent application, for carrying out the invention, and that the written description is enabling.

Claims

Please pay particular attention to the claims, the numbered paragraphs at the end of the application. The claims should particularly point out what you regard as your invention and should describe features of the invention that are new, insofar as you know. Furthermore, each claim, read in its entirety, should not describe only what is known in the prior art.

Formal Papers

If you find the application technically accurate and complete, we ask that you read, sign, and date the enclosed formal papers, including the "Declaration and Power of Attorney" at the back of the application. If the statements contained within the Declaration and Power of Attorney are true, you should sign and date the document where indicated, being careful to sign your name exactly as it appears within the signature block.

The enclosed Assignment transfers the entire ownership of this invention to Coca-Cola Company. You should sign the Assignment in the presence of a notary public, who should sign and date the notarial statement.

Please return all the enclosed formal papers to us, when signed. If you believe any changes to the application are required, please do not sign the formal papers, but contact us as soon as possible to discuss the required changes.

Return of Application for Filing

Please return the entire original application and the original signed formal papers to us as soon as possible using the enclosed pre-paid express mailing envelope. We would appreciate receiving the patent application and the signed formal papers from you by **April 23, 1999**, so that we may file them with the U.S. Patent and Trademark Office on that date.

Thank you for your cooperation in this matter. Please contact us if you have questions regarding the application.

Cordially yours,

JONES & ASKEW, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosure
cc: Frank A. Landgraff, Esq.
Daniel J. Warren, Esq.

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
PATENT, TRADEMARK AND COPYRIGHT
LAW AND RELATED LITIGATION

2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326
TEL 404-949-2400
FAX 404-949-2499
WWW.JONESASKEW.COM

OIPE
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

April 21, 1999

Janice G. Dietz
3221 West Andrews Dr.
Atlanta, GA 30326

Re: U.S. Patent Application entitled "ENGAGEMENT OF NON-EMPLOYEE WORKERS"
Our File: 03628-0320

Dear Ms. Dietz:

We have revised the enclosed patent application per your recent comments. Please note that the Background and Summary portions of the patent specification are intended to be very high introductory level descriptions of the problem addressed and the invention, respectively. As such, specific details of the invention are more appropriately discussed in the Detailed Description section of the specification. For example, defining non-employee workers to include independent contractors is more appropriately handled in the Detailed Description (see page 6). Also note that "managing and engaging non-employee workers" language was intentionally changed to "managing the engagement of non-employee workers" throughout the specification. All of your other comments have been incorporated into the patent application. Thus, we ask that you review the patent application one last time according to the following guidelines.

Inventorship

We understand you, R. Kelly Mayo and Daniel P. Reteneller are the joint inventors of the invention defined by the claims in this application. Accordingly, each of you should review the entire application for technical accuracy and compliance with the requirements set forth in this letter. In addition, please advise whether others contributed to the conception or reduction to practice of the claimed invention, so we can consider whether to name any other persons as inventors.

Best Mode and Enabling Description

While reviewing the application, please keep in mind that a patent application must describe the invention so completely as to "enable" one of ordinary skill in the pertinent art,
such as an engineer who works in the field, to make and use the invention. Furthermore, the patent application must also describe the "best mode" contemplated by the inventor for carrying out the invention, *i.e.*, concealing the best mode of practicing the invention is not permitted. Please ensure that the application discloses the best mode contemplated by you, when filing this patent application, for carrying out the invention, and that the written description is enabling.

Claims

Please pay particular attention to the claims, the numbered paragraphs at the end of the application. The claims should particularly point out what you regard as your invention and should describe features of the invention that are new, insofar as you know. Furthermore, each claim, read in its entirety, should not describe only what is known in the prior art.

Formal Papers

If you find the application technically accurate and complete, we ask that you read, sign, and date the enclosed formal papers, including the "Declaration and Power of Attorney" at the back of the application. If the statements contained within the Declaration and Power of Attorney are true, you should sign and date the document where indicated, being careful to sign your name exactly as it appears within the signature block.

The enclosed Assignment transfers the entire ownership of this invention to Coca-Cola Company. You should sign the Assignment in the presence of a notary public, who should sign and date the notarial statement.

Please return all the enclosed formal papers to us, when signed. If you believe any changes to the application are required, please do not sign the formal papers, but contact us as soon as possible to discuss the required changes.

Return of Application for Filing

Please return the entire original application and the original signed formal papers to us as soon as possible using the enclosed pre-paid express mailing envelope. We would appreciate receiving the patent application and the signed formal papers from you by **April 23, 1999**, so that we may file them with the U.S. Patent and Trademark Office on that date.

Please contact us if you have questions regarding the application.

Cordially yours,

JONES & ASKEW, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosure
cc: Frank A. Landgraff, Esq.
Daniel J. Warren, Esq.

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
PATENT, TRADEMARK AND COPYRIGHT
LAW AND RELATED LITIGATION

2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326
TEL 404-949-2400
FAX 404-949-2499
WWW.JONESASKEW.COM

OIPE JC140
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

April 21, 1999

R. Kelly Mayo
1146 Princeton Walk
Marietta, Georgia 30068

Re: U.S. Patent Application entitled "ENGAGEMENT OF NON-EMPLOYEE WORKERS"
Our File: 03628-0320

Dear Mr. Mayo:

We have revised the enclosed patent application per recent comments supplied by co-inventor Janice Dietz. Incorporating these recent comments served to more particularly describe certain aspects of the invention. However, no substantive changes were made to the patent specification or the patent claims. Still, in light of these revisions, we must ask you to review the patent application one last time according to the following guidelines.

Inventorship

We understand you, Daniel P. Reteneller and Janice Gold Dietz are the joint inventors of the invention defined by the claims in this application. Accordingly, each of you should review the entire application for technical accuracy and compliance with the requirements set forth in this letter. In addition, please advise whether others contributed to the conception or reduction to practice of the claimed invention, so we can consider whether to name any other persons as inventors.

Best Mode and Enabling Description

While reviewing the application, please keep in mind that a patent application must describe the invention so completely as to "enable" one of ordinary skill in the pertinent art, such as an engineer who works in the field, to make and use the invention. Furthermore, the patent application must also describe the "best mode" contemplated by the inventor for carrying out the invention, *i.e.*, concealing the best mode of practicing the invention is not permitted. Please ensure that the application discloses the best mode contemplated by you, when filing this patent application, for carrying out the invention, and that the written description is enabling.

Claims

Please pay particular attention to the claims, the numbered paragraphs at the end of the application. The claims should particularly point out what you regard as your invention and should describe features of the invention that are new, insofar as you know. Furthermore, each claim, read in its entirety, should not describe only what is known in the prior art.

Formal Papers

If you find the application technically accurate and complete, we ask that you read, sign, and date the enclosed formal papers, including the "Declaration and Power of Attorney" at the back of the application. If the statements contained within the Declaration and Power of Attorney are true, you should sign and date the document where indicated, being careful to sign your name exactly as it appears within the signature block.

The enclosed Assignment transfers the entire ownership of this invention to Coca-Cola Company. You should sign the Assignment in the presence of a notary public, who should sign and date the notarial statement.

Please return all the enclosed formal papers to us, when signed. If you believe any changes to the application are required, please do not sign the formal papers, but contact us as soon as possible to discuss the required changes.

Return of Application for Filing

Please return the entire original application and the original signed formal papers to us as soon as possible using the enclosed pre-paid express mailing envelope. We would appreciate receiving the patent application and the signed formal papers from you by April 23, 1999, so that we may file them with the U.S. Patent and Trademark Office on that date.

Thank you for your cooperation in this matter. Please contact us if you have questions regarding the application.

Cordially yours,

JONES & ASKEW, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosure
cc: Frank A. Landgraff, Esq.
Daniel J. Warren, Esq.

OIPE JC140
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Dietz, et. al.)
)
Serial No. **09/312,120**)
)
Filed: **May 14, 1999**)
)
For: **Engagement of Non-Employee Workers**)
)

DECLARATION OF MICHAEL S. PAVENTO

The undersigned hereby declares that:

1. Mr. R. Kelly Mayo had announced his resignation from the Coca Cola Company, the assignee of the above-identified patent application, prior to filing of the patent application. Mr. Mayo was aware that he would be asked to review and execute the patent application and had agreed to do so.

2. On March 17, 1999, I sent Mr. Mayo a letter (Exhibit D-1) requesting his review and execution of a draft of the above-identified patent application. This letter was sent to Mr. Mayo's home address. I received no correspondence from Mr. Mayo in regard to my March 17, 1999 letter.

3. On April 21, 1999, I sent a letter (Exhibit D-2) to Mr. Mayo requesting his review and execution of a revised draft of the patent application. A pre-paid return express mailing envelope was included with my correspondence to Mr. Mayo. My April 21, 1999 letter was sent to Mr. Mayo's home address via UPS Next Day Air service (see Exhibit D-3). A tracking summary obtained at the UPS web-site confirms that my April 21, 1999 letter was delivered to Mr. Mayo's home address (see Exhibit D-4).

4. After not receiving any correspondence from Mr. Mayo for several weeks, I attempted to reach Mr. Mayo at his home telephone number. I left several messages on his answering machine, but received no reply from Mr. Mayo. On one occasion, I spoke with Mrs. Mayo, who informed me that Mr. Mayo had in fact signed the formal papers "the first time" and had returned them to me. Mrs. Mayo refused to provide me with Mr. Mayo's new business telephone number. Still, I received no correspondence from Mr. Mayo relating to my March 17, 1999 letter or my April 21, 1999 letter.

5. On June 28, 1999, I sent a follow-up letter (Exhibit D-5) to Mr. Mayo's home address, again requesting his review and execution of the revised patent application and enclosing a pre-paid return express mailing envelope. After several weeks passed without response from Mr. Mayo, I left additional messages on Mr. Mayo's home

answering machine. I have not received any response or correspondence from Mr. Mayo to date.

6. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or by imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of any patent issuing on this application.

Date: August 25, 1999

Michael S. Pavento

Michael S. Pavento

OIPE
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

37TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303-1769
404-818-3700
FAX: 404-818-3799
E-MAIL: webmaster@jonesaskew.com
www.jonesaskew.com

PATENT, TRADEMARK AND COPYRIGHT LAW
AND RELATED LITIGATION

March 17, 1999

R. Kelly Mayo
1146 Princeton Walk
Marietta, GA 30068

Re: Patent Application for "Engagement Of Non-Employee Workers"
Our File: 03628-0320; KO File: RC178042

Dear Kelly:

Per your recent discussions with Frank Landgraff, enclosed please find a copy of the above-referenced patent application, which we are prepared to file with the U.S. Patent and Trademark Office, on behalf of The Coca-Cola Company. If you believe the patent application to be technically accurate and complete, we ask that you read, sign and date the enclosed Assignment and the enclosed Declaration and Power of Attorney.

The enclosed Assignment transfers the entire ownership of this invention to The Coca-Cola Company. You must sign the Assignment in the presence of a notary public, who must also sign and date the notarial statement.

Please also review the enclosed "Declaration and Power of Attorney." If the statements contained therein are true, please sign and date that document where indicated, being careful to sign your name exactly as it appears within the signature block.

Please return the executed documents to us as soon as possible. Thank you for your attention to this matter.

Cordially yours,

Jones & Askew, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosures
Cc: Daniel J. Warren, Esq.
Frank A. Landgraff, Esq.

OIPE JC180
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
PATENT, TRADEMARK AND COPYRIGHT
LAW AND RELATED LITIGATION

2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326
TEL 404-949-2400
FAX 404-949-2499
WWW.JONESASKEW.COM

April 21, 1999

R. Kelly Mayo
1146 Princeton Walk
Marietta, Georgia 30068

Re: U.S. Patent Application entitled "ENGAGEMENT OF NON-EMPLOYEE WORKERS"
Our File: 03628-0320

Dear Mr. Mayo:

We have revised the enclosed patent application per recent comments supplied by co-inventor Janice Dietz. Incorporating these recent comments served to more particularly describe certain aspects of the invention. However, no substantive changes were made to the patent specification or the patent claims. Still, in light of these revisions, we must ask you to review the patent application one last time according to the following guidelines.

Inventorship

We understand you, Daniel P. Reteneller and Janice Gold Dietz are the joint inventors of the invention defined by the claims in this application. Accordingly, each of you should review the entire application for technical accuracy and compliance with the requirements set forth in this letter. In addition, please advise whether others contributed to the conception or reduction to practice of the claimed invention, so we can consider whether to name any other persons as inventors.

Best Mode and Enabling Description

While reviewing the application, please keep in mind that a patent application must describe the invention so completely as to "enable" one of ordinary skill in the pertinent art, such as an engineer who works in the field, to make and use the invention. Furthermore, the patent application must also describe the "best mode" contemplated by the inventor for carrying out the invention, *i.e.*, concealing the best mode of practicing the invention is not permitted. Please ensure that the application discloses the best mode contemplated by you, when filing this patent application, for carrying out the invention, and that the written description is enabling.

Claims

Please pay particular attention to the claims, the numbered paragraphs at the end of the application. The claims should particularly point out what you regard as your invention and should describe features of the invention that are new, insofar as you know. Furthermore, each claim, read in its entirety, should not describe only what is known in the prior art.

Formal Papers

If you find the application technically accurate and complete, we ask that you read, sign, and date the enclosed formal papers, including the "Declaration and Power of Attorney" at the back of the application. If the statements contained within the Declaration and Power of Attorney are true, you should sign and date the document where indicated, being careful to sign your name exactly as it appears within the signature block.

The enclosed Assignment transfers the entire ownership of this invention to Coca-Cola Company. You should sign the Assignment in the presence of a notary public, who should sign and date the notarial statement.

Please return all the enclosed formal papers to us, when signed. If you believe any changes to the application are required, please do not sign the formal papers, but contact us as soon as possible to discuss the required changes.

Return of Application for Filing

Please return the entire original application and the original signed formal papers to us as soon as possible using the enclosed pre-paid express mailing envelope. We would appreciate receiving the patent application and the signed formal papers from you by **April 23, 1999**, so that we may file them with the U.S. Patent and Trademark Office on that date.

Thank you for your cooperation in this matter. Please contact us if you have questions regarding the application.

Cordially yours,

JONES & ASKEW, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosure
cc: Frank A. Landgraff, Esq.
Daniel J. Warren, Esq.

OIPE JC98
AUG 1 2 2004
PATENT & TRADEMARK OFFICE

UPS Next Day Air® UPS Worldwide Express Shipping Document

See instructions on back. Call 1-800-PICK-UPS (800-742-5877) for additional information.

TRACKING NUMBER N306 5262 65 8

1 SHIPMENT FROM

SHIPPER'S UPS ACCOUNT NO.: UPS SHIPPER NO. / UPS BILLING NO.: 30E775 — FOR UPS USE

REFERENCE NUMBER: 03628-0320

NAME: Michael J. Ravenzo — TELEPHONE: 404-~~818-3700~~ 949-2400

COMPANY: JONES AND ASKEW

STREET ADDRESS: 2400 Monarch Tower ~~191 PEACHTREE STREET, STE 3700~~

CITY AND STATE: 3424 Peachtree Rd — ZIP CODE: 30326

ATLANTA GA ~~30303~~

2 EXTREMELY URGENT DELIVERY TO

NAME: R Kelly Mayo — TELEPHONE:

COMPANY:

STREET ADDRESS: 1146 Princeton Nat'l — DEPT./FLOOR:

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL): Marietta, Ga — ZIP CODE: 30068

3 WEIGHT AND ZONE

WEIGHT (ENTER "LTR" IF LETTER)	DIMENSIONAL WEIGHT (If Applicable)	ZONE
LTR		

SHIPPER'S COPY

4 TYPE OF SERVICE — CHARGES

- [X] NEXT DAY AIR
- [ ] WORLDWIDE EXPRESS (INTERNATIONAL)

FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. [ ] DOCUMENTS ONLY — $

5 OPTIONAL SERVICES

- [ ] SATURDAY PICKUP (See instructions.) — $
- [ ] SATURDAY DELIVERY (See instructions.) — $
- [ ] DECLARED VALUE — Contents are automatically protected up to $100. For declared value over $100, see instructions. $ _____ AMOUNT — $
- [ ] C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. $ _____ AMOUNT — $

6 ADDITIONAL HANDLING CHARGE

- [ ] An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

7 METHOD OF PAYMENT

- [X] BILL SHIPPER
- [ ] BILL RECEIVER (NEXT DAY AIR ONLY)
- [ ] BILL THIRD PARTY (NEXT DAY AIR ONLY)
- [ ] CREDIT CARD (American Express, Diner's Club, MasterCard, Visa) — RECORD ACCOUNT NO. IN SECTION 8
- [ ] CHECK
- [ ] UPS USE (CASH)

8 RECEIVER'S / THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — EXPIRATION DATE

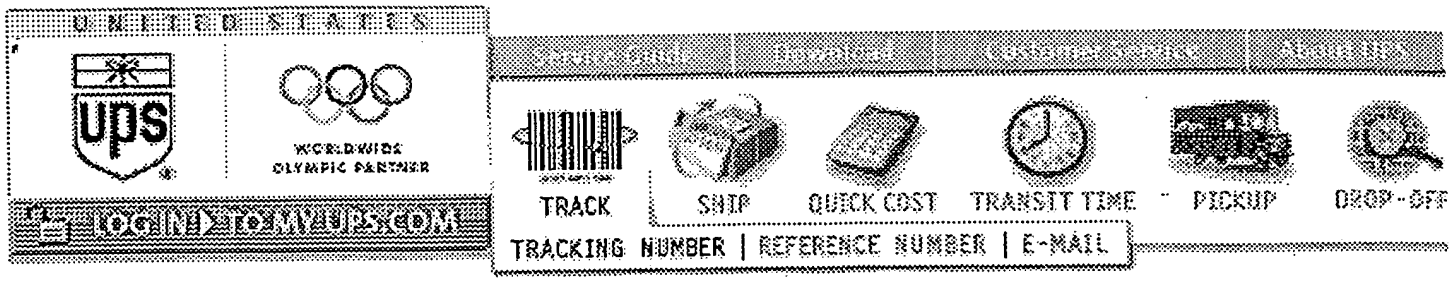
THIRD PARTY'S COMPANY NAME

STREET ADDRESS

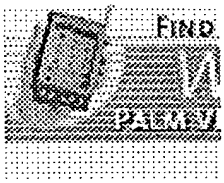
CITY AND STATE — ZIP CODE

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. It is shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

9 SHIPPER'S SIGNATURE — DATE OF SHIPMENT



Tracking Summary



To see detailed information about a specific package, click on the arrow next to its tracking number.

TRACKING NUMBER	STATUS	PKG SHIP
N306 5262 658	**Delivered**	Apr 22, 1999 9:38 A.M. MARIETTA, GA, US NEXT DAY AIR

Tracking results provided by UPS: Aug 6, 1999 1:14 P.M. Eastern Time (USA)

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to UPS for delivery a purpose. Any other use of UPS tracking systems and information is strictly prohibited.

Return to original tracking request.

Top of Page

Home | Track | Ship | Quick Cost | Transit Time | Pickup | Drop-off | Supplies
Service Guide | Download | Customer Service | About UPS | Site Guide | MY UPS.COM

Copyright © 1994-1999 United Parcel Service of America, Inc.
All Rights Reserved. 36 USC 380. Trademark and Tariff Information

JONES & ASKEW
LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

PATENT, TRADEMARK AND COPYRIGHT
LAW AND RELATED LITIGATION

2400 MONARCH TOWER
3424 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

TEL 404-949-2400
FAX 404-949-2499

WWW.JONESASKEW.COM

June 28, 1999

R. Kelly Mayo
1146 Princeton Walk
Marietta, GA 30068

Re: Patent Application for "Engagement Of Non-Employee Workers"
Our File: 03628-0320; KO File: RC178042

Dear Kelly:

We regret that we were not able to receive your signed formal papers prior to filing the above-referenced patent application. We realize that you are no longer working with the Coca-Cola Company and we apologize for this inconvenience, however we are required to ask once again that you execute the enclosed formal papers.

The enclosed Assignment transfers the entire ownership of this invention to The Coca-Cola Company. The Assignment must be signed in the presence of a notary public, who must sign and date the notarial statement.

Please review the enclosed "Declaration and Power of Attorney." If the statements contained therein are true, please sign and date the document where indicated, being careful to sign your name exactly as it appears within the signature block.

Please return the executed documents to us as soon as possible. For your convenience, we have enclosed a pre-paid UPS Overnight label and envelope. Thank you for your attention to this matter.

Cordially yours,

Jones & Askew, LLP

Michael S. Pavento

By: Michael S. Pavento

MSP/mma
Enclosures
Cc: Daniel J. Warren, Esq.
Frank A. Landgraff, Esq.

This Page is Inserted by IFW Indexing and Scanning Operations and is not part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☑ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☐ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.
As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

DEC 17 2004

Technology Center 2100

Thomas A. Walsh
One American Square, Box 82001
Indianapolis, IN 46282-0200

In re Application of: Atallah, Mikhail J.,; Rice, John R.; Spafford, Eugene; and Pantazopoulos, Kostas N.
Application No. 09/312,230
Filed: May 14, 1999
For: SECURE COMPUTATIOINAL OUTSOURCING TECHNIQUES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed November 3, 2004, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Mr. John R. Rice, is over sixty five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

James R. Matthews
for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

FULWIDER PATTON LEE & UTECHT
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

COPY MAILED

MAY 22 2002

OFFICE OF PETITIONS

In re Application of :
Lilip Lau et al :
Application No. 09/312,367 : ON PETITION
Filed: May 14, 1999 :
Attorney Docket No. ACS-50721 :

This is a decision on the petition, filed May 20, 2002, 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 January 14, 2002 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 Wan Laymon at (703) 306-5685.

---

[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. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to timely 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.**

The application is being forwarded to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.
16

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

COPY MAILED

MAY 21 2002

OFFICE OF PETITIONS

In re Application of :
Lilip Lau et al :
Application No. 09/312,428 :
Filed: May 14, 1999 :
Attorney Docket No. ACS-50716 :

ON PETITION

This is a decision on the petition, filed May 20, 2002, 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 9, 2002 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 (703) 306-5684.

The application is being forwarded to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to timely 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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Date : May 21, 2002

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of 09/312,428

Applicant(s) : Lilip Lau et al
Application No. : 09/312,428
Filed : STENT DELIVERY SYSTEM

The above-identified application has been assigned Patent No. 6,395,013 and an issue date of May 28, 2002.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 28, 2002:

> "All reference to Patent No. 6,395,013 to Lilip Lau et al of California for STENT DELIVERY SYSTEM appearing in the Official Gazette of May 28, 2002 should be deleted since no patent was granted."

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07

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 Dec-05

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

COPY MAILED

DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Hennick et al.	:	
Application No. 09/312,479	:	DECISION ON PETITION
Filed: 17 May, 1999	:	
Atty Docket No. 283_237.10CPA	:	

This is a decision on the petition filed on 27 July, 2005, 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)." This is not a final agency decision.

The application became abandoned on 2 July, 2005, for failure to timely file a proper Appeal Brief in response to the Notification

---

[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 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)).

of Non-Compliant Appeal Brief mailed on 1 June, 2005, which set a one (1) month shortened period for reply. On 12 July, 2005, a communication noting that the appeal was dismissed for failure to file a proper Appeal Brief, and the application abandoned, was mailed.

The petition is dismissed because the appeal brief filed with the petition on 25 July, 2005, is defective. A copy of a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) is attached for petitioners' reference in filing a proper brief.

Petitioner should file a renewed petition accompanied by a proper Appeal Brief in compliance with 37 CFR 41.37

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notification of Non-Compliant Appeal Brief

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 Feb-06

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

COPY MAILED

FEB 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Hennick et al.	:	
Application No. 09/312,479	:	DECISION ON PETITION
Filed: 17 May, 1999	:	
Atty Docket No. 283_237.10CPA	:	

This is a decision on the renewed petition filed on 20 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 2 July, 2005, for failure to timely file a proper Appeal Brief in response to the Notification of Non-Compliant Appeal Brief mailed on 1 June, 2005, which set a one (1) month shortened period for reply. On 12 July, 2005, a communication noting that the appeal was dismissed for failure to file a proper Appeal Brief, and the application abandoned, was mailed. The petition filed on 27 July, 2005, was dismissed on 20 December, 2005.

---

[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 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)).

The application is being forwarded to Technology Center 2878 for consideration of the Appeal Brief filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DIWood

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

ROBERT SACHS
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED
JUL 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Taylor S. Gautier	:	
Application No. 09/312,586	:	DECISION ON PETITION
Filed: May 14, 1999	:	TO WITHDRAW
Attorney Docket No. 3941	:	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 31, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robert Sachs has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

There is an outstanding Notice of Allowance mailed June 23, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Jonathan A. Small
Las IP Consulting
343 Second Street, Suite F
Los Altos, CA 94022

cc: Wilfred Lam
Innovation Management Sciences
970 Terra Bella Avenue, Suite 8
Mountain View, CA 94043

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 Jan-07

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED
JAN 22 2007
OFFICE OF PETITIONS

In re Application of	:	
Giardello et al.	:	ON PETITION
Application No. 09/312,811	:	
Filed: 17 May, 1999	:	
Attorney Docket No. PM-0261607	:	
	:	

This is a decision on the renewed petition filed on 4 October, 2006, under 37 CFR 1.137(b).[1]

The petition is **DISMISSED**.

---

[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 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)).

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 decision.

The application became abandoned on 20 February, 2003, for failure to timely file a proper reply to the final Office action mailed on 19 November, 2002, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 21 April, 2003, but failed to place the application in condition for allowance. An Advisory Action was mailed on 7 May, 2003. Notice of Abandonment was mailed on 18 June, 2003.

The statement provided in the petition does not track the language required by 37 CFR 1.137(b)(3). Specifically, the petition must provide a statement 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.

A renewed petition accompanied by a proper statement of unintentional delay is required.

Petitioners may wish to utilize the attached petition form, which contains the required statement of unintentional delay, when submitting a renewed petition. No further petition fee is due.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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 an 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; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(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 1.0 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. **SEND TO: Mail Stop Petition, 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.

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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. 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. [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), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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
www.uspto.gov
DIW May-07

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
Giardello et al. :
Application No. 09/312,811 : DECISION ON PETITION
Filed: 17 May, 1999 :
Atty. Docket No. PM-2061607 :

This is a decision on the renewed petition filed on 9 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 20 February, 2003, for failure to timely file a proper reply to the final Office action mailed on 19 November, 2002, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 21 April, 2003, but failed to place the application in condition for allowance. An Advisory Action was mailed on 7 May, 2003. Notice of Abandonment was mailed on 18 June, 2003. The petition filed on 4 October, 2003, was dismissed on 22 January, 2007.

---

[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 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)).

Petitioners state, *inter alia*, that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under to 37 CFR 1.137(b) was unintentional."

The record does not necessitate a finding that the delay between 20 February, 2003, and 9 February, 2007, was not unintentional.

Rather, the Patent and Trademark Office is relying on petitioners' duty of candor and good faith and accepting the statement that the entire delay in filing the required reply and until the filing of the petition was unintentional.[2]

Receipt of the RCE and submission filed on 4 October, 2006, is acknowledged.

The application is being forwarded to the Technology Center Art Unit 1713 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2]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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the 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
www.uspto.gov

KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

In re Application of	:
Figuredo, et al.	: DECISION REFUSING STATUS
Application No. 09/312,922	: UNDER 37 CFR 1.47(a)
Filed: May 17, 1999	:
Atty. Dkt. No.: ICOM-00401	:
For: SYSTEM FOR TRANSMITTING	:
VIDEO IMAGES OVER A COMPUTER	:
NETWORK TO A REMOTE RECEIVER	:

COPY MAILED

JAN 0 5 2007

OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(a) filed December 22, 1999.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioners are 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 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed June 14, 1999. The Notice required a surcharge and an executed oath or declaration.

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.

As to inventor Thomas Joseph Broadbent, petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioners allege that inventor Thomas Joseph Broadbent is "on a two year mission somewhere in South America," is "currently unavailable and can't be reached until he returns in September, 2000."

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

The fact that a non-signing 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.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner(s) may wish to provide the Office copies of letters sent to the inventor(s) indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor(s) receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed 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 facsimile: (571) 273-8300

By hand: U.S. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building

401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

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

KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

COPY MAILED

APR 19 2007

OFFICE OF PETITIONS

In re Application of	:
Figuredo, et al.	: DECISION REFUSING STATUS
Application No. 09/312,922	: UNDER 37 CFR 1.47(a)
Filed: May 17, 1999	:
Atty. Dkt. No.: ICOM-00401	:
For: SYSTEM FOR TRANSMITTING	:
VIDEO IMAGES OVER A COMPUTER	:
NETWORK TO A REMOTE RECEIVER	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed March 2, 2007.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioners are 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 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed June 14, 1999. The Notice required a surcharge and an executed oath or declaration.

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.

The instant petition fails to satisfy requirement (2) set forth above. The declaration submitted herewith is unacceptable as it fails to identify the entire inventive entity, identifying only two joint inventors when Office records indicate an inventive entity of six individuals.

Any renewed petition must be accompanied by a newly execute oath or declaration executed by all available inventors with the signature block of the non-signing inventor left blank.

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 facsimile: (571) 273-8300

By hand: U.S. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

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

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

In re Application of	:
Figuredo, et al.	: DECISION REFUSING STATUS
Application No. 09/312,922	: UNDER 37 CFR 1.47(a)
Filed: May 17, 1999	:
Atty. Dkt. No.: ICOM-00401	:
For: SYSTEM FOR TRANSMITTING	:
VIDEO IMAGES OVER A COMPUTER	:
NETWORK TO A REMOTE RECEIVER	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed June 19, 2007.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Patent Publication for further processing

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

#14

UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

OCT 2 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

Tony E. Piotrowski
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of: Meli	)	
Application No.: 09/313037	)	**DECISION GRANTING PETITION**
Filed: May 19, 1999	)	**TO ACCEPT CORRESPONDENCE AS**
Attorney Docket No.: PHN 17,438	)	**TIMELY FILED UNDER 37 CFR §1.8**
For: DATA PROCESSING DEVICE	)	
WITH ALIASED DATA POINTER	)	
REGISTER	)	

This decision is in response to the request for withdrawal of holding of abandonment of this application filed on September 8, 2003. The request is being considered a petition to accept papers as timely filed under 37 CFR §1.8. This application was abandoned for failure to timely file a proper reply to the Notice of Appeal.

In support of the petition, petitioner has provided a copy of the "Auto-Reply" return receipt confirmation for facsimile transmission with a date of March 28, 2003 listing a request to enter the previous amendment submitted February 10, 2003 (certificate of mailing of February 3, 2003), a RCE request and authorization to charge Deposit Account No. 14-1270, and (2) a copy of the Request for Continued Examination.

The Auto-Reply copy serves as *prima facie* evidence of receipt in the USPTO of the RCE. Therefore, the evidence establishes that a timely response was, in fact, filed on March 28, 2003. The abandonment was the result of the Office failing to timely match the response to the application file.

The petition is **GRANTED**. The application was not abandoned, in fact. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Technology Center support staff for processing of the RCE and amendment. Thereafter, the file will be forwarded to the examiner for consideration of applicant's response.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. #23

Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, MN 55402

COPY MAILED

OCT 20 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Dennis A. Carson, et al. :
Application No. 09/313,048 : ON PETITION
Filed: May 17, 1999 :
Attorney Docket No. 103.009US1 :

This is a decision on the petition, filed October 16, 2000, under 37 CFR 1.313(c)(3) 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 in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

The application is hereby withdrawn from issue.

Petitioner is advised that the issue fee paid on June 2, 2000 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed October 16, 2000.

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

The application is being forwarded to Technology Center 1600 for processing of the CPA.

Marianne E. Morgan
Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Schwegman, Lundberg
Woessner & Kluth, P.A.

OCT 26 2000

RECEIVED

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

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

COPY MAILED

JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Carson et al.
Application No. 09/313,048
Filed: May 17, 1999(CPA filed 10/16/2000)
Attorney Docket No. 103.0009US1

: DECISION GRANTING PETITION

This decision is in response to applicants' 'APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed with the payment of the issue fee on September 27, 2004. Applicants request that the Office adjust the patent term adjustment at the time of the mailing of the notice of allowance from one hundred and ninety-two (192) days to five hundred and twenty-one (521) days.

Applicants application is **GRANTED** to the extent herein indicated. Applicants correct determination at the time of the mailing of the notice of allowance is five hundred and twenty-two (522) days. The Office will adjust the PTA calculation to reflect that the correct determination at the time of the mailing of the notice of allowance is 522 days,

Applicants assert that the Office erred in the amount of Office delay assessed for the failure to reply to the CPA in a timely manner. Applicants assert that the CPA was filed on October 16, 2000 and was responded to on July 2, 2003, a five hundred and sixty-two day delay. See 37 CFR 1.702(a)(1). Applicants assert that the Office erred by measuring the fourteen month start of the clock from the date of the date of the reconstruction of the file rather that actual date of the filing of the CPA. Applicants do not contest the forty-one days of PTA reduction based upon the failure of applicant to reply within three months. See 37 CFR 1.704(b).

Applicants arguments are persuasive. The Office erred in measuring the fourteen month clock from the date that the file was reconstructed rather than the date of the filing of the CPA, October 16, 2000. The Office should have measured the Office delay from December 17, 2001 until July 3, 2003, a five hundred and sixty-three (563) day delay rather than two hundred and thirty-three days assessed in the PTA calculation. Accordingly, the Office finds that the correct PTA determination at the time of the mailing of the notice of allowance is five hundred and twenty-two (522) days.

After the mailing of this decision, the office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. The Office apologizes for any delay in issuing the patent and notes that additional delay will be assessed at the time of the issuance of the patent for the Office's failure to issue the application within four months of the payment of the issue fee. See 37 CFR 1.702(a)(4).

The Office further notes that applicant have paid the required $200.00 fee for deciding this application. No additional fees are required by applicants.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Karin Ferriter
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted PAIR calculation (522 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

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

COPY MAILED
JUL 20 2006
OFFICE OF PETITIONS

In re :
Carson et al. :
Application No. 09/313,048 : RECONSIDERATION OF
Patent No. 6,930,101 : PATENT TERM ADJUSTMENT
Filing Date: October 16, 2000 :
Attorney Docket: 103.009US1

This decision is in response to applicant's "LETTER ADVISING OF INAPPROPRIATELY LONG PATENT TERM ADJUSTMENT" filed October 11, 2005, 2005 requesting that the PTA determination at the time of the issuance of the patent be adjusted from EIGHT HUNDRED AND THIRTY-THREE(833) days to a determination SEVEN HUNDRED AND TWELVE (712) days. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants' request for PTA reconsideration is **GRANTED.** The Office will *sua sponte* issue a certificate of correction in the amount of 712 days. In addition, the Office will adjust the PAIR calculation to reflect this decision.

Applicants assert that the determination of 833 days is incorrect. Applicants believe the proper amount of USPTO delays are 196 + 330 + 233 days for a total of 759 days. Applicants also assert that the proper amount of USPTO delay is 47(6 + 5 +36=47)days. Applicants dispute the 120 reduction under37 CFR 1.704(c)(10) in that the "miscellaneous incoming letter" was actually an applicant response to an interview summary. Applicants also believe the 241 days overlaps with the 330 days and accordingly should not be additional granted.

Applicants' arguments are correct for the exact reasons stated by applicants. The record reflects that the paper submitted on July 19, 2004 is a response to the examiner's interview summary. The submission of such paper in this instance is not a failure to engage in reasonable efforts to conclude prosecution of the application. The 120 day reduction is in error. Moreover, the

correct amount of Office delay is 759 days as asserted by applicants. Accordingly, 712 (759-47= 712) days is accurate.

After the mailing of this decision, the Office will forward this application to the certificate of correction branch to issue a certificate of correction.

The Office has not assessed the $200.00 fee for the submission of this letter regarding PTA. The Office thanks for good faith and candor bringing this matter to the attention of the Office.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation
Draft Cert. Of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,930,101 B1
DATED	:	August 16, 2005
INVENTOR(S)	:	Carson 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 (833) days

Delete the phrase "by 833 days" and insert – by 712 days--

Day : Wednesday

PALM INTRANET

Date: 7/19/2006
Time: 15:44:46

PTA Calculations for Application: 09/313048			
Application Filing Date:	05/17/1999	PTO Delay (PTO):	670
Issue Date of Patent:	08/16/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	167
Post-Issue Petitions:	0	Total PTA (days):	712
PTO Delay Adjustment:	209		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	07/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		121	
92.5	07/27/2005	PTA 36 MONTHS	241		
92	08/16/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	196		89
91	07/18/2005	RECEIPT INTO PUBS			
90	07/15/2005	DISPATCH TO FDC			
89	10/01/2004	ISSUE FEE PAYMENT VERIFIED		6	79
88	06/16/2005	RECEIPT INTO PUBS			
87	06/14/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
87	06/14/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
86	06/13/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
86	06/13/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
85	06/13/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
85	06/13/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	333		
84	09/27/2004	PETITION ENTERED			
83	07/19/2004	MISCELLANEOUS INCOMING LETTER		120	
82	03/24/2005	RECEIPT INTO PUBS			
81	09/27/2004	ISSUE FEE PAYMENT RECEIVED			
80	07/14/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
79	06/25/2004	MAIL NOTICE OF ALLOWANCE			
78	06/24/2004	ISSUE REVISION COMPLETED			
77	06/24/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	06/24/2004	CASE DOCKETED TO EXAMINER IN GAU			

75	06/24/2004	NOTICE OF ALLOWABILITY			
74	06/18/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	04/29/2004	MAIL ADVISORY ACTION (PTOL - 303)			
72	04/28/2004	ADVISORY ACTION (PTOL-303)			
71	04/22/2004	DATE FORWARDED TO EXAMINER			
70	04/19/2004	AMENDMENT AFTER FINAL REJECTION		5	68
69	04/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
68	01/14/2004	MAIL FINAL REJECTION (PTOL - 326)			
67	01/12/2004	FINAL REJECTION			
66	12/08/2003	DATE FORWARDED TO EXAMINER			
65	11/07/2003	RESPONSE AFTER NON-FINAL ACTION		36	61
64	11/07/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	07/23/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
61	07/02/2003	MAIL NON-FINAL REJECTION	233		58
60	07/01/2003	NON-FINAL REJECTION			
59	07/11/2002	RESPONSE TO 37 CFR 1.251 NOTICE - PAPERS PROVIDED FOR FILE RECONSTRUCTION			
58	07/11/2002	RESPONSE TO 37 CFR 1.251 NOTICE - PAPERS PROVIDED FOR FILE RECONSTRUCTION			
57	10/16/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	06/30/2003	DATE FORWARDED TO EXAMINER			
55	10/16/2000	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
54	06/30/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
53	06/30/2003	DATE FORWARDED TO EXAMINER			
52	06/30/2003	WITHDRAWAL OF NOTICE OF ALLOWANCE			
47	06/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
46	05/29/2003	MERGED RECONSTRUCTED FILE INTO FOUND FILE.			
45	04/11/2002	MAIL RECONSTRUCTION NOTICE - PENDING APPLICATION			
44	04/11/2002	MAIL RECONSTRUCTION NOTICE - PENDING APPLICATION			
43	04/10/2002	RECONSTRUCTION NOTICE UNDER 37 CFR 1.251 - PENDING APPLICATION			

42	04/10/2002	RECONSTRUCTION NOTICE UNDER 37 CFR 1.251 - PENDING APPLICATION			
41	04/10/2002	RECONSTRUCTION OF FILE - BEGIN			
40	02/27/2002	FILE MARKED LOST			
38	09/05/2001	CASE FOUND			
37	09/05/2001	TERMINATION OF OFFICIAL SEARCH			
36	01/24/2001	PETITION FLAG SET AT PETITIONS OFFICE			
35	11/01/2000	OFFICIAL SEARCH CONDUCTED			
34	11/01/2000	CASE REPORTED LOST			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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

WHITHAM CURTIS & WHITHAM
RESTON INTERNATIONAL CENTER
11800 SUNRISE VALLEY DRIVE
SUITE 900
RESTON, VA 20191

COPY MAILED

JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of	:
Timothy G. McNamara et al	: DECISION ON PETITION
Application No. 09/313,261	: UNDER 37 CFR 1.137(b)
Filed: May 18, 1999	:
Attorney Docket No. YO9-99-091	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue fee on or before July 8, 2003, as required by the Notice of Allowance and Fee(s) Due mailed April 8, 2003. A Notice of Abandonment was mailed on August 7, 2003.

The petition satisfies the requirements for a grantable petition in that the reply in the form of the issue fee payment of $1,370; the petition fee of $1,370; and the required statement of unintentional delay have been submitted. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#28

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

12/8/06

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE RD.
SUITE 200
VIENNA, VA 22182-3817

In re Application of:
SHINGAI, HIROYUKI ET AL
Serial No.: 09/313,266
Filed: May 18, 1999
Docket: C32-113919M/
Title: FAN MOTOR AND HEAT SINK BUILT-IN TYPE FAN MOTOR

Withdrawal Holding of Abandonment

Art Unit 3743

This is a decision on petitioner's petition to withdraw the holding of abandonment filed on Mar. 17, 2006. Petitioner also included supporting declarations showing the non-receipt of the Notice of Allowance mailed Feb. 21, 2002.

In support of the request, petitioner stated that the Notice of Allowance of Feb. 21, 2002 was never received at the correspondence address of record. The petition also included declaration by Mary C. Gibb, Docketing Manager, stated that a search and review of the file and docket records for such non-received Office action was made as shown by the attached exhibits with the petition.

A review of the file indicates that the Notice of Allowance of Feb. 21, 2002 and Notice of Abandonment mailed July 2, 2002 were sent to an incorrect address. The record also shows that U.S. Post Office returned at least two pieces, namely, Corrected Filing Receipt and Notice of Abandonment.

In view of the above, the Notice of Abandonment mailed July 2, 2002 is hereby vacated. The holding of abandonment is withdrawn. A new Notice of Allowance will be mailed in due course.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3743 for further process. Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

Summary: Holding of Abandonment Withdrawn.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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. 28

FOLEY & LARDNER
Suite 500.
3000 K Street, N.W.
P.O. Box 25696
Washington, DC 2007-78696

MAILED

MAR 0 8 2004

Technology Center 2100

In re Application of:
David M. Goldenberg
Application No. 09/313,278
Filed: May 18, 1999
For: VIRTUAL DOCTOR INTERACTIVE CYBERNET SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 26, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Stephen B. Maebius is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

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

James R. Matthews

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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 v

MORGAN, LEWIS & BOCKUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

JAN 0 7 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Lorraine et al.
Application No.09/313,407
Filed: May 18, 1999
Attorney Docket Number: 99P7558US01
Title of Invention: FUEL INJECTOR MOUNTING ARRANGEMENT

This is a decision on the petition filed December 6, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed June 29, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 30, 2004. A Notice of Abandonment was mailed November 2, 2004.

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). 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 requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

The request to change the correspondence address and the attorney docket number submitted with the instant petition will not be entered because there is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and 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

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Rashmi Raj
Siemens Corporation
170 Wood Ave. South
Iselin, NJ 08830

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

MORGAN, LEWIS & BOCKUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

JAN 0 7 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Lorraine et al.
Application No.09/313,407
Filed: May 18, 1999
Attorney Docket Number: 99P7558US01
Title of Invention: FUEL INJECTOR MOUNTING ARRANGEMENT

This is a decision on the petition filed December 6, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed June 29, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 30, 2004. A Notice of Abandonment was mailed November 2, 2004.

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). 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 requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

The request to change the correspondence address and the attorney docket number submitted with the instant petition will not be entered because there is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and 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

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Rashmi Raj
Siemens Corporation
170 Wood Ave. South
Iselin, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 34

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

COPY MAILED

MAY 0 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Daniel K. Podolsky :
Application No. 09/313,434 :
Filed: May 17, 1999 :
Attorney Docket No. 50206/432001 :

This is a decision on the petition filed February 10, 2003 , requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on May 17, 1999. Since the RCE (unlike a CPA) is not any type of new application filing, the Office cannot grant a petition to convert an untimely RCE under 37 CFR 1.114 to a continuing application under 37 CFR 1.53(b).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The patented file is being forwarded to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#18

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY - 3 2002

BRUCE STEIN
INTELLECTUAL PROPERTY LEGAL SERVICES
PHARAMACIA & UPJOHN COMPANY
KALAMAZOO MI 49001

In re Application of	:
Arthur G. Romero	:
Serial No.: 09/313,534	: PETITION DECISION
Filed: May 13, 1999	:
Attorney Docket No.: 4830.P-RE	:

This is in response to applicant's petition under 37 CFR 1.13 and 37 CFR 1.81 which is being treated as a petition under 37 CFR 1.144, filed April 5, 2002, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed as a reissue application of Patent No. 5,652,245 (issued July 29, 1997) on May 13, 1999. The application, as filed, contained original claims 1-8 in unamended form and newly added claims 9-12, directed to intermediates or precursors to the compounds claimed in claims 1-6. The examiner mailed a first Office action to applicants on March 10, 2000, rejecting the application based on a defective reissue declaration and rejecting claims 9-12 as being to inventions (compounds) not claimed in the original application which could support separate patents.

Applicants replied by filing a proper reissue declaration and arguing the rejection of claims 9-12. The examiner mailed a Final Office action to applicant on July 10, 2000, again rejecting the newly submitted reissue declaration and rejecting claims 9-12 as not to the invention originally claimed in the parent application and that they would be considered separate restrictable inventions. Applicants replied on September 15, 2000, with arguments after Final rejection which the examiner dismissed in an Advisory action mailed September 25, 2000.

Applicant filed a CPA request on December 6, 2000, accompanied by further arguments and a new reissue declaration. The examiner on January 25, 2001, mailed a new non-final Office action to applicants setting forth a formal restriction requirement, as follows:

Group I, claims 1-12 (sic - 8), drawn to compounds, composition and use, classified in class 514, subclass 292;
Group II, claim 9, drawn to an intermediate, classified in class 546, subclass 158;
Group III, claim 10, drawn to an intermediate, classified in class 546, subclass 159;
Group IV, claim 11, drawn to an intermediate, classified in class 546, subclass 162;
Group V, claim 12, drawn to an intermediate, classified in class 546, subclass 84.

The examiner held Group I, the original claims, to be constructively elected. Group I was held to be related to Groups II -V as related, but mutually exclusive species, deeming the intermediates to be useful as herbicides, insecticides, fungicides, etc. The examiner also rejected the reissue declaration as failing to set forth an error in the original patent.

Applicant replied to the restriction requirement confirming the election of Group I and traversing the requirement based on the existence of a common core in all of the compounds - the 3-amino substituted quinoline core. Applicant also requested the examiner, if maintaining the restriction requirement, to rejoin Groups I and V since they contain the same tricyclic core as the patented compounds. Applicant further states that the reissue declaration, as provided, is not defective.

The examiner mailed a Final Office action to applicants on October 5, 2001, again maintaining that the reissue declaration is defective since no error in the claims under prosecution has been alleged or pointed out. The examiner further maintained the restriction requirement to be proper and rejected claims 1-8 as based on a defective reissue declaration.

Applicant filed an argument to the Final rejection on December 5, 2001 (received January 14, 2002, due to mail delay), disagreeing with the examiner's holding of a defective reissue declaration. The examiner mailed an Advisory action on March 22, 2002, maintaining the position of the Office. Applicant then filed a Notice of Appeal on April 15, 2002, accompanied by the above noted petition.

DISCUSSION

As noted above, this application is a reissue application. A reissue application is filed to correct an error in the original patent. That error can be one of claiming too broadly or too narrowly or failing to claim a specific embodiment(s) for which proper support exists in the specification, as filed. At the time this application was originally filed, which was within two years of the patent issue date, broadening of a reissue application was permitted so long as the same invention was being claimed. In accordance with applicable rules in effect at that time the examiner rejected the added claims as being for an invention different from that claimed in the issued patent as well as holding the originally submitted declaration as defective. Applicant submitted a proper reissue declaration in reply to the examiner's holding. This reissue declaration is sufficient in pointing out the error in **not** claiming certain "intermediate" (precursor) compounds which have proper support in the specification, as filed. No additional reissue declaration was or will be needed unless an amendment is made to the specification or claims. The examiner repeated the holdings of the previous Office action and made the action Final prompting applicant to file a CPA request after assurance from the examiner that the filing of a CPA request would not preclude broadening of the claims. The examiner vigorously disputes having any such conversation with applicant and

it may be that such advice was given by other than the examiner assigned this application. In any event, the advice was correct.

The filing of the CPA papers created, in effect, a new application which utilized the same application number. However the new application was subject to revised reissue rules which now permitted the examiner to make a restriction requirement in a reissue application between the patented invention and additional inventions added to the reissue application. (This was not possible in the originally filed application.) The examiner then set forth a five way restriction requirement as denoted above and properly indicated the originally patented claims to be constructively elected. Applicant disagreed with the restriction requirement referring back to the examiner's characterization of claims 9-12 as being outside the scope of the original claims and for a different invention(s). Applicant traversed the requirement arguing intermediate/final product relationship and that the compounds are closely related. The examiner disagreed and maintained the requirement. It should be noted that where added claims in a reissue are held to be to a different non-elected invention and the original claims are unamended and not rejected, the non-elected claims may be made the subject of a divisional reissue application and prosecuted therein. In that instance the reissue based on only unamended original patent claims is suspended pending close of prosecution of the divisional reissue application. If claims of the divisional reissue application are found allowable, the two reissue applications will be merged and only a single reissue patent would issue. This does not apply when the original claims or specification are amended.

A review of the compounds of claims 9-12, the added claims (identified as compounds 5, 6, 7 and 8 of Example 5, Scheme 2, and structurally depicted at column 16, line 45 to column 17, line 25), shows that claims 9-11, as classified by the examiner, are classified in adjacent subclasses within the same class. Had they been presented in a single application, no restriction between them would have been possible as they all have the same bicyclic ring system and vary only in their substituents. Claim 12, however, is different from claims 9-11. The compounds of claims 9-11 are directed to bicyclic (quinoline) ring compounds substituted at the one (nitrogen) and three positions. Claim 12 compound is different in claiming a tricyclic ring system identical to that set forth in claim 1 and differs only in one of the groups attached to the amino nitrogen at the three position. Therefor, this compound, an immediate precursor to the compounds of claim 1, should be grouped with the original claims based on similarity of structure. Had this compound been claimed in the parent application the compound would have been included with the examination of the original claims. In addition, the searching of this compound cannot be said to present a burden to the examiner due to its similarity to the patented compounds. This is based on the examiner's search in the patent file of a subclass adjacent to the one in which the compound has been classified by the examiner.

The compounds of claims 9-11, which are to substituted quinoline compounds, are sufficiently different from the claimed compounds as to be considered an independent and distinct invention.

DECISION

Applicants' petition with respect to withdrawal of the restriction requirement is **GRANTED-IN-PART.**

The restriction requirement is redrafted as follows:

> **Group I, claims 1-8 and 12, drawn to tricyclic compounds and methods of use;**
> **Group II, claims 9-11, drawn to bicyclic compounds.**

Group I is constructively elected based on claims 1-8 having been patented. Claims 9-11 are withdrawn from consideration.

The application will be forwarded to the examiner for further prosecution not inconsistent with this decision. In view of this decision, the finality of the Office action mailed October 5, 2000, is withdrawn so that an action on the merits of claims 1-8 and 12 can be provided. The Notice of Appeal is held in abeyance until prosecution is again closed when it may be requested to be reinstated. If no Appeal is necessary, refund of the Appeal Fee may be requested.

Any request for reconsideration or review of this decision must be by way of a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 9 2002

BRUCE STEIN
INTELLECTUAL PROPERTY LEGAL SERVICES
PHARAMACIA & UPJOHN COMPANY
KALAMAZOO MI 49001

#20

In re Application of	:
Arthur G. Romero	:
Serial No.: 09/313,534	: PETITION DECISION
Filed: May 13, 1999	:
Attorney Docket No.: 4830.P-RE	:

This is in response to applicant's renewed petition under 37 CFR 1.144, filed July 9, 2002, requesting reconsideration and withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history is set forth in the previous petition decision and is not repeated herein. The decision granting applicant's previous petition in part was mailed May 3, 2002 and reduced the number of groups of invention to two, the constructively elected patented tricyclic compounds and the newly added bicyclic compounds. Concurrently with the submission of this renewed petition applicant has submitted an amendment adding claim 13 drawn to a bicyclic compound in which variables R_3 and R_4 are shown and then defined as being "joined to form an X-substituted-imidazolin-2-one, CONX, when C_3 is either in the R- or S- configuration". No other options for R_3 and R_4 are given. Thus a tricyclic ring system is claimed although only a bicyclic ring system is shown. The claim would be included within Group I, the elected invention.

DISCUSSION

Applicant especially notes that portion of the decision which states that the substituted quinoline compounds are sufficiently different from the patented tricyclic compounds, imidazoquinolines, as to be considered independent and distinct inventions. Applicant now submits an additional amendment after Final rejection (the amendment has not been considered by the examiner) and argues that the newly presented claim provides a link between the two groups of compounds. Applicant bases an argument for addition of such a claim on the statement in the petition decision that had claims 9-11 "been presented in a single application no restriction would have been

possible as they all have the same bicyclic ring system and vary only in their substituents". Said statement remains factual, but does not apply to newly presented claim 13 since it does not describe a bicyclic compound as noted above.

Applicant's argument that both bicyclic and tricyclic ring systems have been allowed in the same patent is immaterial. Each application is examined on its own merits. Restriction between independent and distinct inventions in an application is a tool an examiner may utilize during examination, but its use is not required. Whether the examiner could by searching the bicyclic compounds also find pertinent tricyclic compounds is not an issue here. Applicant prosecuted only tricyclic compounds in the initial application and they constitute a distinct invention. To now add claims to precursor compounds containing different ring structure and substituents would require the examiner to expand the original search concept significantly. In addition, bicyclic quinoline compounds are well known and recognized as separate, independent and distinct compounds as compared to the tricyclic compounds claimed.

DECISION

Applicant's renewed petition is **DENIED.**

The application will be forwarded to the examiner for entry and consideration of applicant's amendment submitted concurrently.

Any request for reconsideration or review of this decision must be by way of a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

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. 6375635
Issue Date: April 23,2002
Application No. 09313679
Filed: May 18,1999
Attorney Docket No. S1192/7006-T

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 June 16,2010 .
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)
6375635	2002-04-23	09313679	1999-05-18	118152-00601

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

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	/David R. Burns/	Date (YYYY-MM-DD)	2010-06-16
Name	David R. Burns	Registration Number	46590

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

Paper No. 24

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

FEB 13 2005

In re Application of:
Akito Kuramata et al.
Serial No.: 09/313,764
Filed: May 18, 1999
For: OPTICAL SEMICONDUCTOR DEVICE HAVING AN EPITAXIAL LAYER OF III-V COMPOUND SEMICONDUCTOR MATERIAL CONTAINING N AS A GROUP V ELEMENT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed February5, 2003, and resubmitted, via facsimile transmission on June 16, 2004, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely reply to the non-final Office action of May 21, 2002. A Notice of Abandonment was mailed on January 27, 2003.

Petitioner asserts that the Office action of May 21, 2002 was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received and a copy of the docket records where the Office action would have been entered had it been received.

A review of the file record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. 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 practitioner's statement. See "Withdrawing the Holding of

Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The evidence is sufficient to establish a showing of non-receipt of the Office action of May 21, 2002.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action. The shortened statutory period for response will be reset to run from the date the action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL
NEW YORK, NY 10151

COPY MAILED

JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of :
John R. Lau et al :
Application No. 09/313,828 : ON PETITION
Filed: May 18, 1999 :
Attorney Docket No. 787444-2001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2002, 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 non-final Office action mailed April 6, 2001, 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 above-identified application became abandoned on July 7, 2001.

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant 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. 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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Warren N. Low
John R. Lau, W. Blair Geho,
and George H. Schnedeker
P.O. Box 2184
Arlington, VA 22202

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

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18th AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

COPY MAILED

NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Lau, et al. :
Application No. 09/313,828 : ON PETITION
Filed: May 18, 1999 :
Attorney Docket No. 23119/04016 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005 and supplemented on October 17, 2005, October 20, 2005 and November 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed January 9, 2003. Accordingly, this application became abandoned on April 10, 2003. A Notice of Abandonment was mailed on July 29, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the 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. 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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The file is being forwarded to Technology Center 1600 for review of the Request for Continued Examination and amendment, filed July 19, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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

Paper No. 33

SMITH GAMBRELL & RUSSELL LLP
BEVERIDGE DEGRANDI WEILACHER & YOUNG
INTELLECTUAL PROPERTY GROUP
1850 M STREET N W SUITE 800
WASHINGTON DC 20036

COPY MAILED
SEP 3 0 2003
OFFICE OF PETITIONS

In re Application of
Ljudmila Grigorievna Aslanova
Application No. 09/314,001
Filed: May 19, 1999
Attorney Docket No. 33611YW002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2003, 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 non-final Office action mailed November 8, 2002, 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 above-identified application became abandoned after midnight February 8, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 1700, Art Unit 1731.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
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

Paper No. 18

HOWREY SIMON ARNOLD & WHITE, LLP
BOX 34
301 RAVENSWOOD AVE.
MENLO PARK, CA 94025

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Patent of Moser et al. Patent No. 6,444,431 Issue Date: September 3, 2002 Application No. 09/314,159 Filing Date: May 19, 1999 Attorney Docket No. 05882.0102.NPUS00	Decision on Petition

This is a decision on the petition under 37 CFR 1.182, filed February 25, 2003, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (703) 306-5683. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 305-8237.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD, Crystal Park 3-910 (FAX 305-4372)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

JOHN D MENDLEIN PH D
680 NEPTUNE AVENUE
ENCINITAS, CA 92024

COPY MAILED

FEB 5 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
John D. Mendlein et al
Application No. 09/314,206
Filed: May 19, 1999
Attorney Docket No. SONIC-007.00US

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2002, 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 non-final Office action mailed November 6, 2000, 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 above-identified application became abandoned on February 7, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on January 18, 2002.

The power of attorney filed concurrently with the petition is not acceptable and will not be entered since the signature of John D. Mendlein is missing. 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 of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center 3737 for further processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HALE AND DORR
60 STATE STREET
BOSTON, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

2

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Arthrocare Corporation
680 Vaqueros Avenue
Sunnyvale, CA 94085-3523

Paper No. 30

In re Application of Philip E. Eggers et al Serial No. : 09/314,247 Filed : May 18, 1999 For : System for Treating Articular Cartilage Defects	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed July 7, 2003, to review the holding of abandonment mailed November 12, 2002, for failure to respond to the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed July 3, 2002. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record 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. See 1156 OG 53. The request filed July 7, 2003 includes all the above elements. The request is therefore GRANTED.

A review of the file also shows that the Office action of July 3, 2002 and the Notice of Abandonment mailed November 12, 2002 were mailed to an incorrect address as the Office had not changed the correspondence address as requested in the Associate Power of Attorney paper filed April 30, 2002. Any inconvenience is respectfully regretted.

Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Notice of Allowability as well as the Notice of Allowance and Fee(s) Due.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/07/18/03

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

ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE, CA 94085-3523

COPY MAILED
MAY 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Philip E. Eggers, et al. :
Application No. 09/314,247 : ON PETITION
Filed: May 18, 1999 :
Attorney Docket No.: A-2-6 :

This is a decision on the petition, filed May 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

A review of the record discloses that the issue fee was paid on November 28, 2003. However, on May 7, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 3, 2004, applicants submitted an Request for Continued Examination (RCE) under 37 CFR 1.114. The RCE filed May 7, 2004 is an improper filing under 37 CFR 1.114. It is noted that no filing fee was charged for the RCE filed May 7, 2004.

The present petition requests that the application be withdrawn from issue for consideration of the RCE filed May 3, 2005, sic 2004.

The petition is **GRANTED**.

In view of this decision, the RCE filed May 7, 2004 will be processed in accordance with 37 CFR 1.114. The requisite petition and RCE filing fees will be charged to counsel's deposit account, as authorized in the petition.

Petitioner is advised that the issue fee paid on November 28, 2003, 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]

[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).

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 3739 for further processing of the request for continued examination under 37 CFR 1.114 filed May 7, 2004.

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

ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE CA 94085-3523

COPY MAILED

MAR 07 2007

OFFICE OF PETITIONS

In re Application of Philip E. Eggers et al Application No. 09/314,247 Filed: May 18, 1999 Attorney Docket No. A-02-6	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2006, 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 the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of June 6, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
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

Paper No. 39

BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard Norris Dodge II, et al. :
Application No. 09/314,492 :
Filed: May 18, 1999 :
Attorney Docket No. 659/535 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2004, 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 Amendment and Request for Continued Examination (RCE); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed December 14, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 1700, Art Unit 1771 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
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

In re Patent No. 6314535
Issue Date: November 6,2001
Application No. 09314578
Filed: May 18,1999
Attorney Docket No. P11548

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 April 7,2010 . 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)
6,314,535	2001-11-06	09/314,578	1999-05-18	42P11548

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

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	/Paul A. Mendonsa/	Date (YYYY-MM-DD)	2010-04-07
Name	Paul A. Mendonsa	Registration Number	42879

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. 6024532
Issue Date: February 15,2000
Application No. 09314734
Filed: May 18,1999
Attorney Docket No. 281.002

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 18,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 18,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6024532	2000-02-15	09314734	1999-05-18	281.002

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

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	/nicholasdrouse/	Date (YYYY-MM-DD)	2008-02-18
Name	Nicholas D. Rouse	Registration Number	36992

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 record s.

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

FEB 15 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON, DC 20005-3934

#16

In re Application of	:
Guo-Liang Yu et al.	:
Serial No.: 09/314,889	: WITHDRAWAL OF ABANDONMENT
Filed: May 19, 1999	:
Attorney Docket No.:	:
1488.0310006/EKS/KRM	:

This is in response to applicants' petition under 37 CFR 1.181, filed October 9, 2001, requesting withdrawal of the holding of abandonment based on the filing of a timely response to the Office action mailed February 21, 2001.

A review of the file history shows that the examiner mailed an Office action to applicant on February 21, 2001, setting a three month shortened statutory time period for reply. Applicant filed a response after final rejection on May 21, 2001 and the examiner mailed an advisory action on June 6, 2001. On September 28, 2001, the examiner mailed a Notice of Abandonment to applicant indicating no response to the Office action had been received.

Applicant states that a reply to the Office action, including a request for a one month extension of time, request for CPA, preliminary amendment and a check for $2,650, was filed on June 21, 2001, as evidenced by a date stamped post card. Applicant provides a copy of the submitted reply, cancelled check and date stamped post card with the petition. A review of USPTO records reveals that the $2,650 fee was processed on June 22, 2001. In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

Bruce Kisliuk
Director, Technology Center 1600

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

HUMAN GENOME SCIENCES, INC.
9410 KEY WEST AVENUE
ROCKVILLE, MARYLAND 20850

COPY MAILED

AUG 1 8 2005

OFFICE OF PETITIONS

In re Patent of YU al	:	APPLICATION FOR
Application No. 09/314,889	:	PATENT TERM ADJUSTMENT
Filed: March 20, 2002 CPA filed 6/21/01		
Attorney Docket No. PFC267C1		

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on March 9, 2004 requesting that the Office adjust the PTA from a determination of zero (0) days at the time of the mailing of the notice of allowance to a determination of one hundred and eighty (180) days at the time of the mailing of the notice of allowance.

Applicants' application for Patent Term Adjustment is **GRANTED**. The Office will adjust the Patent Term Adjustment to reflect that the correct amount of PTA at the time of the mailing of the notice of allowance is one hundred and eighty (180) days.

Applicants assert that the Office erred in asserting that the response fled on November 7, 2002[2] was informal on nonresponsive

[1]Issue fee paid on 3/9/2004.

[2]PALM inccorect has the date of response of informal or non-responsive as November 12, 2002 rather than the correct date of November 7, 2002.

because the examiner's assertion that application did not submit the declaration/affidavit is inaccurate. Applicants submitted a postcard stamped receipt reflecting the submission of an affidavit by Migone on November 7, 2002. Accordingly, applicants assert that the submission of an omission pursuant to 37 CFR 1.704(c)(7) is an error and accordingly the 113 day reduction is therefore an error. Moreover, applicants assert that Office did not respond to the complete response filed on November 7, 2002 until September 9, 2003, a one hundred an eighty day delay pursuant ot 37 CFR 1.702(a)(2).[3]

Applicants arguments are persuasive. Applicants submission of the stamped postcard receipt reflecting the submission of the affidavit of Migone on November 7, 2002 is prima facie evidence of receipt in the USPTO. Accordingly, the Office erred in submitting a notice of informal or non-responsive amendment to applicants. Applicants's amendment was fully responsive and the office needed to reply to such amendment prior to March 8, 2008, to avoid awarding PTA for failing to respond within four months. The office delayed for a period of one hundred and eighty (180) days as suggested by applicants.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the patent more than four months of the payment of the issue fee and other requirements being satisfied will be reflected in the issue notification letter that is mailed to applicants approximately three (3) weeks prior to issuance of the patent.

The Office has assessed the $200.00 fee. No additional fees are required of applicants

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, at (571) 272-7757.

Kery Fries
/pc

Karin Ferriter

---

[3]PTA for Office delay began on March 8, 2003 day after four months from applicant reply until day of Office response September 3, 2003.

Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Friday
Date: 8/12/2005

PALM INTRANET

Time: 13:55:11

PTA Calculations for Application: 09/314889			
Application Filing Date:	05/19/1999	PTO Delay (PTO):	60
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	113
Post-Issue Petitions:	0	Total PTA (days):	180
PTO Delay Adjustment:	233		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		60	
94	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	180		
93	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	113		
79	12/10/2003	MAIL NOTICE OF ALLOWANCE			
78	12/09/2003	ISSUE REVISION COMPLETED			
77	12/09/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	12/09/2003	NOTICE OF ALLOWABILITY			
75	11/20/2003	DATE FORWARDED TO EXAMINER			
74	11/03/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
73	11/03/2003	NOTICE OF APPEAL FILED			
72	09/03/2003	MAIL FINAL REJECTION (PTOL - 326)	60		69
71	09/03/2003	FINAL REJECTION			
70	09/03/2003	DATE FORWARDED TO EXAMINER			
69	03/05/2003	RESPONSE AFTER NON-FINAL ACTION		113	63
68	07/02/2003	CORRESPONDENCE ADDRESS CHANGE			
67	07/02/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
66	02/21/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
65	12/20/2002	MISCELLANEOUS INCOMING LETTER			
64	12/19/2002	DATE FORWARDED TO EXAMINER			
63.1	11/12/2002	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
63	11/12/2002	RESPONSE AFTER NON-FINAL ACTION			
62	11/12/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			

61	08/15/2002	MAIL NON-FINAL REJECTION			
60	08/15/2002	NON-FINAL REJECTION			
59	08/15/2002	DATE FORWARDED TO EXAMINER			
58	08/06/2002	AMENDMENT AFTER FINAL REJECTION			
57	05/07/2002	MAIL FINAL REJECTION (PTOL - 326)			
56	05/02/2002	FINAL REJECTION			
40	04/02/2002	DATE FORWARDED TO EXAMINER			
39	06/21/2001	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
38	05/14/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	05/02/2002	MAIL NOTICE OF RESCINDED ABANDONMENT			
36	05/14/2002	NOTICE OF RESCINDED ABANDONMENT IN TCS			
35	02/15/2002	PETITION TO REVIVE APPLICATION - GRANTED			
34	10/09/2001	PETITION ENTERED			
26	09/28/2001	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
25	09/28/2001	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 6

PILLSBURY MADISON & SUTRO
INTELLECTUAL PROPERTY GROUP
1100 NEW YORK AVENUE NW
NINTH FLOOR EAST TOWER
WASHINGTON , DC 20005-3918

Mailed

MAR 1 2000

Director's Office
Group 2700

In re Application of:
Steven P. Aldrich, et al.
Application No.: 09/315,141
Filed: May 20, 1999
For: INSURANCE AGENT CONTACT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under M.P.E.P. § 708.02 (VIII) to make the above-identified application special, filed January 24, 2000.

A grantable petition to make special in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

For the above stated reasons, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

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 3 2004

spg
Paper Number _____

In re application of
Stephen Crane.
Serial No. 09/315,390
Filed: May 20,1999
For: THERMOPLASTIC MULTI-LAYER COMPOSITE STRUCTURE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed August 05, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 27, 2004, for failure to timely file a proper reply to the Office letter mailed March 15, 2004 be withdrawn since the applicants did timely file a reply on June 07, 2004. (Copies of the papers filed June 07, 2004 have been refiled as of September 02, 2004 as well as a copy of the USPTO date stamped postcard receipt attached with the petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on June 07, 2004 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on June 07, 2004. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed March 15, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed June 07, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kendrew H. Colton
Fitch, Even, Tabin & Flannery
1801 K Street, N.W.
Suite 401L
Washington, D.C. 20006-1201

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

JUL 30 2009

OFFICE OF PETITIONS

Haverstock & Owens LLP
162 N. Wolfe Road
Sunnyvale, CA 94086

In re Ritu Shrivastava
Application No.: 09/315,599
Filed: May 20, 1999
Patent No.: 6,903,434
Issued: June 7, 2005

: **DECISION**
: **DISMISSING**
: **PETITION**

This is a decision on the June 27, 2005 petition titled "Petition For Issuance Of A Corrected Patent," which requests republication of U.S. Patent No. 6,903,434 ("the '434 patent") with corrected drawings ("the June 27, 2005 petition").

The June 27, 2005 petition is being treated as a petition under 37 CFR 1.182. A petition fee under 37 CFR 1.17(f) of $400.00 has been charged to Deposit Account No. 08-1275, pursuant to the authorization in the Transmittal Letter accompanying the June 27, 2005 petition.

The June 27, 2005 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The June 27, 2005 petition is **dismissed**.

At page 1 of the June 27, 2005 petition, patent owner states that the '434 patent was issued with the informal drawings that accompanied the original filing of the 09/315,599 application ("the '599 application"). In the remainder of the June 27, 2005 petition, patent owner: (i) requests the Office to correct the '434 patent by issuing a corrected patent under 37 CFR 1.322(b) containing the formal drawings filed together with the June 27, 2005 petition; and (ii) explains that the formal drawings were never submitted during prosecution because the examiner never requested them.

35 U.S.C. 254 is titled "Certificate of correction ***of Patent and Trademark Office mistake***" (emphasis added) and is the sole provider of statutory authority for the Office to issue a corrected patent.[1] Notably, 35 U.S.C. 255, which is titled "Certificate of correction ***of applicant's mistake***" (emphasis added), does not mention a corrected patent.

[1] The last line of 35 U.S.C 254 states that "[t]he Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction."

37 CFR 1.322(b) is the regulation implementing 35 U.S.C. 254; it provides:

> If the nature of the ***mistake on the part of the Office*** is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee. [Emphasis added.]

Thus, issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office. The Office has no statutory authority to issue a corrected patent for a mistake in a patent that was not a mistake on the part of the Office. For the reasons below, it was not a mistake on the part of the Office for the '434 patent to issue with the May 20, 1999 drawings.

The '599 application was filed May 20, 1999, and issued as the '434 patent on June 7, 2005. During the pendency of the '599 application, the Office published a notice in the January 16, 2001 issue of the *Official Gazette* advising the public of revised patent drawing procedures.[2] The January 16, 2001 notice states that, under the revised procedures, "most drawings will be considered acceptable (even if they are designated by applicant as 'informal')." The January 16, 2001 notice also states that "in most situations, patent application publications and patents will reflect the quality of the drawings that are included with a patent application on filing unless applicant voluntarily submits better quality drawings." The foregoing statements from the January 16, 2001 notice are essentially reproduced in MPEP 507, as of the Eighth Edition (August 2001).

In addition, MPEP 608.02(b)(I) was revised in May 2004 (Eighth Edition, Rev. 2), i.e., during the pendency of the '599 application, to provide, in pertinent part:

> The Office no longer considers drawings as formal or informal. Drawings are either acceptable or not acceptable. Drawings will be accepted by the Office of Patent Application Processing (OPAP) if the drawings are readable and reproducible for publication purposes. See MPEP § 507.

In the present instance, the '434 patent was issued with the only drawings of record at the time of issuance, i.e., the drawings included with the '599 application on its May 20, 1999 filing date. Subsequent to the revision of patent drawing procedures in 2001, the Office did not object to the May 20, 1999 drawings and require corrected drawings. Indeed, as noted in the June 27, 2005 petition, the February 1, 2005 Notice of Allowability states that "[t]he drawings filed on 5/20/99 are accepted by the Examiner." Therefore, issuance of the '434 patent with the May 20, 1999 drawings was in accordance with proper Office procedure

---

[2] *See*: 1242 OG 114 (January 16, 2001).

For the foregoing reasons, it was not a mistake on the part of the Office for the '434 patent to issue with the May 20, 1999 drawings. Accordingly, the June 27, 2005 petition requesting republication of the '434 patent with corrected drawings is **dismissed**.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Robert A. Clarke

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC88
JUN 27 2005
PATENT & TRADEMARK OFFICE

IFW ~~PATENT~~

PATENT
Attorney Docket No.: ALSC-00300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Group Art Unit: 2814
Ritu Shrivastava	Examiner: Ha, N.
Serial No.: 09/315,599	**TRANSMITTAL LETTER**
Filed: May 20, 1999	162 North Wolfe Road Sunnyvale, California 94086 (408) 530-9700
For: **A METHOD OF AND APPARATUS FOR INTEGRATING FLASH EPROM AND SRAM CELLS ON A COMMON SUBSTRATE**	Customer Number 28960

Honorable Commissioner of Patents
Washington, D.C. 20231

Sir:

Enclosed please find a petition for issuance of a corrected patent for filing with the U.S. Patent and Trademark Office.

The Commissioner is authorized to charge any additional fee or credit any overpayment to our Deposit Account No. 08-1275. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: June 23, 2005

By: Jonathan O. Owens
Jonathan O. Owens
Reg. No.: 37,902

Attorneys for Applicant

CERTIFICATE [illegible]

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 6-23-05 By: [illegible]

RECEIVED
JUL 13 2005
07/30/2005 00000001 081275 09315599
01 FC:1463 400.00 DA

OIPE JC68
JUN 27 2005
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No.: ALSC-00300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Group Art Unit: 2814
	Examiner: Ha, N.
Ritu Shrivastava	
	PETITION FOR ISSUANCE OF A CORRECTED PATENT
Serial No.: 09/315,599	
Filed: May 20, 1999	162 North Wolfe Road Sunnyvale, CA 94086 (408)530-9700
For: **A METHOD OF AND APPARATUS FOR INTEGRATING FLASH EPROM AND SRAM CELLS ON A COMMON SUBSTRATE**	

Honorable Commissioner of Patents
Washington, D.C. 20231

Sir:

Applicant hereby petitions for issuance of a corrected patent under 35 U.S.C §1.322(b) because a certificate of correction is inappropriate in form for correcting the mistakes as printed in the issued patent. In particular, in the above-referenced patent, informal drawings accompanied the original filing of the application. Along with the first Office Action, mailed September 26, 2000, the Examiner included a Notice of Draftsperson's Patent Drawing Review in which the Draftsperson objected to the drawings for several reasons under 37 C.F.R. §1.84. The Notice stated, "the Examiner will require submission of new, corrected drawings when necessary." New, corrected drawings were never requested by the Examiner, nor were they submitted by the Applicant. In fact, in the Notice of Allowability, mailed on February 1, 2005, the Examiner checked box No. 3, indicating acceptance of the drawings filed on May 20, 1999 (with the original application).

Due to this error, the Applicant never submitted formal drawings in the file and it has issued, and been published, with drawings that do not meet a number of the requirements of 37 C.F.R. §1.84. There is no doubt that the requirements of 37 C.F.R. §1.84 are intended to ensure that those seeking to understand an often-complicated invention solely through the words and images contained in a patent have every possible advantage. Without clear drawings, a patent begins to shirk one of its primary tasks: to put the public on notice of the patented invention. In this case, someone reading the patent as it has been issued might not understand the patented

invention to the extent that he or she would have if the formal drawings had been included. Because of the nature of this error, the Applicant petitions the Commissioner to issue a corrected patent under 35 U.S.C. §254 and 37 C.F.R. §1.322(b) in order that the corrected patent will be more appropriate in form than a certificate of correction accompanying the patent as it has been issued.

The Applicant has not completed a Certificate of Correction Form PTO-1050 or a Request for Certificate of Correction of Patent for PTO Mistake, instead the Applicant has attached a set of formal drawings appropriately marked for inclusion with the above-referenced patent. To completely correct the mistake, a Certificate of Correction form that is at least 12 pages in length would be necessary, thus it is the Applicant's opinion that a corrected patent should be issued; however, should the Commissioner determine that a certificate of correction is appropriate to correct this mistake, please contact the undersigned at your earliest convenience whereupon the Applicant will supply the necessary forms.

If the Commissioner or any other person responsible for correcting this patent has questions or comments concerning this petition, they are encouraged to contact the undersigned at (408) 530-9700.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: June 23, 2005 By: Jonathan O. Owens

Jonathan O. Owens
Reg No.: 37,902
Attorneys for Applicant

Enclosures (12 pages)

CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 6-23-05 By: Jonathan O. Owens

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 May-07

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Nicholls et al.	:	DECISION ON PETITION
Application No. 09/315,680	:	
Filed: 20 May, 1999	:	
Atty Docket No. 7210-000001/	:	

This is a decision on the petition filed on 13 February, 2007, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

REVIEW OF FACTS

1. On 20 May, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,631,827.

2. On 25 August, 2006, an Office communication was mailed, requiring a supplemental reissue declaration. A one (1) month shortened statutory period for reply was set.

---

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On 9 October, 2006, a response consisting of an amendment and a petition for a one (1) month extension of time were filed. No supplemental reissue declaration was filed on 9 October, 2006.

4. On 13 February, 2007, the present petition was filed, along with a supplemental reissue declaration naming Peter Nicholls, Robert Kinyon, Jeff Skaistis, Steve Johnson, Andy Locker, Chris Guzik, and Scott Howard, as joint inventors. The supplemental reissue declaration was signed by all inventors except joint inventors Nicholls and Johnson. Petitioners assert joint inventors Nicholls and Johnson could not be located or refused to sign the supplemental reissue declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

Petitioners state that letters were sent to joint inventors Nicholls and Johnson asking them to confirm that they were former employees of the assignee's and informing them that the current assignee had documents for their review. The letters were sent to the last known addresses of each inventor using United Parcel Service (UPS). A copy of the UPS Package Tracking report was provided for the letters sent to each inventor. The UPS tracking report shows that the letter to Johnson was delivered. No response, however, was received from Johnson. The UPS tracking report for the letter sent to Nicholls indicates that no delivery was made, and that Nicholls had moved to a different address.

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. Petitioners have not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

This application bears an original Declaration executed by the two non-signing joint inventors, Nicholls and Johnson. Thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles for a showing under 37 CFR 1.47 to the situation at hand.

Petitioners' showing is deficient in that proof of diligent efforts to locate non-signing inventor Nicholls has not been made.[2]

---

[2] MPEP 409.03(d).

Specifically, petitioners have not shown that diligent efforts were made to locate Nicholls. It is noted that Nicholls' last known address is in Belgium. If any inventor no longer lives at the last known address, petitioners may show diligent efforts by use of a national registry or other database to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

Moreover, the declaration is defective in that no residence or mailing address in accordance with 37 CFR 1.175 and 1.63 has been provided for joint inventor Nicholls. A new declaration in accordance with 37 CFR 1.175 and 1.63 signed by all of the signing inventors on behalf of themselves and the non-signing inventor must be provided.

CONCLUSION

1. The petition is dismissed.

2. As the Office communication mailed on 25 August, 2006, set a one (1) month shortened statutory period for reply, and the present petition and declaration were filed on 13 February, 2007, a five (5) month extension of time is required to make the petition a timely reply. The extension of time fee will be charged to counsel's deposit account as authorized in the petition.

3. 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

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.

Kenneth M. Schor
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
DIW Jan-08

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED
JAN 15 2008
OFFICE OF PETITIONS

In re Application of	:	
Nicholls et al.	:	DECISION ON PETITION
Application No. 09/315,680	:	
Filed: May 20, 1999	:	
Atty Docket No. 7210-000001/	:	

This is a decision on the renewed petition filed on December 7, 2007, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is again **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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

REVIEW OF FACTS

1. On May 20, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,631,827.

2. On August 25, 2006, an Office communication was mailed, requiring a supplemental reissue declaration. A one (1) month shortened statutory period for reply was set.

3. On October 9, 2006, a response consisting of an amendment and a petition for a one (1) month extension of time were filed. No supplemental reissue declaration was filed on October 9, 2006.

4. On February 13, 2007, a petition was filed, along with a supplemental reissue declaration naming Peter Nicholls, Robert Kinyon, Jeff Skaistis, Steve Johnson, Andy Locker, Chris Guzik, and Scott Howard, as joint inventors. The supplemental reissue declaration was signed by all inventors except joint inventors Nicholls and Johnson. Petitioners assert joint inventors Nicholls and Johnson could not be located or refused to sign the supplemental reissue declaration.

5. On May 16, 2007, the petition was dismissed because petitioners had not shown diligent efforts had been made to contact the non-signing inventor, and because the supplemental reissue declaration was defective.

6. On December 7, 2007, the present renewed petition was filed.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

Petitioners state that letters were sent to joint inventors Nicholls and Johnson asking them to confirm that they were former employees of the assignee's and informing them that the current assignee had documents for their review. The letters were sent to the last known addresses of each inventor using United Parcel Service (UPS). A copy of the UPS Package Tracking report was provided for the letters sent to each inventor. The UPS tracking report shows that the letter to Johnson was delivered. No response, however, was received from Johnson. The UPS tracking report for the letter sent to Nicholls indicates that no delivery was made, and that Nicholls had moved to a different address.

The renewed petition includes a declaration by Barbara Yates, counsel's paralegal, detailing the efforts made to locate the non-signing inventors.

The declaration, however, is still defective in that no residence or mailing address in accordance with 37 CFR 1.175 and 1.63 has been provided for joint inventor Nicholls. A new declaration in accordance with 37 CFR 1.175 and 1.63 signed by all of the signing inventors on behalf of themselves and the non-signing inventors must be provided.[2]

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. In view of the failure to provide a proper oath or declaration in accordance with 37 CFR 1.175 and 1.63, petitioners have not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

This application bears an original Declaration executed by the two non-signing joint inventors, Nicholls and Johnson. Thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles for a showing under 37 CFR 1.47 to the situation at hand.

CONCLUSION

1. The petition is dismissed.

2. 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

---

[2] In this regard, petitioner should note MPEP 605.03 which states that, in reference to the mailing or post office address, in situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary.

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

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.

Kenneth M. Schor
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
DIW Mar-08

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Nicholls et al.	:	DECISION ON PETITION
Application No. 09/315,680	:	
Filed: May 20, 1999	:	
Atty Docket No. 7210-000001/	:	

This is a decision on the twice renewed petition filed on February 8, 2008, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On May 20, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,631,827.

2. On August 25, 2006, an Office communication was mailed, requiring a supplemental reissue declaration. A one (1) month shortened statutory period for reply was set.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On October 9, 2006, a response consisting of an amendment and a petition for a one (1) month extension of time were filed. No supplemental reissue declaration was filed on October 9, 2006.

4. On February 13, 2007, a petition was filed, along with a supplemental reissue declaration naming Peter Nicholls, Robert Kinyon, Jeff Skaistis, Steve Johnson, Andy Locker, Chris Guzik, and Scott Howard, as joint inventors. The supplemental reissue declaration was signed by all inventors except joint inventors Nicholls and Johnson. Petitioners asserted joint inventors Nicholls and Johnson could not be located or refused to sign the supplemental reissue declaration.

5. On May 16, 2007, the petition was dismissed because petitioners had not shown diligent efforts had been made to contact the non-signing inventor, and because the supplemental reissue declaration was defective.

6. On December 7, 2007, a renewed petition was filed.

7. On January 15, 2008, the renewed petition was dismissed because the reissue declaration did not list the residence and mailing address for non-signing inventor Nicholls.

8. On February 8, 2008, the present renewed petition was filed, with a new reissue declaration listing the residence and mailing address for non-signing inventor Nicholls.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signatures of Peter Nicholls and Steve Johnson on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventors Nicholls and Johnson on the supplemental declaration filed on February 8, 2008.

CONCLUSION

1. The petition is granted.

2. As the petition fee was previously paid, no additional petition fee is due with this renewed petition. Therefore, the fee paid with the present request for reconsideration will be credited to counsel's deposit account, No. 16-0605.

3. The application is being referred to Technology Center Art Unit 3692 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
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

Stefan J. Kirchanski
Crosby, Heafey, Roach & May
1901 Avenue of the Stars, Suite 700
Los Angeles, CA 90067

COPY MAILED
JUL 13 2004
OFFICE OF PETITIONS

In re Application of :
Edward Shanbrom :
Application No. 09/315,688 : ON PETITION
Filed: May 20, 1999 :
Attorney Docket No. 38786.00069 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2004, 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.

The above-identified application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed January 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight April 20, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; **(2)** the petition fee required by 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)** a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (2) above.

As to items (1) and (2), the instant petition gives authorization for the USPTO to charge $665 for the petition to revive fee, $665 for the issue fee, and $300 for the publication fee to Deposit Account No. 50-2567. However, the listed deposit account contains insufficient funds. Therefore, revival of the above-identified application cannot occur until the above fees are submitted.

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
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By Fax: Attn: Office of Petitions
(703) 872-9306

Telephone inquires concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
CENTRAL FAX CENTER
AUG 1 0 2004

PATENT
355864.00600
Express Mail Label No. EL 947121916 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

In re application of:

Edward Shanbrom

Serial No: 09/315,688

Filed: May 20, 1999

For: METHOD FOR QUANTIFYING ANTIOXIDANT LEVELS IN FOOD AND MEDICAL SPECIMENS

Art Unit: 1753

Examiner: Olsen, Kaj K.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450, on
June 7, 2004
Date of Deposit
Heather B. Centurioni
Name
06/07/04
Signature Date

PETITION PURSUANT TO 37 C.F.R. § 1.137(b) FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION AND CONDITIONAL PETITION FOR EXTENSION OF TIME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

In accordance with 37 C.F.R. § 1.137(b), Applicants respectfully petition for revival of the above-identified patent application which became unintentionally abandoned on April 20, 2004. The present application became abandoned as a result of failure to pay the Issue Fee on time. The Issue Fee was not paid in time due to a docketing mistake. Enclosed herewith is a copy of the Issue Fee Transmittal, authorizing the Commissioner to charge the issue fee and the publication fee to Deposit Account 50-2567.

In accordance with 37 C.R.F. § 1.17(m), please charge the fee of $665 for this petition to Deposit Account No. 50-2567, referencing docket number 355864.00600.

Applicant became aware that the application had become abandoned on or about June 7, 2004 upon seeing the Notice of Abandonment from the U.S. PTO dated May 27, 2004. The entire delay from the due date for the required response until the filing of this petition has been unintentional.

PAGE 8/9 * RCVD AT 8/10/2004 5:43:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:13105003501 * DURATION (mm-ss):03-00

PATENT
355864.00600
Express Mail Label No. EL 947121916 US

It is believed that no extension of time is required. However, should an extension of time be necessary to revive the above-identified application or to prevent the above-identified application from becoming abandoned again, please consider this a conditional petition for such an extension of time. Please charge any fee for such an extension of time to Deposit Account No. 50-2567, referencing docket number 355864.00600. A copy of this paper is enclosed.

If it should be determined that for any reason either an insufficient fee or an excessive has been paid, please charge any insufficiency or credit any overpayment necessary to ensure revival of the above-identified application to Deposit Account No. 50-2567, referencing docket number 355864.00600. A copy of this petition is enclosed.

Respectfully submitted,
REED SMITH LLP

Date: June 7, 2004

By: Stefan J. Kirchanski

Stefan J. Kirchanski
Registration No. 36,568
Attorney for Applicant(s)

1901 Avenue of the Stars, Suite 700
Los Angeles, CA 90067
Phone: (310) 734-5200
Fax: (310) 734-5299

PAGE 9/9 * RCVD AT 8/10/2004 5:43:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:13105003501 * DURATION (mm-ss):03-00

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

Stefan J. Kirchanski
Crosby, Heafey, Roach & May
1901 Avenue of the Stars, Suite 700
Los Angeles, CA 90067

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Edward Shanbrom	:	
Application No. 09/315,688	:	ON PETITION
Filed: May 20, 1999	:	
Attorney Docket No. 38786.00069	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by facsimile transmission on August 10, 2004, to revive the above-identified application.

As authorized in the instant petition, $665 for the petition to revive fee, $665 for the issue fee, and $300 for the publication fee will be charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
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

In re Patent No. 6439853
Issue Date: August 27,2002
Application No. 09315736
Filed: May 20,1999
Attorney Docket No. POND-004

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 10,2008 ,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 June 10,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6,439,853	2002-08-27	09/315,736	1999-05-20	PUMP-004

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

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	/Michael S. Neustel/	Date (YYYY-MM-DD)	2008-06-10
Name	Michael S. Neustel	Registration Number	41221

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 record s.

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.

Ø82A

1383.48US1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

OCT 0 3 2002

OFFICE OF PETITIONS

OIPE JC14
FEB 0 2 2004
PATENT & TRADEMARK OFFICE

In re Application of
Daniel R. Puchek et al
Application No. 09/315,739
Filed: May 20, 1999
Attorney Docket No. PUC-001

ON PETITION

This is a decision on the petition, filed Ocober 2, 2002, 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 27, 2002 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 the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center 2643 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1]**The request to apply the previously paid 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.**

RECEIVED
OCT 0 7 2002
PORTFOLIO I.P.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#10

MAR 9 2000

In re Reissue Application of DAVIS et al. Serial No.: 09/315,796 Filing Date: May 20, 1999 For: COMBINED LITHOGRAPHIC/FLEXOGRAPHIC PRINTING APPARATUS AND PROCESS	:	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition, filed March 6, 2000, via facsimile transmission, requesting that the Office action of February 8, 2000, be remailed and the time period for reply set therein be reset to run from the date the Office action is remailed.

The petition is **DENIED**.

Petitioner asserts that the Office action was in fact deposited with the United States Postal Service (USPS) on February 9, 2000, rather than February 8, 2000, and was not received by petitioner until March 3, 2000. To support the petition, a copy of the envelope containing the Office action was provided to show a USPS postmark date of February 9, 2000. Petitioner also asserts that petitioner changed business addresses in August 1999 and that the United States Postal Service had been directed to forward all mail to the new business address. Due to the delayed receipt of the Office action at the new business address, petitioner requests that the Office action be remailed and the period for reply reset.

As set forth in MPEP § 710.06, a grantable petition to restart a previously set period for reply to an Office action to run from either (1) the date of receipt of the Office action at the correspondence address or (2) the postmark date shown on the mailing envelope which contained the Office action, must include a showing that satisfies either of the following criteria.

The criteria for item (1) above are:

> "(A) the petition is filed within 2 weeks of the date of receipt for reply of the PTO action at the correspondence address;
>
> (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
>
> (C) the petition includes (1) evidence showing the date of receipt of the PTO action at the correspondence address (e.g., a copy of the PTO action having the date of receipt of the PTO action

> at the correspondence address stamped thereon, a copy of the envelope (which contained the PTO action) having the date of receipt of the PTO action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the PTO action at the correspondence address and explaining how the evidence being presented establishes that the date of receipt of the PTO action at the correspondence address." (emphasis added)

The criteria for item (2) are:

> "(A) the petition is filed within 2 weeks of the date of receipt of the PTO action at the correspondence address;
>
> (B) the reply period was for payment of the issue fee, or the reply period was set 1 month or 30 days; and
>
> (C) the petition includes (1) evidence showing address (e.g., copy of the PTO action having the date of receipt at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the PTO action showing the postmark date, and (3) a statement setting forth the date of receipt of the PTO action at the correspondence address and stating that the PTO action was received in the postmarked envelope." (emphasis added)

The evidence of record is insufficient to establish receipt of the Office action at the correspondence address stamped thereon, as required for a grantable petition pursuant to MPEP § 710.06. The evidence reveals that the Office action was properly addressed and mailed to the correspondence address provided in accordance with 37 CFR § 1.33. The evidence also reveals that the Office action was forwarded to a new business address by the USPS rather than received by petitioner at the correspondence address of record, and that the delay in receiving the Office action at the new business address was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, as set forth in MPEP § 601.03. For example, petitioner states:

> "Applicant's counsel changed business office addresses but informed the Post Office of the new address; apparently the February 9-mailed action was unreasonably delayed in transit to the post office box, and received only last Friday, March 3, 2000. A 'substantial portion' of the set reply period has therefore run. Our firm changed offices last August, and immediately gave notice to the post office of the address change."

Accordingly, petitioner moved to a new business address in August 1999, more than 5 month before the Office action was mailed, but did not request a change in correspondence address until

the filing of this petition[1]. Having forgone the opportunity to update the correspondence address with the Office, petitioner cannot be heard to complain to the Office that the USPS did not diligently forward mail from that now obsolete correspondence address. Rather, because petitioner permitted an obsolete correspondence address to remain of record, petitioner accepted the risk of any delays in the USPS forwarding mail to his new address.

Since petitioner has failed to establish receipt of the Office action at the correspondence address of record, the criteria of neither items (1) nor (2) above have not been satisfied. Furthermore, in view of the fact that the delay in receiving the Office action was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, it is inappropriate to grant the relief requested by petitioner. See MPEP §§ 601.03 and 710.06.

Petitioner is reminded that the mere filing of a petition will not stay the period for reply to an Examiner's action (37 CFR 1.181(f)). As such, the time period for reply set forth in the above-noted Office action continues to run 30 days from February 8, 2000. Failure to file a complete and timely response, may result in abandonment of the application.

The application will be held in Technology Center 2800 pending a complete and timely response from applicants.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/EJG/JC:bb

[1]It is noted that the new correspondence address is different from the address to which the Office action was forwarded by the USPS.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAR 9 2000

#12

In re Reissue Application of	:	
DAVIS et al.	:	DECISION ON
Serial No.: 09/315,796	:	
Filing Date: May 20, 1999	:	REQUEST
For: COMBINED	:	
LITHOGRAPHIC/FLEXOGRAPHIC	:	UNDER 37 CFR 1.136(b)
PRINTING APPARATUS AND	:	
PROCESS	:	

This is a response to the communication, filed March 9, 2000, via facsimile transmission, which is being treated as a request for a one (1) month extension of time under 37 CFR 1.136(b) to reply to the Office action dated February 8, 2000.

The request for a one (1) month extension of time is **GRANTED**.

Requestor states that in July 1999, a stay of litigation was issued by the District Court for the Northern District of Texas (Civil Action No. 3:99-CV-1154-D), but this court "reversed its position sometime later in the early fall." A copy of the Order, dated September 1, 1999, lifting the stay of litigation imposed on July 6, 1999, was provided. Requestor argues that action in the Reissue application should have been suspended in accordance with Section 1442.02 of the Manual of Patent Examining Procedure (MPEP). Requestor now requests that action not be suspended since it is applicant's desire that the application be examined at this time, pursuant to MPEP 1442.02(D).

The record indicates that a copy of the Order staying litigation, issued July 1999, was submitted. However, a copy of the Order lifting the Order staying litigation was not received by the Office until the filing of the present request. The record also indicates that requestor belatedly received the Office action of February 8, 2000.

In view of the above discussion, the Office will accord requestor a one (1) month extension of time under 37 CFR 1.136(b) to respond to the Office action of February 8, 2000. Accordingly, the time period for reply expires April 9, 2000. No further extensions of time are expected to be granted.

The application will be held in Technology Center 2800 pending a complete and timely response.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/JC:bb

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAR 9 2000

#12

In re Reissue Application of DAVIS et al. Serial No.: 09/315,796 Filing Date: May 20, 1999 For: COMBINED LITHOGRAPHIC/FLEXOGRAPHIC PRINTING APPARATUS AND PROCESS	:	DECISION ON REQUEST UNDER 37 CFR 1.136(b)

This is a response to the communication, filed March 9, 2000, via facsimile transmission, which is being treated as a request for a one (1) month extension of time under 37 CFR 1.136(b) to reply to the Office action dated February 8, 2000.

The request for a one (1) month extension of time is **GRANTED**.

Requestor states that in July 1999, a stay of litigation was issued by the District Court for the Northern District of Texas (Civil Action No. 3:99-CV-1154-D), but this court "reversed its position sometime later in the early fall." A copy of the Order, dated September 1, 1999, lifting the stay of litigation imposed on July 6, 1999, was provided. Requestor argues that action in the Reissue application should have been suspended in accordance with Section 1442.02 of the Manual of Patent Examining Procedure (MPEP). Requestor now requests that action not be suspended since it is applicant's desire that the application be examined at this time, pursuant to MPEP 1442.02(D).

The record indicates that a copy of the Order staying litigation, issued July 1999, was submitted. However, a copy of the Order lifting the Order staying litigation was not received by the Office until the filing of the present request. The record also indicates that requestor belatedly received the Office action of February 8, 2000.

In view of the above discussion, the Office will accord requestor a one (1) month extension of time under 37 CFR 1.136(b) to respond to the Office action of February 8, 2000. Accordingly, the time period for reply expires April 9, 2000. No further extensions of time are expected to be granted.

The application will be held in Technology Center 2800 pending a complete and timely response.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/JC:bb

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#10

MAR 9 2000

In re Reissue Application of DAVIS et al. Serial No.: 09/315,796 Filing Date: May 20, 1999 For: COMBINED LITHOGRAPHIC/FLEXOGRAPHIC PRINTING APPARATUS AND PROCESS	:	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition, filed March 6, 2000, via facsimile transmission, requesting that the Office action of February 8, 2000, be remailed and the time period for reply set therein be reset to run from the date the Office action is remailed.

The petition is **DENIED**.

Petitioner asserts that the Office action was in fact deposited with the United States Postal Service (USPS) on February 9, 2000, rather than February 8, 2000, and was not received by petitioner until March 3, 2000. To support the petition, a copy of the envelope containing the Office action was provided to show a USPS postmark date of February 9, 2000. Petitioner also asserts that petitioner changed business addresses in August 1999 and that the United States Postal Service had been directed to forward all mail to the new business address. Due to the delayed receipt of the Office action at the new business address, petitioner requests that the Office action be remailed and the period for reply reset.

As set forth in MPEP § 710.06, a grantable petition to restart a previously set period for reply to an Office action to run from either (1) the date of receipt of the Office action at the correspondence address or (2) the postmark date shown on the mailing envelope which contained the Office action, must include a showing that satisfies either of the following criteria.

The criteria for item (1) above are:

> "(A) the petition is filed within 2 weeks of the date of receipt for reply of the PTO action <u>at the correspondence address</u>;
>
> (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
>
> (C) the petition includes (1) evidence showing the date of receipt of the PTO action <u>at the correspondence address</u> (e.g., a copy of the PTO action having the date of receipt of the PTO action

> at the correspondence address stamped thereon, a copy of the envelope (which contained the PTO action) having the date of receipt of the PTO action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the PTO action at the correspondence address and explaining how the evidence being presented establishes that the date of receipt of the PTO action at the correspondence address." (emphasis added)

The criteria for item (2) are:

> "(A) the petition is filed within 2 weeks of the date of receipt of the PTO action at the correspondence address;
>
> (B) the reply period was for payment of the issue fee, or the reply period was set 1 month or 30 days; and
>
> (C) the petition includes (1) evidence showing address (e.g., copy of the PTO action having the date of receipt at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the PTO action showing the postmark date, and (3) a statement setting forth the date of receipt of the PTO action at the correspondence address and stating that the PTO action was received in the postmarked envelope." (emphasis added)

The evidence of record is insufficient to establish receipt of the Office action at the correspondence address stamped thereon, as required for a grantable petition pursuant to MPEP § 710.06. The evidence reveals that the Office action was properly addressed and mailed to the correspondence address provided in accordance with 37 CFR § 1.33. The evidence also reveals that the Office action was forwarded to a new business address by the USPS rather than received by petitioner at the correspondence address of record, and that the delay in receiving the Office action at the new business address was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, as set forth in MPEP § 601.03. For example, petitioner states:

> "Applicant's counsel changed business office addresses but informed the Post Office of the new address; apparently the February 9-mailed action was unreasonably delayed in transit to the post office box, and received only last Friday, March 3, 2000. A 'substantial portion' of the set reply period has therefore run. Our firm changed offices last August, and immediately gave notice to the post office of the address change."

Accordingly, petitioner moved to a new business address in August 1999, more than 5 month before the Office action was mailed, but did not request a change in correspondence address until

the filing of this petition[1]. Having forgone the opportunity to update the correspondence address with the Office, petitioner cannot be heard to complain to the Office that the USPS did not diligently forward mail from that now obsolete correspondence address. Rather, because petitioner permitted an obsolete correspondence address to remain of record, petitioner accepted the risk of any delays in the USPS forwarding mail to his new address.

Since petitioner has failed to establish receipt of the Office action at the correspondence address of record, the criteria of neither items (1) nor (2) above have not been satisfied. Furthermore, in view of the fact that the delay in receiving the Office action was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, it is inappropriate to grant the relief requested by petitioner. See MPEP §§ 601.03 and 710.06.

Petitioner is reminded that the mere filing of a petition will not stay the period for reply to an Examiner's action (37 CFR 1.181(f)). As such, the time period for reply set forth in the above-noted Office action continues to run 30 days from February 8, 2000. Failure to file a complete and timely response, may result in abandonment of the application.

The application will be held in Technology Center 2800 pending a complete and timely response from applicants.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/EJG/JC:bb

[1]It is noted that the new correspondence address is different from the address to which the Office action was forwarded by the USPS.

The opi[illegible] in support of the decision being entered t[illegible] was *not* written for publication is *not* binding precedent of the Board.

Paper No. 74

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BILL L. DAVIS *et al.*

Appeal No. 2003-1231
Application 09/315,796[1]

MAILED
JAN 21 2004
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECISION ON PETITION TO MAKE SPECIAL

On September 22, 2003, Applicants filed a Petition to Make Special (Paper No. 72). In the Petition, Applicants ask that this application be considered special under 37 CFR § 1.102(d), in accordance with MPEP 708.02(II), on the basis that there is a possible infringement.

Title 37 CFR § 1.176 (a) stipulates with regard to the examination of reissue applications that:

> (a) . . . Applications for reissue will be acted on by the examiner in advance of other applications.

Furthermore, MPEP 708.01 designates the List of Special Cases and states the following as one of the list of special cases (those which are advanced out of turn for examination):

> (C) Applications for reissues, particularly those involved in stayed litigation (37 CFR 1.176).

---

[1] This application is a Reissue of Patent No. 5,630,363, issued on May 20, 1997.

Accordingly, for the reasons given above, since this application is already considered to special due to it being an application for reissue, the Petition to make Special is dismissed as being moot.

BY ORDER OF THE BOARD OF PATENT
APPEALS AND INTERFERENCES

CRAIG R. FEINBERG
Program and Resource Administrator
703-308-9797

Kenneth T. Emanuelson, Esq.
Gardere, Wynne & Sewell, LLP
1601 Elm Street
Suite 3000
Dallas, TX 75201-4761

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAR 9 2000

#12

In re Reissue Application of DAVIS et al. Serial No.: 09/315,796 Filing Date: May 20, 1999 For: COMBINED LITHOGRAPHIC/FLEXOGRAPHIC PRINTING APPARATUS AND PROCESS	:	DECISION ON REQUEST UNDER 37 CFR 1.136(b)

This is a response to the communication, filed March 9, 2000, via facsimile transmission, which is being treated as a request for a one (1) month extension of time under 37 CFR 1.136(b) to reply to the Office action dated February 8, 2000.

The request for a one (1) month extension of time is **GRANTED**.

Requestor states that in July 1999, a stay of litigation was issued by the District Court for the Northern District of Texas (Civil Action No. 3:99-CV-1154-D), but this court "reversed its position sometime later in the early fall." A copy of the Order, dated September 1, 1999, lifting the stay of litigation imposed on July 6, 1999, was provided. Requestor argues that action in the Reissue application should have been suspended in accordance with Section 1442.02 of the Manual of Patent Examining Procedure (MPEP). Requestor now requests that action not be suspended since it is applicant's desire that the application be examined at this time, pursuant to MPEP 1442.02(D).

The record indicates that a copy of the Order staying litigation, issued July 1999, was submitted. However, a copy of the Order lifting the Order staying litigation was not received by the Office until the filing of the present request. The record also indicates that requestor belatedly received the Office action of February 8, 2000.

In view of the above discussion, the Office will accord requestor a one (1) month extension of time under 37 CFR 1.136(b) to respond to the Office action of February 8, 2000. Accordingly, the time period for reply expires April 9, 2000. No further extensions of time are expected to be granted.

The application will be held in Technology Center 2800 pending a complete and timely response.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/JC:bb

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#10

MAR 9 2000

In re Reissue Application of DAVIS et al. Serial No.: 09/315,796 Filing Date: May 20, 1999 For: COMBINED LITHOGRAPHIC/FLEXOGRAPHIC PRINTING APPARATUS AND PROCESS	:	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition, filed March 6, 2000, via facsimile transmission, requesting that the Office action of February 8, 2000, be remailed and the time period for reply set therein be reset to run from the date the Office action is remailed.

The petition is **DENIED**.

Petitioner asserts that the Office action was in fact deposited with the United States Postal Service (USPS) on February 9, 2000, rather than February 8, 2000, and was not received by petitioner until March 3, 2000. To support the petition, a copy of the envelope containing the Office action was provided to show a USPS postmark date of February 9, 2000. Petitioner also asserts that petitioner changed business addresses in August 1999 and that the United States Postal Service had been directed to forward all mail to the new business address. Due to the delayed receipt of the Office action at the new business address, petitioner requests that the Office action be remailed and the period for reply reset.

As set forth in MPEP § 710.06, a grantable petition to restart a previously set period for reply to an Office action to run from either (1) the date of receipt of the Office action at the correspondence address or (2) the postmark date shown on the mailing envelope which contained the Office action, must include a showing that satisfies either of the following criteria.

The criteria for item (1) above are:

> "(A) the petition is filed within 2 weeks of the date of receipt for reply of the PTO action <u>at the correspondence address</u>;
>
> (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
>
> (C) the petition includes (1) evidence showing the date of receipt of the PTO action <u>at the correspondence address</u> (e.g., a copy of the PTO action having the date of receipt of the PTO action

> at the correspondence address stamped thereon, a copy of the envelope (which contained the PTO action) having the date of receipt of the PTO action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the PTO action at the correspondence address and explaining how the evidence being presented establishes that the date of receipt of the PTO action at the correspondence address." (emphasis added)

The criteria for item (2) are:

> "(A) the petition is filed within 2 weeks of the date of receipt of the PTO action at the correspondence address;
>
> (B) the reply period was for payment of the issue fee, or the reply period was set 1 month or 30 days; and
>
> (C) the petition includes (1) evidence showing address (e.g., copy of the PTO action having the date of receipt at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the PTO action showing the postmark date, and (3) a statement setting forth the date of receipt of the PTO action at the correspondence address and stating that the PTO action was received in the postmarked envelope." (emphasis added)

The evidence of record is insufficient to establish receipt of the Office action at the correspondence address stamped thereon, as required for a grantable petition pursuant to MPEP § 710.06. The evidence reveals that the Office action was properly addressed and mailed to the correspondence address provided in accordance with 37 CFR § 1.33. The evidence also reveals that the Office action was forwarded to a new business address by the USPS rather than received by petitioner at the correspondence address of record, and that the delay in receiving the Office action at the new business address was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, as set forth in MPEP § 601.03. For example, petitioner states:

> "Applicant's counsel changed business office addresses but informed the Post Office of the new address; apparently the February 9-mailed action was unreasonably delayed in transit to the post office box, and received only last Friday, March 3, 2000. A 'substantial portion' of the set reply period has therefore run. Our firm changed offices last August, and immediately gave notice to the post office of the address change."

Accordingly, petitioner moved to a new business address in August 1999, more than 5 month before the Office action was mailed, but did not request a change in correspondence address until

the filing of this petition[1]. Having forgone the opportunity to update the correspondence address with the Office, petitioner cannot be heard to complain to the Office that the USPS did not diligently forward mail from that now obsolete correspondence address. Rather, because petitioner permitted an obsolete correspondence address to remain of record, petitioner accepted the risk of any delays in the USPS forwarding mail to his new address.

Since petitioner has failed to establish receipt of the Office action at the correspondence address of record, the criteria of neither items (1) nor (2) above have not been satisfied. Furthermore, in view of the fact that the delay in receiving the Office action was due, at least in part, to petitioner's failure to promptly notify the Office of a change in correspondence address, it is inappropriate to grant the relief requested by petitioner. See MPEP §§ 601.03 and 710.06.

Petitioner is reminded that the mere filing of a petition will not stay the period for reply to an Examiner's action (37 CFR 1.181(f)). As such, the time period for reply set forth in the above-noted Office action continues to run 30 days from February 8, 2000. Failure to file a complete and timely response, may result in abandonment of the application.

The application will be held in Technology Center 2800 pending a complete and timely response from applicants.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Robert Hardy Falk
FALK & FISH, l.l.p.
Post Office Box 794948
Dallas, TX 75379

BWB/HHP/EJG/JC:bb

[1]It is noted that the new correspondence address is different from the address to which the Office action was forwarded by the USPS.

The opi[illegible] in support of the decision being entered t[illegible] was *not* written for publication is *not* binding precedent of the Board.

Paper No. 74

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BILL L. DAVIS *et al.*

Appeal No. 2003-1231
Application 09/315,796[1]

MAILED
JAN 21 2004
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECISION ON PETITION TO MAKE SPECIAL

On September 22, 2003, Applicants filed a Petition to Make Special (Paper No. 72). In the Petition, Applicants ask that this application be considered special under 37 CFR § 1.102(d), in accordance with MPEP 708.02(II), on the basis that there is a possible infringement.

Title 37 CFR § 1.176 (a) stipulates with regard to the examination of reissue applications that:

> (a) . . . Applications for reissue will be acted on by the examiner in advance of other applications.

Furthermore, MPEP 708.01 designates the List of Special Cases and states the following as one of the list of special cases (those which are advanced out of turn for examination):

> (C) Applications for reissues, particularly those involved in stayed litigation (37 CFR 1.176).

---

[1] This application is a Reissue of Patent No. 5,630,363, issued on May 20, 1997.

Accordingly, for the reasons given above, since this application is already considered to special due to it being an application for reissue, the Petition to make Special is dismissed as being moot.

BY ORDER OF THE BOARD OF PATENT
APPEALS AND INTERFERENCES

CRAIG R. FEINBERG
Program and Resource Administrator
703-308-9797

Kenneth T. Emanuelson, Esq.
Gardere, Wynne & Sewell, LLP
1601 Elm Street
Suite 3000
Dallas, TX 75201-4761

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed

JUN 2 7 2001

Technology Center 2100

Paper No. 11

Finnegan, Henderson, Farabow,
Garrett & Dunner L.L.P.
1300 I Street N.W.
Washington, D.C. 20005-3315

In re Application of: Scott N. Christensen	)	
Application No. 09/315,822	)	
Filed: May 21, 1999		**DECISION ON REQUEST FOR**
For: VIRTUAL COUPONING METHOD	)	**WITHDRAWAL AS ATTORNEY**
AND APPARATUS FOR USE WITH	)	
CONSUMER KIOSK	)	

This is a decision on the Request To Withdraw from Representation filed May 3, 2001 and supplemented by the filing of June 26, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Jason Karp, Esquire
General Counsel
E-centives, Inc.
6903 Rockledge Drive, Suite 1200
Bethesda, Maryland 20817

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILL ROAD
SUITE 900
RESTON VA 20190

COPY MAILED

JAN 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Scott N. Christensen	:	
Application No. 09/315,822	:	ON PETITION
Filed: May 21, 1999	:	
Attorney Docket No. SELL-0008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed April 9, 2001, which set a three-month shortened statutory period to respond. Petitioner obtained a three-month extension of time to reply pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on October 10, 2001. A Notice of Abandonment was mailed on December 12, 2001.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Continued Prosecution Application (CPA) filed August 28, 2002.

The application file is being forwarded to Technology Center 3600 for processing the CPA.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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.
09/315,822	05/21/1999	SCOTT N. CHRISTENSEN	INVE0013-1	6988

31518 7590 06/01/2010
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

EXAMINER
JANVIER, JEAN D

ART UNIT	PAPER NUMBER
3688	

NOTIFICATION DATE	DELIVERY MODE
06/01/2010	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):

general@neifeld.com
rneifeld@neifeld.com
rhahl@neifeld.com

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

MAY 28 2010

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

In re Application of:	:	
Christensen, Scott N.	:	
Application No. 09/315,822	:	**DECISION ON PETITION**
Filed: May 21, 1999	:	**UNDER 37 CFR 1.181**
For: VIRTUAL COUPONING METHOD AND	:	
APPARATUS FOR USE WITH CONSUMER	:	
KIOSK		

This is a decision in response to the petition received on May 7, 2010.

The petition is **DISMISSED as moot.**

Petitioner requests that the Director vacate the Office action dated January 8, 2010 and that the Director "instruct the examining corps to determine the extension of patent term...to include the date from filing the notice of appeal (9/23/2005) to the date of decision reversing all rejections of claim 4 (7/30/2009)."

With regards to petitioner's request to vacate the Office action dated January 8, 2010, the issue is moot since the action was effectively vacated by the issuance of a Notice of Allowability on May 24, 2010.

With regards to petitioner's request for patent term extension, petitions for patent term extension under 35 U.S.C. 156 are decided by the Office of the Deputy Commissioner for Patent Examination Policy (see MPEP 1002.02).

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350
TL

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

JUN 28 2010

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

In re Application of:
Christensen, Scott N.
Application No. 09/315,822
Filed: May 21, 1999
For: VIRTUAL COUPONING METHOD AND APPARATUS FOR USE WITH CONSUMER KIOSK

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to the June 7, 2010 Request for Reconsideration of the Decision on Petition under 37 CFR 1.181.

The petition is **GRANTED.**

A petition under 37 CFR 1.181 requesting that an Office action mailed January 8, 2010 be vacated was received on May 7, 2010. The petition was dismissed as moot in a decision mailed June 1, 2010 since a Notice of Allowability was mailed May 24, 2010.

Petitioner requests reconsideration of the dismissal. Petitioner argues that the term of the patent depends upon grant or denial of the May 7, 2010 petition and that "the petition is not moot because its grant or denial affects substantive rights; the length of the term of the resulting patent." Petitioner's request for reconsideration is granted.

A review of the prosecution history shows that applicant appealed the rejection of claims 1, 4, 9-16 and 24-27 under 35 USC 102(b) as being anticipated by Lemon, the rejection of claims 16-26 under 35 USC 102(e) as being anticipated by Powell, and the rejection of claims 1-16, 19 and 24-27 under 35 USC 103(a) as being unpatentable over Barnett. In the Decision on Appeal mailed July 30, 2009, the Board of Patent Appeals and Interference sustained the 35 USC 102(b) rejection of claims 1, 9-16, 24, 27, the 35 USC 102(e) rejection of claims 16-26, and 35 USC 103(a) rejection of claims 1-3, 5-11, 13-15, 16, 19 and 24-27. The examiner's rejection of claim 4 under 35 USC 102(b) and of claims 4 and 12 under 35 USC 103(a) were not sustained. Pursuant to MPEP 1214.06, applicant filed an amendment after the Board decision cancelling claims 1, 11 and 16-26 and amending claims 2-4, 12-14 and 27. Applicant requested entry of the amendment because "dependent claim 4 (for which the Board has reversed <u>all</u> rejections) has been rewritten in independent form." In response to applicant's amendment, the examiner issued the January 8, 2010 non-final Office action.

In the May 7, 2010 petition, petitioner argues that the January 8, 2010 Office action was mailed contrary to U.S. Patent and Trademark policy in that it was not authorized by the Technology Center (TC) Director. Accordingly, the Office action should be vacated.

According to MPEP 1214.04, the examiner should never regard a reversal of the examiner's rejection as a challenge to make a new search to uncover other and better references. If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner is reversed, the examiner should submit the matter to the TC Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new grounds of rejection. The TC Director's approval is placed on the action reopening prosecution.

A review of the January 8, 2010 Office action shows that the examiner rejected all the claims under 35 USC 103(a) using the same references under appeal (i.e., Lemon and Barnett). The examiner also used Official notice in rejecting the claims. Accordingly, the examiner did not have specific knowledge of the existence of a particular reference which would warrant the reopening of prosecution. Furthermore, the lack of a TC Director's signature on the January 8, 2010 Office action indicates that the examiner did not have the TC Director's approval to reopen prosecution. Since the examiner failed to follow Office policy, as set forth in MPEP 1214.04, the Office action mailed January 8, 2010 is hereby vacated.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

WC/tl: 06/25/10

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. 26

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

MAIL

DEC - 1 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Danny A. McCall, et al.
Application No. 09/315,962
Filed: May 21, 1999
For: METHOD AND APPARATUS FOR SIMULTANEOUS CAPTURE OF A SPHERICAL IMAGE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Request for Withdraw of the Notice of Abandonment, filed June 22, 2004, which is being treated as a petition to withdraw the holding of abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application was abandoned for failure to file a timely response to the Office communication (Notice of non-responsiveness, paper # 20) mailed July 30, 2003 giving applicant one month or 30 days to submit a complete reply. A Notice of Abandonment (paper # 21) was mailed on April 21, 2004 when no reply to the July 30, 2003 communication was received.

The showing required to establish the failure to receive 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 "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the Patent and Trademark Office.

In support of the instant petition, petitioner has stated that the attorney changed law firms from the previous correspondence address of record (Graydon, Head & Ritchey, LLC) to the current address of record (Frost Brown Todd, LLC) on February 10, 2003 but that transfer had no bearing on the failure to received the Office action; inasmuch as petitioner has submitted a statement stating that the Office action was not received by the practitioner of record and that a search of the file jacket and the docket records of the application produced no evidence that the non-final Office action was received. Petitioner has also submitted evidence, including a statement from the previous law firm of record, stating that the Office action was not received and including copies of their docket records.

In view of the above, there is showing of non-receipt of the Office action at the correspondence address of record at that time. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to TC 2600 technical support staff to enter the amendment and response filed with the petition on June 22, 2004. From there, the file will be forwarded to the examiner for appropriate action in due course.

Krista Zele, Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

COPY MAILED

FEB 22 2008

OFFICE OF PETITIONS

In re Application of
Danny A. McCall et al.
Application No. 09/315,962
Filed: May 21, 1999
Attorney Docket No. 01096.81110

ON PETITION

This is a decision on the petition filed November 28, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 2, 2007 for failure to timely pay the issue fee on or before December 28, 2006. Accordingly, a Notice of Abandonment was mailed March 30, 2007.

The issue fee in the amount of $1440.00, petition fee in the amount of $1540.00 and publication fee in the amount of $300 have been charged to petitioner's deposit account no. 11-0600 as authorized.

A review of the record reveals that the Issue Fee Transmittal Form (PTOL-85b) has not been supplied. If petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

---

[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.

(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)).

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of
Anand G. Dabak, et al.
Application No. 09/316,193
Filed: May 21, 1999
For: **REDUCED COMPLEXITY PRIMARY AND SECONDARY SYNCHRONIZATION CODES WITH GOOD CORRELATION PROPERTIES FOR WCDMA**

DECISION ON PETITION

This is a decision on the petition filed December 13, 2004, which is treated as a petition pursuant to 37 C.F.R. § 1.8(a). No fee is required.

This application became abandoned for failure to timely reply to a non-responsive amendment communication mailed on January 19, 2004. A Notice of Abandonment was mailed on October 19, 2004.

Petitioner alleges to have timely filed a proper response, by facsimile on March 1, 2004. In support, petitioner has provided as evidence, copies of an 11 page amendment and a copy of a facsimile transmittal report which contains a certificate of facsimile transmittal signed by Gracia Sansom and which identifies that an 11 page amendment was transmitted in addition to the facsimile cover sheet and amendment fee sheet. In addition, a declaration was also included with the petition, from Gracia Sansom, attesting to the facsimile transmission. The transmittal report proper lists the Office's official fax number and reflects the fact that the fax was transmitted successfully on March 1, 2004.

A review of the file record reveals an error in the examiner's notification of non-responsive amendment.

MPEP §714.03 Amendments Not Fully Responsive, Action To Be Taken, states in part:

> *37 CFR 1.135. Abandonment for failure to reply within time period.*
> *****
> *(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.*

An examiner may treat an amendment not fully responsive to a non-final Office action by:

(A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment under 35 U.S.C. 133 and 37 CFR 1.135;

(B) notifying the applicant that the reply must be completed within the remaining period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)) to avoid abandonment; or

(C) setting a new time period for applicant to complete the reply pursuant to 37 CFR 1.135(c).

The treatment to be given to the amendment depends upon:

(A) whether the amendment is bona fide;

(B) whether there is sufficient time for applicant's reply to be filed within the time period for reply to the non-final Office action; and

(C) the nature of the deficiency.

The examiner's non-responsive amendment communication indicated that applicant must reply within the remaining period with appropriate extensions of time, but the time period could not exceed six months. However, the non-responsive communication was mailed after the maximum six month time period had expired. Therefore, applicants had not been given a fair opportunity to respond to the non-responsive communication.

Accordingly, the time period set forth in the Office communication mailed January 29, 2004 was in error and applicants should have been given a one month shortened statutory time period for response, from the date of mailing of the non-responsive communication. The time period for response, given a one month shortened statutory period, would have expired on Sunday, February 29, 2004, which would have permitted applicants to file a response on the next business day or Monday, March 1, 2004.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(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; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner provided a copy of the eleven page amendment, copy of the facsimile transmittal showing successful transmission of an eleven page amendment on March 1, 2004 and also provided a declaration by the person signing the certificate of facsimile transmission, attesting to the actual facsimile transmission on March 1, 2004.

Petitioner has complied with the requirements of 37 C.F.R. §1.8(a) above, given a one-month time period to respond to the non-responsive communication mailed January 19, 2004. Accordingly, The petition is **GRANTED**.

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the non-final Office action which accompanied the petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
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
DIW Mar-06

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Dabak et al.	:	
Application No. 09/316,193	:	DECISION ON PETITION
Filed: 21 May, 1999	:	
Atty Docket No. TI-29086	:	

This is a decision on the petition filed on 9 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 30 November, 2005, for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due mailed on 29 August, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 12 January, 2006.

This application is being referred to the Publishing Division for processing into a patent.

---

[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 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)).

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

COPY MAILED

JAN 2 0 2006

OFFICE OF PETITIONS

In re Application of :
David B. Krig et al. :
Application No. 09/316,515 :
Filed: May 21, 1999 :
Attorney Docket No. 279.112US1 :

ON PETITION

This is a decision on the petition filed December 12, 2005, to withdraw the holding of abandonment , under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before July 22, 2005 as was required by the Notice of Allowance mailed April 22, 2005. This application therefore became abandoned on July 25, 2005. Accordingly, a Notice of Abandonment was mailed October 13, 2005.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and the computerized docket system revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

The issue fee has been applied, per the authorization in the petition, however, since the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, if petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This matter is being referred to the Publishing Divison to await remittance of the Issue Fee Transmittal and for processing this application into a Patent.

Telephone inquiries concerning this matter 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

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

Date : October 24, 2007

Patent No. : 7062325 B1
Application No : 09/316515
Inventor(s) : Krig et al.
Issued : Jun. 13, 2006
Title : **METHOD AND APPARATUS FOR TREATING IRREGULAR VENTRICULAR CONTRACTIONS SUCH AS DURING ATRIAL ARRHYTHMIA**
Docket No. : 279.112US1

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 37 CFR 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 Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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:	571-273-8300 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.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

CBN/eme

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

MAR 24 2008

OFFICE OF PETITIONS

In re Patent No. 7062325	:	
Issue Date: 06/13/2006	:	
Application No. 09/316515	:	ON PETITION
Filed: 05/21/1999	:	
Attorney Docket No. 279.112US1	:	

This is a decision on the petition filed December 12, 2007, 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) 272-3231. 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.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

---

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/28/08

Patent No. : 6925068
Inventor(s) : KENNETH L. STANWOOD ET AL.
Issued : 8/2/05
Title : METHOD AND APPARATUS FOR ALLOCATING BANDWIDTH IN A WIRELESS COMMUNICATION SYSTEM
Atty.doc./File No.

Request for Certificates 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 CFR 1.322.

Inspection of the application for the patent reveals that col1, line 8 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101-4469

HR/CBN

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. 17

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED
SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of
Walker, et al.
Application No. 09/316,546
Filed: May 21, 1999
Attorney Docket No. 99-012

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 2, 2003 (Certificate of Mailing dated April 29, 2003), to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior filed nonprovisional application number 08/920,116.

This petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. See 37 CFR 1.78(a)(2)(ii). The above-identified application was filed on May 21, 1999.

Accordingly, the $130 petition fee submitted is unnecessary and will be refunded to petitioner in due course.

This application is being forwarded to Technology Center 3600 for consideration of the amendment filed May 2, 2003.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Charles Pearson
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

COPY MAILED

SEP 08 2009

OFFICE OF PETITIONS

WALKER DIGITAL MANAGEMENT LLC
2 HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of		
Walker, et al.	:	
Application No. 09/316,546	:	DECISION ON
Filed: May 21, 1999	:	PETITION
Attorney Docket No. 99-012	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 10, 2009.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the final Office action mailed November 7, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned on February 8, 2009. The Office mailed a Notice of Abandonment on July 6, 2009.

Petitioner has supplied a copy of an Auto-Reply Facsimile Transmission from the USPTO, showing that a Notice of Appeal was filed in the application on February 9, 2009 (made timely by the fact that February 7, 2009 fell on a Saturday. See 37 CFR 1.7(a)).

In view of the above, the holding of abandonment is withdrawn.

The Notice of Appeal contained an authorization to charge the fee to Deposit Account No. 50-0271. As petitioner did not submit any evidence that the fee was charged to the deposit account, that fee has now been charged.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application is being forwarded to Group Art Unit 3693 to await for applicants' submission of the Appeal Brief.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 12

John S. Curran
Lahive & Cockfield
28 State Street
Boston, Massachusetts 02109

MAILED

JUL 0 2 2003

Technology Center 2100

In re Application of: Gerlovin et al. Application No. 09/316,549 Attorney Docket No. PAS-093 Filed: May 24, 1999 For: INTEGRATION OF AN ANALYSIS INTO THE FEATURES OF A MODEL OF AN OBJECT	))))))	DECISION ON PETITION TO WITHDRAWAL HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the petition filed June 3, 2003 under 37 CFR § 1.181(a), to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED.**

This application was held abandoned for failure to file a timely response to the Office action of mail date November 29, 2002. A Notice of Abandonment was mailed on April 7, 2003.

In support of the petition, Petitioner provides (1) a copy of a postcard with a PTO stamp indicating receipt at the USPTO on February 3, 2003 of a response to the Office action mailed November 29, 2003 (Attachment P4) and (2) a copy of the February 3, 2003 response to the Office action mailed November 29, 2003 (Attachment P2).

M.P.E.P. § 503 states:

> A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has established that a response was filed on February 3, 2003 with the authorization to charge the requisite fee for an extension of time necessary for the response to be considered timely to **Deposit Account 12-0080** (this authorization was included on the first page of Attachment P2) – in this case a one-month extension of time is required. Therefore, the case was not abandoned in fact.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Tech Center support staff for entry of the February 3, 2003 response. After processing the file will be forwarded to the Examiner for appropriate action.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

1-12-09

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

Patent No. : 7,006,956
Ser. No. : 09/316,549
Inventor(s) : Emmanuel Gerlovin, et. al.
Issued : February 28, 2006
Title : INTEGRATION OF AN ANALYSIS INTO THE FEATURES OF A MODEL OF AN OBJECT
Docket No. : PAS-093

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) 1.322or 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 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 1.117(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
40l 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.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Lahive & Cockfield, LLP
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109

ej

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

COPY MAILED

DEC 1 1 2009

OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
FLOOR 30 SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Patent No. 7,006,956 B1	:	
Issue Date: February 28, 2006	:	
Application No. 09/316,549	:	DECISION ON PETITION
Filed: May 24, 1999	:	
Attorney Docket No. PAS-093RCE	:	

This is a decision on the "PETITION TO CORRECT ASSIGNEE PURSUANT TO 37 CFR 3.81(b)", filed June 30, 2009.

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 set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a), 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.

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

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED
JUN 01 2004
OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang :
Application No. 09/316,697 :
Filed: May 21, 1999 :
Attorney Docket No. 07977/103002 :

ON PETITION

This is a decision on the petition, filed May 28, 2004, 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 1, 2004, 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2871 for further processing of the request for continued examination under 37 CFR 1.114 filed May 28, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Application of
Hongyong Zhang
Application No. 09/316,697
Filed: May 21, 1999
Atty Docket No.: 07977/103002

ON PETITION

This is a decision on the petition, filed September 18, 2006, 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 23, 2006, 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

[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).

The application is being referred to Technology Center AU 2871 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN F. HAYDEN
FISH AND RICHARDSON, P.C.
1425 K STREET, NW, 11TH FLOOR
WASHINGTON, DC 20005-3500

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

Date : September 18, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hongyong Zhang
Application No. : 09/316,697
Filed : May 21, 1999

The above-identified application has been assigned Patent No. 7,113,247 and an issue date of September 26, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 26, 2006:

> "All reference to Patent No. 7,113,247 to HONGYONG ZHANG of JAPAN for LIQUID CRYSTAL DISPLAY DEVICE HAVING PLURALITY OF CONDUCTIVE LAYERS BETWEEN A SUBSTRATE AND SEALING MEMBER AND INSULATED BY INSULATING FILM appearing in the Official Gazette of September 26, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APR - 3 2002

Paper No. 15

In re Application of
Bernard T. Varnau
Application No. 09/316,876
Filed: May 21, 1999
Attorney Docket No. 69849/468297

: DECISION ON PETITION

This is a decision on the petition filed on March 5, 2002 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Notice of Missing Parts dated December 1, 2000. The petition is being considered under 37 CFR 1.181 and no fee is required for the petition. A refund of the $130.00 petition fee will be scheduled.

The petition is granted.

Petitioner alleges that a reply to the Notice of Missing Parts was filed on May 2, 2001, and that the filing was timely by reason of a concurrently filed petition for a three month extension of time together with the fee therefor. This allegation is supported by copies of the papers purportedly filed and by a copy of a receipt for these papers showing that they were received in the Office on May 3, 2001. In addition petitioner has included canceled checks for the extension fee and the fees required for the reply to the Notice of Missing Parts. An inspection of the file shows that these papers have now been associated with the file, and the fees have been processed. It is clear, therefore, that this application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to process the above discussed refund, and to process the Continued Prosecution Application (CPA) filed on July 24, 2000 and the reply to the Notice of Missing Parts which was filed on May 3, 2001. Thereafter, the application will be forwarded to the Supervisory Patent Examiner in Art Unit 3723 for appropriate action on the CPA and the papers filed therewith, it being noted that the Office letter dated August 24, 2000 was without effect in view of the fact that at the time that this letter was mailed, the CPA had not been perfected for examination.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Frost Brown Todd, LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

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. 34

Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

COPY MAILED
JUL 2 1 2004
OFFICE OF PETITIONS

In re Application of	:	
Bernard T. Varnau	:	
Application No. 09/316,876	:	ON PETITION
Filed: May 21, 1999	:	
Attorney Docket No. 69849/502	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 3700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

OBLON SPIVAK MCCLELLAND MAIER & NUESTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON , VA 22202

Mailed
JUN 2 1 2000
Director's Office
Group 2700

Paper No. 9

In re Application of White
Appl. No.: 09/317,110
Filed: May 24, 1999
For: PROCESS, SYSTEM AND COMPUTER READABLE MEDIUM FOR IN-STORE PRINTING OF RAINCHECKS FOR DISCOUNT COUPONS AND/OR OTHER PURCHASING INCENTIVES IN A RETAIL STORE

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed June 25, 1999, to make the above-identified application special. The Office regrets the delay in responding to the petition.

Petitioner requests that this application be made special under the accelerated examination procedure set forth in MPEP 708.02, Section VIII: Accelerated Examination

A grantable petition to make an application special under 37 CFR 1.102 and in accordance with MPEP 708.02, Section VIII, must be accompanied by:

a) the required fee pursuant to 37 CFR 1.17(i),

b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the PTO hold that the claims are not directed to a single invention,

c) a statement that a pre-examination search has been made, listing the field of search,

d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and

e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

The petition meets the requirements for special status.

For the above stated reasons, the petition is Granted.

If the examiner can make this application special without prejudice to any possible interfering application, and the examiner should make a rigid search for such, the examiner is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any intervening application for the same subject matter, the examiner should consider such application simultaneously with this application and should state in the official letter of such application that the examiner has taken it out of turn because of a possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all PTO officials concerned, contingent like upon diligent prosecution by applicant.

The petition is granted to the extent indicated.

James J. Groody (703) 308-5461
Special Program Examiner
Technology Center 2700
Communications and Information Processing

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

ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Donoho : DECISION ON PETITION
Application No. 09/317,303 :
Filed: May 24, 1999 :
Atty. Dkt. No.: DONO-7 :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 1, 2004.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned February 4, 2001 for failure to timely submit a proper reply to the final Office action mailed November 3, 2000. The final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely submitted. Notice of Abandonment was mailed June 7, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 of the reply until the filing of a grantable petition 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the final Office action mailed November 3, 2000 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting the 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. 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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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.

This application file is being forwarded to Technology Center 3600 for processing of the RCE submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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)
6103702	2000-08-15	09317678	1999-05-24	21726-90288

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

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	/Alice O. Martin/	Date (YYYY-MM-DD)	2008-10-21
Name	Alice O. Martin	Registration Number	35601

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 record s.

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. 6103702
Issue Date: August 15,2000
Application No. 09317678
Filed: May 24,1999
Attorney Docket No. 21726/90288

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 October 21,2008 . 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAIL

MAY 2 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Peter B. Kessler, et al.	)	
Application No. 09/317,714	)	
Filed: May 24, 1999	)	
For: METHOD AND SYSTEM FOR TYPE IDENTIFICATION FOR MULTIPLE OBJECT INTERFACES IN A DISTRIBUTED OBJECT ENVIRONMENT	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 23, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. Anthony Murabito, Esq.
Wagner, Murabito & Hao, LLP
2 North Market Street, 3rd Floor
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 10

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

NOV 2 0 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jeom Jae Kim	:
Application No. 09/317,719	:
Filed: May 24, 1999	:
Attorney Docket No. 2658-214P	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2002, 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 non-final Office action mailed November 26, 2001, 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 above-identified application became abandoned on February 27, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 2800 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 29

Reena Kuyper
Ronald A. Katz Technology Licensing, LP
9220 Sunset Boulevard, Suite 315
Los Angeles, CA 90069

COPY MAILED

OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of
Ronald A. Katz
Application No. 09/317,807
Filed: May 24, 1999
Attorney Docket No. 6646-108N5

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2002, to revive the above-identified application.[1]

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the final Office action mailed April 23, 2002, which set a shortened statutory reply period of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed on July 2, 2002.

This application is being forwarded to Technology Center AU 2643 for processing the Request for Continued Examination filed on April 10, 2002.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

[1] A response pursuant to 37 CFR 1.114 and an Information Disclosure Statement were filed with the instant petition.

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. 6015805
Issue Date: January 18,2000
Application No. 09317945
Filed: May 25,1999
Attorney Docket No. 2025-0160-77

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 25,2008 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6015805	2000-01-18	09/317,945	1999-05-25	149820USMF

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

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	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2008-01-25
Name	C. Irvin McClelland	Registration Number	21124

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 record s.

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

BENMAN & COLLINS
2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES CA 90067

COPY MAILED
SEP 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Marko et al.	:	
Application No. 09/318,031	:	DECISION ON PETITION
Filed: May 25, 1999	:	
Attorney Docket No. XM-0022	:	

This is a decision on the petition under 37 CFR 1.181, filed on July 17, 2006, to withdraw the holding of abandonment.

On November 10, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. On June 19, 2006, the Office mailed a Notice of Abandonment.

Petitioners assert that a proper response was filed timely in the USPTO on February 23, 2006. In support of the petition, petitioner submits a copy of the reply in the form of an amendment, a copy of the request for an extension of time for response within the first month, a copy of the credit card authorization to charge the $120.00 extension of time fee, a copy of their credit card statement showing the charge of $120.00, and a copy of a returned, date-stamped postcard receipt. The postcard receipt acknowledges receipt of an Amendment, a Petition for Extension of Time for One Month, and a Credit Card Authorization Form for $120.00 in the USPTO on February 23, 2006.

The Office has not located the original correspondence; however, the Office finance records reveal a charge to the credit card for $120.00 on February 23, 2006. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on February 23, 2006, but was not matched with the application.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

The Office mistakenly charged petitioners' credit card for a second extension of time fee in the amount of $120.00. This fee will be refunded to the credit card.

This matter is being referred to Technology Center Art Unit 2617 for review of the amendment.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

Paper No. 11

MAIL

MAY 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BENMAN & COLLINS
2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES CA 90067

In re Application of
Paul Marko, et al.
Application No. 09/318,031
Filed: May 25, 1999
For: **INTEROPERABLE SATELLITE DIGITAL AUDIO RADIO SERVICE (SDARS) RECEIVER ARCHITECTURE**

DECISION ON PETITION

This is a decision on the Request to Withdraw the Holding of Abandonment filed March 10, 2005 (duplicate copy filed March 25, 2005), which is being treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application became abandoned for failure to timely reply to a "Notice of Non-Compliant Amendment (37 CFR 1.121)" mailed January 15, 2002. No Notice of Abandonment has been mailed.

Petitioner alleges to have timely filed a proper response, by facsimile on February 7, 2002. In support, petitioner has provided as evidence, a copy of the response and a copy of a facsimile "activity report". A copy of a previous response filed with Certificate of Mailing dated August 14, 2001 and a copies of "Auto-Reply Facsimile Transmission" for communications previously filed on March 10, 2005 and November 17, 2003 were also provided.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(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; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

A review of the correspondence submitted with the request to withdraw holding of abandonment finds evidence of a PTO "Auto-Reply Facsimile Transmission" for correspondence filed on November 17, 2003 and a "Transmittal Form with a Certificate of Mailing" for correspondence filed on August 14, 2001. **However, the copy of the February 7, 2001 response does not include a "Transmittal Form" or any certificate of transmission. Furthermore, although the facsimile transmittal sheet appears to have used a facsimile number that may have been associated with the U.S. Patent and Trademark Office, it does not reflect the Office's official facsimile number.** It is noted that the Activity Report (page 2/36 of the March 10, 2005 request) reflects transmission of 12 pages to an unofficial PTO number; but there is no evidence as to what 12 pages were transmitted. It is also noted that the "Transmission Report" (page 3/36 of the request filed March 10, 2005) only confirms transmission of 2 pages which appears to be only the coversheet and page 6 of the response. Therefore, it cannot be concluded that a complete copy of the 13 page response to the January 15, 2002 Notice of Non-Compliant was timely filed via facsimile transmission in compliance with the requirements of 37 CFR 1.8(a)(1).

Accordingly, the petition is **DENIED**.

The application file is being forwarded to the examiner for mailing of a Notice of Abandonment.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and must include evidence that a complete copy (e.g. all 13 pages, including cover) of the February 7, 2001 response was filed timely filed in compliance with 37 CFR 1.8(a). Alternatively, petitioner may want to consider filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

Petitioner is reminded that the Official Facsimile Number for all incoming correspondence to the Office is (703) 872-9306. Petitioner may want to note this number in order to avoid any future correspondence problems.

Krista Zele
Special Program Examiner
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

BENMAN & COLLINS
2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES, CA 90067

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of Paul Marko, et al. Application No. 09/318,031 Filed: May 25, 1999 Attorney Docket No. XM-0022	: : : : :	ON PETITION

This is a decision on the petition, filed May 31, 2005, 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 a Notice of Non-Compliance Amendment mailed January 15, 2001. A Notice of Abandonment was mailed on May 18, 2005. In response, on May 31, 2005, the present petition was filed.

The application file is being forwarded to Technology Center Art Unit 2681 for consideration of the amendment filed May 31, 2005.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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

BENMAN & COLLINS
2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES CA 90067

COPY MAILED
SEP 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Marko et al.	:	
Application No. 09/318,031	:	DECISION ON PETITION
Filed: May 25, 1999	:	
Attorney Docket No. XM-0022	:	

This is a decision on the petition under 37 CFR 1.181, filed on July 17, 2006, to withdraw the holding of abandonment.

On November 10, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. On June 19, 2006, the Office mailed a Notice of Abandonment.

Petitioners assert that a proper response was filed timely in the USPTO on February 23, 2006. In support of the petition, petitioner submits a copy of the reply in the form of an amendment, a copy of the request for an extension of time for response within the first month, a copy of the credit card authorization to charge the $120.00 extension of time fee, a copy of their credit card statement showing the charge of $120.00, and a copy of a returned, date-stamped postcard receipt. The postcard receipt acknowledges receipt of an Amendment, a Petition for Extension of Time for One Month, and a Credit Card Authorization Form for $120.00 in the USPTO on February 23, 2006.

The Office has not located the original correspondence; however, the Office finance records reveal a charge to the credit card for $120.00 on February 23, 2006. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on February 23, 2006, but was not matched with the application.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

The Office mistakenly charged petitioners' credit card for a second extension of time fee in the amount of $120.00. This fee will be refunded to the credit card.

This matter is being referred to Technology Center Art Unit 2617 for review of the amendment.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/28/06

2 Serial/Patent # 09318031

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time (1251)		07/17/06	$ 120.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 120.00

8 TO BE REFUNDED BY: CREDIT CARD

	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

X	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

Please refund the $120 fee to the credit card

11 REFUND REQUESTED BY: Christina T. Donnell

TYPED/PRINTED NAME: Christina T. Donnell TITLE: Petitions Attorney

SIGNATURE: C T Donnell PHONE: 272-3211

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKHK DATE: 9/29/06

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

OIPE IAP15
JUL 1 7 2006
PATENT & TRADEMARK OFFICE

PTO/SB/22 (08-03)
Approved for use through 7/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional) XM-0022

In re Application of P. Marko	
Application Number 09/318,031	Filed 05/25/1999
For INTEROPERABLE SATELLITE DIGITAL AUDIO RADIO...	
Art Unit 2681	Examiner T. M. Davis

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☑ One month (37 CFR 1.17(a)(1)) $ 120.00
- ☐ Two months (37 CFR 1.17(a)(2)) $
- ☐ Three months (37 CFR 1.17(a)(3)) $
- ☐ Four months (37 CFR 1.17(a)(4)) $
- ☐ Five months (37 CFR 1.17(a)(5)) $

Refund Ref: 09/29/2006 0030034863
Credit Card Refund Total: $120.00
Am Exp..: XXXXXXXXXXX4001

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: $_____.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number_____.

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 29, 014

☐ attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 17, 2006	W. J. Benman
Date	Signature
(310) 553-2400	William J. Benman
Telephone Number	Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 1.14. This collection is estimated to take 6 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.

07/18/2006 SSITHIB1 00000056 09318031
01 FC:1251 120.00 OP

Adjustment date: 09/29/2006 CKNLOK
07/18/2006 SSITHIB1 00000056 09318031
01 FC:1251 -120.00 OP

#17

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

XM-0022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
P. Marko *et al.*	:	Group Art Unit: 2681
Serial No.: 09/318,031	:	Examiner: T. M. Beamer
Filed: 05/25/1999	:	Date: July 13, 2006
For: INTEROPERABLE SATELLITE	:	
	:	

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. 1.181(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Petition under 37 C.F.R. 1.181(a) to Withdraw a Holding of Abandonment.

On February 17, 2006, we filed an Amendment with a request for a one-month extension of time with the United States Patent and Trademark Office along with a Credit Card Authorization Form for $120.

A copy of the postcard acknowledging receipt of the above by the USPTO is enclosed. Also enclosed is a copy of our credit card statement reflecting that the payment amount of $120 was charged to our credit card by the USPTO.

On June 22, 2006, we received a Notice of Abandonment from the USPTO for failure to respond to an Office Action mailed November 11, 2005.

Applicants respectfully submit that the Application was abandoned due to USPTO error as evidenced by the attached copy of the postcard acknowledging receipt on February 23, 2006 of the Amendment and a copy of our credit card statement showing that the USPTO charged the appropriate fee amount to the appropriate credit card account.

Withdrawal of the Holding of Abandonment of the subject Application is hereby requested.

Respectfully submitted,
Paul Marko *et al.*

by _____
William J. Benman
Attorney of Record
Registration No. 29,014

Benman, Brown & Williams
2049 Century Park East, Suite 2740
Los Angeles, CA 90067
(310) 553-2400
(310) 553-2675 facsimile

DAC

JUL 17 2006

IAP15

PATENT & TRADEMARK OFFICE

PTO/SB/21 (08-03)
Approved for use through 07/31/2006. 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.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/318,031
Filing Date	05/25/1999
First Named Inventor	P. Marko
Art Unit	2681
Examiner Name	T. M. Beamer
Attorney Docket Number	XM-0022

Total Number of Pages in This Submission: 17

ENCLOSURES *(Check all that apply)*

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [x] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):
  - -Documentation to Support Pet. (15 pages)
  - -Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Benman, Brown & Williams
Signature	W. Benman
Date	July 13, 2006

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Leigh Christian		
Signature	Leigh Christian	Date	July 13, 2006

This collection of information is required by 37 CFR 1.5. 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 1.14. This collection is estimated to 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.

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office

In re Application of	:	
P. Marko et al.	:	Group Art Unit 2681
Serial No.09/318,031	:	Examiner: T. M. Davis
Filed: May 25, 1999	:	Date: February 17, 2006
For: INTEROPERABLE SATELLITE	:	
DIGITAL AUDIO RADIO SERVICE	:	
(SDARS) RECEIVER ARCHITECTURE	:	

OIPE IAP58
FEB 25 2006
PATENT & TRADEMARK OFFICE

MAIL DATE CANCELLED

including:

- -Transmittal Form
- -Certificate of Mailing
- -Amendment
- -Petition for Extension of Time for One Month
- -Credit Card Authorization Form for $120
- - Stamped, self-addressed postcard to acknowledge receipt of the above

Attorney Docket # XM-0022

BEST AVAILABLE COPY

New Activity Continued

			Amount
01/31/06	FEDEX #833753305257 LOS ANGELES 33612 TO: CLAIRE NEVINS EI	CA	21.5
02/06/06			97.9
02/06/06			73.86
02/08/06			120.00
02/09/06			138.09
02/09/06			3.00
02/10/06			331.30
02/11/06			3.00
02/13/06			3.00
02/16/06			21.98
02/17/06			19.95
02/21/06			18.96
02/23/06			41.75
02/24/06			119.27
02/24/06			16.37
	FOOD-BEV TIP	11.37 5.00	
02/24/06	US PATENT TRADEMARK 703-3054631 GOVERNMENT SERVICES	VA	120.00
02/24/06	INTUIT SOFTWRE SUPP800-446-8848 CMPTR SFTWRE	CA	75.18
02/27			1,919.55

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

08740 R07N1A0G 02400

Continued on reverse

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

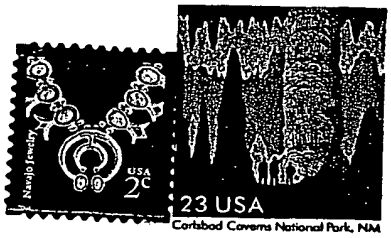
Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office

In re Application of	:	
P. Marko et al.	:	Group Art Unit 2681
Serial No.09/318,031	:	Examiner: T. M. Davis
Filed: May 25, 1999	:	Date: February 17, 2006
For: INTEROPERABLE SATELLITE	:	
DIGITAL AUDIO RADIO SERVICE	:	
(SDARS) RECEIVER ARCHITECTURE	:	

including:

- -Transmittal Form
- -Certificate of Mailing
- - Amendment
- - Petition for Extension of Time for One Month
- - Credit Card Authorization Form for $120
- - Stamped, self-addressed postcard to acknowledge receipt of the above

Attorney Docket # XM-0022



Benman, Brown & Williams
2049 Century Park East
Suite 2740
Los Angeles, CA 90067

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
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.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 120

Complete if Known	
Application Number	09/318,031
Filing Date	05/25/1999
First Named Inventor	P. Marko
Examiner Name	T. M. Beamer
Art Unit	2681
Attorney Docket No.	XM-0022

METHOD OF PAYMENT (check all that apply)

☐ Check ☑ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims _____ - 20 or HP = _____ x Fee ($) _____ = Fee Paid ($) _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims _____ - 3 or HP = _____ x Fee ($) _____ = Fee Paid ($) _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ - 100 = Extra Sheets _____ / 50 = Number of each additional 50 or fraction thereof _____ (round up to a whole number) x Fee ($) _____ = Fee Paid ($) _____

4. OTHER FEE(S) Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount) _____

Other (e.g., late filing surcharge): Petition for Extension of Time for 1 month $120

SUBMITTED BY

Signature	[signature]	Registration No. (Attorney/Agent) 29,014	Telephone (310) 553-2400
Name (Print/Type)	William J. Benman		Date February 17, 2006

This collection of information is required by 37 CFR 1.136. 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 1.14. This collection is estimated to take 30 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.

OIPE IAP15
JUL 1 7 2006
PATENT & TRADEMARK OFFICE

XM - 0022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
P. Marko et al.	:	Group Art Unit 2681
Serial No.09/318,031	:	Examiner: T. M. Beamer
Filed: May 25, 1999	:	Date: February 13, 2006
For: INTEROPERABLE SATELLITE	:	
DIGITAL AUDIO RADIO SERVICE	:	
(SDARS) RECEIVER ARCHITECTURE	:	

AMENDMENT B

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated November 10, 2005, please amend the above-identified Application as follows and consider the accompanying remarks.

IN THE CLAIMS:

1. (Previously Presented) A receiver comprising:

first means for receiving signals in a first band, said first band including multiple carriers;

second means for downconverting said received signals in the first band;

third means for receiving signals in a second band, said second band including multiple carriers;

fourth means for downconverting signals in the second band; and

fifth means for selectively outputting signals from the first band or the second band.

Claims 2 - 3 (Canceled)

4. (Original) The invention of Claim 1 wherein the first band is the XM band.

5. (Original) The invention of Claim 1 wherein the second band is the CD band.

6. (Original) The invention of Claim 1 wherein the first and the third means is a radio frequency antenna.

7. (Original) The invention of Claim 6 wherein the output of the antenna is input to a filter.

8. (Original) The invention of Claim 7 wherein the filter is an image filter.

9. (Original) The invention of Claim 7 wherein the filter is a selectivity filter.

10. (Original) The invention of Claim 6 wherein the second means and the fourth means is a mixer.

11. (Original) The invention of Claim 10 wherein the mixer is driven by a voltage controlled oscillator.

12. (Original) The invention of Claim 11 wherein the voltage controlled oscillator is driven by a synthesizer.

13. (Original) The invention of Claim 12 wherein the fifth means includes a controller.

14. (Original) The invention of Claim 13 wherein the synthesizer is controlled by the controller to cause said receiver to selectively output signals received in the XM band or the CD band.

15. (Original) The invention of Claim 13 further including means for digitizing the output of the mixer.

16. (Original) The invention of Claim 15 further including means for simultaneously receiving first and second ensembles, said first ensemble including a first signal from a first source, a first signal from a second source and a first signal from a third source and said second ensemble including a second signal from said first source, a second signal from said second source and a second signal from said third source.

17. (Original) The invention of Claim 16 further including means for selectively outputting signals transmitted within said first and said second ensembles.

18. (Original) The invention of Claim 15 further including means for outputting an audio signal along with a data signal.

19. (Original) The invention of Claim 1 further including means for outputting an audio signal along with a data signal.

20. (Original) An interoperable receiver comprising:

first means for receiving signals in an XM band;

second means for downconverting said received signals in the XM band;

third means for receiving signals in a CD band;

fourth means for downconverting signals in the CD band; and

control means for selectively outputting signals from the XM band or the CD band.

21. (Original) The invention of Claim 20 further including means for simultaneously receiving first and second ensembles, said first ensemble including a first signal from a first source, a first signal from a second source and a first signal from a third source and said second ensemble including a second signal from said first source, a second signal from said second source and a second signal from said third source.

22. (Original) The invention of Claim 21 further including means for selectively outputting signals transmitted within said first and said second ensembles.

23. (Original) The invention of Claim 22 further including means for outputting an audio signal along with a data signal.

24. (Original) The invention of Claim 20 further including means for outputting an audio signal along with a data signal.

25. (Canceled)

26. (Currently Amended) A receiver comprising:

first means for receiving first and second dissimilar ensembles, each ensemble having multiple carriers on which multiple signals are modulated and

second means for processing said first and said second ensembles to selectively output said signals ~~simultaneously~~.

REMARKS

Claims 1, 4 - 24 and 26 are presently pending. Claims 1, 6 – 10 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang ('750) in view of Chang *et al.*, hereinafter 'Chang', ('307). Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang and further in view of well-known prior art. Claims 20 - 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable under Wang in view of well-known prior art. Claims 11 - 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang and Anderson *et al.* ('750) hereinafter 'Anderson'. Claims 14 - 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, Anderson and well-known prior art. Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, Anderson and Campanella *et al.* ('366), hereinafter 'Campanella'. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, and Campanella. Claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, well-known prior art and Campanella.

For the reasons set forth more fully below, Applicants respectfully submit that the subject Application properly presents Claims patentable over the prior art. Reconsideration, allowance and passage to issue are respectfully requested.

As noted previously, the subject application teaches a novel receiver design by which first and second bands are received, each band having multiple carriers. The novel receiver is particularly well suited for satellite radio applications by which multiple carriers are transmitted within first and second ensembles by first and second satellites and a terrestrial repeater. The invention is set forth in Claims of varying scope of which Claim 1 as amended is illustrative. Claim 1 now recites:

> 1. A receiver comprising:
> first means for receiving signals in a first band, said first band including multiple carriers;
> second means for downconverting said received signals in the first band;
> third means for receiving signals in a second band, said second band including multiple carriers;
> fourth means for downconverting signals in the second band; and
> fifth means for selectively outputting signals from the first band or the second band. (Emphasis added.)

None of the references teach, disclose or suggest the invention as presently claimed. That is, none of the references, taken alone or in combination, teach, disclose or suggest a receiver adapted to receive signals in first and second bands each band having multiple carriers, and **adapted to selectively output signals from the first band or the second band.**

In the above-identified Office Action, the Examiner again relied heavily on Wang while noting that Wang does not teach first and second bands including multiple carriers.

However, the Examiner suggests that this shortcoming is overcome by the teachings of Chang. Chang purports to teach techniques for utilization of bandwidth space assets. The Examiner suggests that at column 5, line 38 through column 6, line 25 Chang discloses a satellite receiver with a spectral band divided into smaller subbands and that this teaching is equivalent to providing subbands with multiple carriers. The Examiner suggests that at the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Wang with the teachings of Chang for the purpose of increasing system capacity to allow more subscribers to simultaneously use the system. However, there are several shortcomings associated with this assertion.

First, there is no reason to combine the teachings of Wang and Chang. Secondly, the combination still falls short. That is, neither reference discloses means for "selectively outputting signals from the first band or the second band" as set forth in the claims. That is, neither reference teaches a receiver adapted to receive first and second bands with multiple carriers and having means for selectively outputting signals from the

first band or second band as presently claimed. Hence the rejection of Claim 1 and the claims dependent thereon are improper and should be withdrawn.

Further, contrary to the assertions of the Examiner, for the reasons set forth above, the teachings of Wang and Chang would not render obvious the use of the invention as an interoperable receiver adapted to receive signals in an XM band and a CD band as set forth further in dependent Claims 4 and 5 and independent Claim 20. With respect to these claims, it is noted that the Examiner rejected the claims, suggesting that these claims were obvious in view of Wang, Chang and well-known prior art. However, the Examiner's position is not supported by the prior art. In this connection, it is noted that the XM frequency plan and the CD frequency plan call for the use of ensembles that are dissimilar to each other. Chang, at best, purports to teach the use of a single symmetrical ensemble. Chang clearly does not teach the reception of dissimilar ensembles as would be required in the interoperable receiver of Claim 20. Hence, the rejection of Claims 4, 5 and 20 are also improper and should be withdrawn.

By this Amendment, Claim 26 has been amended to recite the reception of dissimilar ensembles. Hence, for the reasons set forth above, Claim 26 should be allowable as well.

Reconsideration, allowance and passage to issue are respectfully requested.

Respectfully submitted,
P. Marko et al.

By _____
William J. Benman
Attorney for Applicants
Registration No. 29,014

Benman, Brown & Williams
2049 Century Park East, Suite 2740
Los Angeles, CA 90067

(310) 553-2400
(310) 553-2675 (fax)

OIPE IAP15
JUL 17 2006
PATENT & TRADEMARK OFFICE

PTO/SB/22 (08-03)
Approved for use through 7/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)	Docket Number (Optional) XM-0022
In re Application of P. Marko	
Application Number 09/318,031	Filed 05/25/1999
For INTEROPERABLE SATELLITE DIGITAL AUDIO RADIO...	
Art Unit 2681	Examiner T. M. Davis

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☑ One month (37 CFR 1.17(a)(1)) $ 120.00
- ☐ Two months (37 CFR 1.17(a)(2)) $ _____
- ☐ Three months (37 CFR 1.17(a)(3)) $ _____
- ☐ Four months (37 CFR 1.17(a)(4)) $ _____
- ☐ Five months (37 CFR 1.17(a)(5)) $ _____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: $_____.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number_____.

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 29, 014

☐ attorney or agent under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a) _____.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 17, 2006	W. J. Benman
Date	Signature
(310) 553-2400	William J. Benman
Telephone Number	Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 1.14. This collection is estimated to take 6 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.

07/18/2006 SSITHIB1 00000056 09318031
01 FC:1251 120.00 OP

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.
09/318,031	05/25/1999	PAUL MARKO	XM-0022	9813

7590 06/19/2006

BENMAN & COLLINS
2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES, CA 90067

EXAMINER
BEAMER, TEMICA M

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 06/19/2006

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

Notice of Abandonment	Application No.	Applicant(s)	
	09/318,031	MARKO ET AL.	
	Examiner	Art Unit	
	Temica M. Beamer	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *10 November 2005*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111.. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Temica M. Beamer
TEMICA BEAMER
PRIMARY EXAMINER
10/12/06

Temica M. Beamer
Primary Examiner
Art Unit: 2617

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

This Page is Inserted by IFW Indexing and Scanning Operations and is not part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☑ FADED TEXT OR DRAWING
- ☑ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☑ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☑ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.
As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

FEB - 3 2003

In re Application of)
ZHU et al.)
Application No. 09/318,073)
Filed: May 25, 1999)
For: Thin Film Memory Device Having Local)
and External Magnetic Shielding)

DECISION ON PETITION

This is a decision on the petition filed on May 21, 2002, to withdraw the holding of abandonment based on failure to receive an Office action.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Office letter mailed on August 15, 2001. A Notice of Abandonment was mailed on March 25, 2002.

Petitioner states that the Office letter of August 15, 2001 was never received by counsel, either present or prior, and attests to the fact that a search of the file jacket and docket records indicates that the Office letter was not received. The petition includes a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

In view of the above showing, the Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn.

The Office letter of August 15, 2001 required the ratification of the proposed amendment filed on June 5, 2001. The petition includes a ratification of the proposed amendment. Accordingly, the application file is being forwarded to the technical support staff for Technology Center 2800 for processing the amendment filed on June 5, 2001.

Hien H. Phan, Special Program Examiner,
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-7502

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

HEIDI S NEBEL
ZARLEY MCKEE THOMTE
VOORHEES & SEASE
801 GRAND AVENUE SUITE 3200
DES MOINES IA 50309-2721

COPY MAILED

FEB 2 0 2003

OFFICE OF PETITIONS

In re Application of
Geoffery M. Thiele, Thomas L. McDonald, Dean J. Tuma, Lynell W. Klassen, and Mitchell F. Sorrell
Application No. 09/318,080
Date Deposited: May 25, 1999
Attorney Docket No. P00645US2-63
Title: NOVEL ACETALDEHYDE AND MALONDIALDEHYDE PROTEIN ADDUCTS AS MARKERS FOR ALCOHOL LIVER DISEASE

DECISION ON PETITION

This is a decision on the "Petition for Decision on a Question not Specifically Provided for under 37 CFR §1.182" [1], filed June 6, 2002, requesting that the above-identified application be accorded a filing date of April 8, 1997, with the specification submitted with the instant petition as part of the original disclosure of the application.

The application was filed on May 25, 1999. However, on March 25, 2002, Initial Patent Examination Division (OIPE) mailed a notice stating that the application had not been accorded a filing date, and advising applicants that the application was deposited without a specification. The notice further stated that a new oath or declaration would be required, and that a filing date would be accorded upon the receipt of a specification.

Petitioners allege that the specification was indeed filed with the application[2]. Petitioner further states that the instant application is a divisional of parent application 08/817,018,

1 This is properly treated as a petition under 37 CFR 1.53(b).

2 It is noted that no postcard receipt or declaration of facts has been submitted to support this allegation. Petitioner has included the Utility Patent Application Transmittal (Form PTO/SB/05)to serve as proof that a specification has been submitted. The specifications submitted with the instant petition are 57 and 26 pages in length, and neither contains the claims. PTO/SB/05 states that a 36 page specification was submitted, including the claims. As this does not match what was submitted with this petition, it cannot serve as persuasive evidence.

which has issued as patent number 5,939,535. Petitioner further states that the parent application was incorporated by reference in its entirety into the instant application[3]. Petitioner has further submitted a preliminary amendment, a fifty-seven (57) page specification as originally filed, a statement that the substitute specification contains no new matter, and a twenty-six (26) page substitute specification.

Petitioners have further submitted a copy of the declaration associated with PCT/US96/17833.

Regarding the substitute specification, it has been determined that the MPEP does indeed provide a solution to petitioner's dilemma. The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identified this application as a divisional of prior application No. 08/817,018, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), <u>without the need for a petition</u> provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

Petitioner has correctly supplied a preliminary amendment, which supplies the missing specification for this case. This amendment must be reviewed by the examiner for new matter[4]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

Petitioner has set forth that the 57 specification submitted with the instant petition is a true and exact copy of that which was submitted upon filing. It is further noted that the 26 page specification is an exact copy of the parent's specification. Therefore, the specification which was allegedly included on filing is NOT the same specification as included in the parent. Were it not for petitioner's incorporation by reference of the specification of the parent, this petition would not be granted.

---

3 Petitioner has included a copy of the Utility Patent Application Transmittal, which indicates that the entire disclosure of the parent application is incorporated by reference, and the petitioner has attested on his registration number that the substitute specification which has been supplied contains no new matter.

4 <u>See</u> MPEP 608.02(a).

Regarding the declaration which has been submitted with the petition, it is noted that it is a duplicate of the copy supplied on June 29, 1999. This declaration is the declaration which was filed in the PCT, and as such, it is not clear why this has been submitted. Petitioner is correct in stating that a new declaration is not needed for this divisional, as the specification which has been submitted is identical to that of the parent[5].

For these reasons, the petition under 37 CFR 1.53(b) was not necessary, and is dismissed.

Petitioners have requested that the petition fee of $130.00 be refunded. However, this request will not be granted, as this petition was not necessitated by any error on the part of the Office.

The Application is being forwarded to Technology Center 1600, for consideration of the preliminary Amendment filed with the instant petition.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

5 See 37 C.F.R. 1.53(d).

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

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

AUG 15 2008

In re Patent No. 6,355,656 :
Issue Date: March 12, 2002 :
Application No. 09/318,151 : NOTICE
Filed: May 25, 1999 :
Attorney Docket No. CELG-0121

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

#8

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAY 4 2000

In re Application of

RHODES

Serial No.: 09/318,159

Filing Date: May 25, 1999

DECISION ON
REQUEST TO WITHDRAW
AS ATTORNEY OF RECORD

This is a decision on the request for withdraw as attorney of record filed March 13, 2000.

The request is **GRANTED** to the extent indicated below.

The criteria set forth in Section 402.06 of the Manual of Patent Examining Procedure for attorney or agent withdrawals have been satisfied. Accordingly, it is appropriate to approve the present withdrawal request.

The correspondence address of record has been changed to the address indicated in the present request.

The new correspondence address is: Thomas J. D'Amico, Esq.
Dickstein, Shapiro, Morin & Oshinsky LLP
2101 L Street, N. W.
Washington, D. C. 20037

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111

BWB:bb

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

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3202

#32

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Hitoshi Matsumoto et al :
Application No. 09/318,268 :
Filed: May 25, 1999 :
Attorney Docket No. Q54505

ON PETITION

This is a decision on the petition, filed by facsimile transmission on July 1, 2004, 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 28, 2004 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 (703) 306-5684.

The file will be forwarded to Technology Center AU 2853 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/5/2008

TO SPE OF : ART UNIT 2600 (2682)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,289,792

Attn: John Lee

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within 7 days to: Scanning customer Support

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

***Ok to enter references as req. in cofc?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

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

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

2618

SPE Art

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
www.uspto.gov

Paper No. 23

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED

MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Pitzel et al.	:	
Application No. 09/318,438	:	ON PETITION
Filed: May 25, 1999	:	
Attorney Docket No. REALNT-034A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 16, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 17, 2003. A Notice of Abandonment was mailed on March 3, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2100 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
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

Paper No. 15

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAIL

MAR 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Miyoshi et al.
Application No.: 09/318,445
Filed: May 25, 1999
For: DIGITAL SUBSCRIBER LINE COMMUNICATING SYSTEM

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Allowance was mailed on June 19, 2003, which set a three (3) month statutory period for payment of the Issue fee. In the apparent absence of a timely filed payment of the Issue fee, or other appropriate action, the application was considered abandoned. A notice of abandonment had not yet been mailed.

37 C.F.R. § 1.114 Request for continued examination states in part:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

Subsequent to the expiration of the three month statutory period of time for payment of the Issue fee, a Request for Continued Examination (RCE) was matched with the application and entered into the record. The RCE bears a date stamp entry into the Office of September 18, 2003. Therefore, the record is clear that the RCE was timely filed and the application was ***not abandoned in fact.***

Therefore, although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of abandonment is withdrawn and the application restored to pending status in view of the timely submission of the Request for Continued Examination.

The petition is **GRANTED**.

The application is being forwarded to the examiner for appropriate action.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

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 ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Seiji Miyoshi et al :
Application No. 09/318,445 :
Filed: May 25, 1999 :
Attorney Docket No. FUKA-16.140 :

ON PETITION

This is a decision on the petition, filed January 18, 2005, 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 November 24, 2004 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 N tice of Allowance.[1]

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

The examiner of Technology Center AU 2631 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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).

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
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.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 6,183,740

APPLICATION NO.: 09/318,528

ISSUE DATE : Feb. 6, 2001

INVENTOR(S) : Short et al.

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

Page 1, section "(75) Inventors: Jay M. Short, Rancho Santa Fe; Keith A. Kretz, San Marcos, both of CA (US)" should be changed to –(75) Inventor: Jay M. Short, Del Mar, CA (US)–

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Verenium Corporation (formerly Diversa Corporation)
P.O. Box 910550
San Diego, California 92191-0550

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. 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 1.14. This collection is estimated to take 1.0 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. SEND TO: **Attention Certificate of Corrections Branch, 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.

AUG 2 1 2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080925

DATE : September 25, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 6,183,740

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:

/Nashaat T Nashed/
Supervisory Patent Examiner.Art Unit 1652

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.
09/318,528	05/25/1999	JAY M. SHORT	DIVER1370-3	1553

45975 7590 09/25/2008
VERENIUM C/O MOFO S.D.
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
TUNG, PETER P

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
09/25/2008	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

Lynn Linkowski
Verenium Corporation
Intellectual Property Department

In re Patent No. 6,183,740 Keith A. Kretz
Issue Date: February 6, 2001
Appl No.: 09/318,528
Filed: May 25, 1999
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 6, 2008, to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

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

DATE: Septembre 24, 2008
TO: Certificates of Correction Branch
FROM: Nashaat T. Nashed
Supervisory Patent Examiner
Art Unit 1652, Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 6,183,740 as specified on the attached Certificate.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 6,183,740
Patented: May 25, 2001

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jay M. Short.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

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. 7

DERRICK M. REID
PATENT ATTORNEY
THE AEROSPACE CORPORATION
P.O. BOX 92957 (M1/040)
LOS ANGELES, CA 90009-2957

COPY MAILED

APR 1 5 2004

OFFICE OF PETITIONS

In re Application of
Dafesh et al.
Application No. 09/318,560
Filed: May 26, 1999
Attorney Docket No. D-362

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), originally filed October 8, 2002 (re-faxed on March 8, 2004), 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed December 21, 2001, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 22, 2002. A Notice of Abandonment was mailed on September 10, 2002.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

COPY MAILED

FEB 07 2003

OFFICE OF PETITIONS

McAndrews Held & Malloy
500 W. Madison, Suite 3400
Chicago, IL 60661

In re Application of	:	
C. D. Gollnick et al.	:	
Application No. 09/318,668	:	ON PETITION
Filed: May 25, 1999	:	
Attorney Docket No. 14206US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2003, 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 non-final Office action mailed April 25, 2002, 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 above-identified application became abandoned on July 26, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2683.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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

MAIL
JUL 17 2008
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Christopher C. Winslade
McAndrews, Held & Malloy
500 W. Madison Street, Suite 3400
Chicago IL 60661

In re Application of
GOLLNICK, CHARLES D., et. al.
Application No. 09/318668
Filed: May 25, 1999
Attorney Docket Number: **14206US01**
For: **LOW-POWER MESSAGING IN A NETWORK SUPPORTING ROAMING TERMINALS**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed November 8, 2007, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex Parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the proprietary material submitted March 20, 2007, be expunged from the record. Petitioner states that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document in question will not be available to the public during prosecution.

/Eileen D. Lillis/

Eileen D. Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

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.
09/318,668	05/25/1999	CHARLES D. GOLLNICK	14206US01	1752

7590 05/07/2009
Christopher C. Winslade
McAndrews, Held & Malloy
500 W. Madison Street, Suite 3400
Chicago, IL 60661

EXAMINER
SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
05/07/2009	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

MCANDREWS HELD & MALLOY
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of
GOLLNICK, CHARLES D., et al.
Appl. No.: 09/318,668
Filed: May 25, 1999
For: **LOW-POWER MESSAGING IN A NETWORK SUPPORTING ROAMING TERMINALS**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed November 8, 2007 and resubmitted on March 24, 2009, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that items C27, C28, C29, C119, C120, and C431 listed in the Information Disclosure Statement filed June 3, 2006 be expunged from the record. Petitioner states that the documents were inadvertently submitted and states the failure to obtain their return would cause irreparable harm to Qualcomm (page 3 of the petition filed 3/24/09), and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid in the original petition filed November 8, 2007.

The expunged documents have been closed from public view and will not be returned to applicant.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

__/Doris To/_____
Doris To
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

Paper No. 11

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

COPY MAILED

OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of
Murching et al.
Application No. 09/318,682
Filed: May 25, 1999
Attorney Docket No. 6748-US

ON PETITION

This decision concerns the August 29, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on December 27, 2002 for failure to timely submit a proper reply to the September 26, 2002 non-final Office Action.

The instant petition encloses an "Amendment and Response under 37 CFR 1.111" as reply to the September 26, 2002 non-final Office Action; authorizes the USPTO to charge the $1,300 petition fee to Deposit Account No. 07-0832; and states that the entire delay in filing a proper reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The Office notes, however, that the practitioner signing the instant petition uses a correspondence address different from that in the USPTO record for this application, and does not appear to have a power of attorney for prosecuting this application before the USPTO. While a courtesy copy of this decision is being mailed to this practitioner, all future correspondence on this application will be forwarded to the current address-of-record unless the USPTO is properly instructed otherwise.

The application file is being forwarded to Technology Center 2600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Francis A. Davenport, Esq.
2 Independence Way
Princeton, NJ 08540

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081101

DATE : January 29, 2008

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6,271,957

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:

While this request has been approved, it has been noted that the Patentee should also be changed from "Calvin F. Quate et al." to -- Calvin F. Quate --

(SN 09/318,775)
To: VIRGINIA TOLBERT
703-308-9390 (Ext. 113)

/Ricky L. Mack/
Supervisory Patent Examiner, Art Unit 2873

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 Apr-05

MARK G LAPPIN
MCDERMOTT, WILL AND EMERY
28 STATE STREET
BOSTON MA 02109

COPY MAILED

APR 2 7 2005

OFFICE OF PETITIONS

In re Patent No. 6,102,153	:	
Issued: 15 August, 2000	:	
Application No. 09/318,858	:	ON PETITION
Filed: 26 May, 1999	:	
Atty Docket No. HVAL-111	:	

This is a decision on the petition filed on 21 October, 2004, which is treated as a petition under 37 CFR 1.377 to review the prior refusal of the PTO to accept and record a timely maintenance fee payment for the above-identified patent.

The petition is **granted**.

The patent issued 15 August, 2000. The first maintenance fee could have been paid without a surcharge from 15 August, 2003, though 17 February, 2004, or, with a surcharge, from 18 February through 16 August, 2004.

Petitioners assert that payment of the first maintenance fee was timely submitted to the USPTO. In support, petitioners have supplied a copy of a maintenance fee transmittal letter, identifying the present patent by patent and application number, filing date, and issue date. The letter authorizes the charging of the first maintenance fee to counsel's deposit account and bears a Certificate of Mailing in accordance with 37 CFR 1.8 dated 23 January, 2004.

As such, the showing of record is that the maintenance fee payment was timely submitted. Therefore, the USPTO may accept and record the first maintenance fee payment for the above-noted patent pursuant to 37 CFR 1.377. *See* MPEP 2580.

The payment for the first maintenance fee has also been accepted, by way of this decision. This decision constitutes the fee

acceptance notification for the first maintenance fee. A notice of this decision will be published in the *Official Gazette* in due course.

Since the error in patent identification was not due to that of patentees, no petition fee is due.

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

Paper No. 8

Hunton & Williams, LLP
Intellectual Property Department
1900 K Street, NW - Ste. 1200
Washington, DC 20006-1109

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Banumathy K. Sundhar
Application No. 09/318,883
Filed: May 26, 1999
Attorney Docket No. 57983.000172 (RN11543)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 21, 2002 , 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 above-identified application became abandoned after midnight November 21, 2002.

In response to the non-final Office action, petitioner submitted with the instant petition $1,330 for the petition to revive fee, an amendment and a power of attorney.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The power of attorney filed January 22, 2004 has been accepted and made of record.

The application file is being forwarded to Technology Center 2600 for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 23

BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

AUG 25 2003

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Katayama et al	:	
Application No. 09/319,043	:	ON PETITION
Filed: June 1, 1999	:	
Attorney Docket No. 425-728P	:	

This is a decision on the petition under 37 CFR 1.313(c), filed June 16, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. In this regard, it is noted that the petition was received in the USPTO mail room on June 16, 2003, which was subsequently forwarded to Technology Center 1700. The application and petition were received in the deciding official's office on August 21, 2003, which is after the July 1, 2003 issuance of the instant application into Patent No. 6,586,065. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Note also 1220 *Off. Gaz. Pat. Office* 42 (March 9, 1999), under "Patents to Issue More Quickly after Issue Fee Payment," and 1221 *Off. Gaz. Pat. Office* 14 (April 6, 1999), under "Filing of Continuing Applications, Amendments, or Petitions After Payment of Issue Fee," which states:

> In the event that it is necessary to file a petition under 37 CFR 1.313(b) [now 37 CFR 1.313(c)] to withdraw an application from issue after payment of the issue fee, the PTO strongly recommends that the petition be clearly marked "Petition under 37 CFR 1.313(b)" and be either:
>
> (1) Submitted by facsimile to (703) 308-6916; or
> (2) Hand-carried to the Office of Petitions.

> Otherwise, it is quite possible that the petition will not be brought before the appropriate deciding official before the date the application issues as a patent.
>
> The most common petition under 37 CFR 1.313(b) is a petition under 37 CFR 1.313(b)(5) to withdraw an application from issue for abandonment in favor of a continuing application to permit consideration of an information disclosure statement (IDS) in the continuing application. In this event, applicants are encouraged to file the petition under 37 CFR 1.313(b)(5) with a continued prosecution application (CPA) under 37 CFR 1.53 (d) by facsimile to (703) 308-6916. The petition need not be accompanied by the IDS (if the size of the IDS makes its submission by facsimile impracticable), but the petition should indicate that an IDS will be filed in the CPA if an IDS does not accompany the petition under 37 CFR 1.313(b)(5).

See also MPEP Sections 502 (Post Allowance Correspondence) and 1308.

Since a petition to withdraw the instant application from issue was not granted prior to issuance of the instant application into a patent, the request for continued examination (RCE) filed concurrently with the instant petition is improper and will not be processed. Accordingly, the $750 fee submitted for the RCE, as well as the duplicate petition fees of $130, will be credited to petitioner's Deposit Account No. 02-2448 as authorized.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The patented file is being forwarded to Files Repository.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUN 05 2000

JAY H. MAIOLI
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of HAN MIN-JAE Application No.: 09/319,093 PCT No.: PCT/JP98/04344 Int. Filing Date: 28 September 1998 Priority Date: 02 October 1997 Attorney Docket No.: 6715/57089 For: RECORDING/REPRODUCING DEVICE AND RECORDING/REPRODUCING METHOD	DECISION ON PETITION

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF A DEFECTIVE RESPONSE" filed in the Patent and Trademark Office (PTO) on 05 October 1999, which is treated as a petition under 37 CFR 1.181.

BACKGROUND

On 28 May 1999, prior to the expiration of the 20 month period, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: an English-language translation of the international application and the basic national fee.

On 02 September 1999, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration submitted on 16 August 1999 was not in compliance with 37 CFR 1.497(a) and (b). The accompanying NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicated that the oath/declaration did not list "HAN MIN-JAE" as the inventor on the published application.

On 05 October 1999, applicant filed the present papers requesting, in effect, that the declaration of the inventor filed on 16 August 1999, be accepted on the grounds that the name "TOSHIYA KAN" listed in the international application was incorrect and the inventor's

correct name "HAN MIN-JAE" appears on the declaration filed. Because applicant state that the correction is not a change in inventorship, but rather only a correction of a transliterational error in the inventor's name, the papers will be treated as filed under 37 CFR 1.181. No petition fee is required.

DISCUSSION

A review of the application file reveals that the given name of the applicant is listed in the international application as "TOSHIYA KAN", while the given name is listed in the declaration as "HAN MIN-JAE". Applicant submitted the statement of the Japanese translator who translated the application from Japanese to English. The translator states that he thought that inventor's name translated into "Kan Toshiya" and was later informed that the proper pronunication and spelling of the inventor's name is "Han Min-Jae". He offers the explanation that the "inventor's name could be read differently when translating from Korean to Japanese to English" and that "the U.S. application is based on reading the inventor's name in Korean" concluding that the inventor of this U.S. application is the same person as the inventor of the PCT application. Therefore, the declaration filed 16 August 1999 is hereby accepted, and specifically, the correction of Toshiya Kan to Han Min-Jae is deemed an error of transliteration.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The application will be forwarded to U.S. Designated/Elected Office for further processing. The 35 U.S.C. 371(c) and 102(e) date is 16 August 1999.

Richard R.Cole
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

(703)306-5467

CMK/RRC:cmk

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: APR 8 2004

spg
Paper Number 18

In re application of
Gerold Mahler et al.
Serial No. 09/319,126
Filed: August 23, 1999
For: METHOD FOR STOCKING AND PRESERVING GREEN ROUND WOOD AND SAWN TIMBER

DECISION ON PETITION

This is a response to the PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF NOTICE OF ABANDONMENT, filed November 17, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 30, 2003, for failure to timely file a proper reply to the Office letter mailed April 10, 2003 be withdrawn since the applicants did timely file a reply on October 10, 2003. (A copy of the reply is attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on October 10, 2003 as evidenced by the properly completed Certificate of Mailing thereon and the copy of the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on October 14, 2003. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed April 10, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed October 10, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

JORDAN & HAMBURG
122 EAST 42ND STREET
NEW YORK NY 10168

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

JUL 1 6 2002

OFFICE OF PETITIONS

Applicant: De La Mettrie et al.
Appl. No.: 09/319,204
Filing Date: June 30, 1999
CPA Filed July 17, 2001
Title: COMPOSITION FOR THE OXIDATION DYEING OF KERATIN FIBRES AND DYEING PROCESS USING THIS COMPOSITION
Attorney Docket No.: 5725.0398-00
Pub. No.: US 20020010967 A1
Pub. Date: January 31, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 29, 2002 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request includes mistakes that are not the fault of the Office, which will not be corrected by a corrected publication made by the Office.

Specifically, applicant states that the published application recites "radial", where it should recite "radical". Page 16, line 4 of the application as originally filed shows "radial".

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 the application in 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.

Any request for republication under 37 CFR 1.221(b), should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington, DC 20231

By facsimile: 703-305-8568

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

23 MAY 2000

Benton S. Duffet, Jr.
Burns, Doane, Swecker & Mathis, L.L.P
P.O. Box 1404
Alexandria, Virginia 22313-1404

In re Application of HEED et al. Application No.: 09/319,222 PCT No.: PCT/SE97/01846 Int. Filing Date: 05 November 1997 Priority Date: 09 December 1996 Attorney Docket No.: 003300-570 For: VIEWING INSTRUMENT	DECISION ON REQUEST

This is a decision on applicants' "REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 20 October 1999.

On 03 June 1999, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee. No declaration was filed. On 21 July 1999, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration was required.

On 23 August 1999, applicants filed their response to the Notification of Missing Requirements. On 27 September 1999, a Notification of Acceptance was issued identifying the 35 U.S.C.102(e) and 371(c) date as 23 August 1999. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 03 June 1999.

On 20 October 1999, applicants filed a "REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT." Applicants urge that the Filing Receipt be corrected to indicate a filing date of 23 August 1999, rather than 03 June 1999.

DISCUSSION

37 CFR 1.491 states:

> An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the periods set in § 1.494 or 1.495.

35 U.S.C. 102(e) states:

> A person shall be entitled to a patent unless...
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of 371(c) of this title before the invention thereof by applicant for patent...

37 CFR 1.491 sets forth that the date of entry into the national stage (i.e. the 371 date) is the date when the requirements of 35 U.S.C. 371(c) have been met. Similarly, 35 U.S.C. 102(e) sets forth that the date under 35 U.S.C. 102(e) is the date upon which applicant meets the requirements of 35 U.S.C. 371(c)(1)(2) and (4).

The actual filing date of the present application is considered to be the international filing date, 05 November 1997. The date which appears on the filing receipt as the "FILING DATE" is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed, and which is often referred to as the date under 35 U.S.C. 102(e). A review of the application file reveals that the declaration was filed with the USPTO on 23 August 1999, the date under 35 U.S.C.102(e) upon which the requirements set forth in 35 U.S.C.(c) for entry into the national stage were completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 23 August 1999 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) of that date. (Note MPEP section 1893.03(b)). Thus, the filing receipt in this case is in error and must be vacated.

CONCLUSION

Applicants' request for the issuance of a corrected filing receipt indicating a "Filing Date" of 23 August 1999, is **GRANTED**.

The application will be forwarded to United States Designated/Elected Office for processing in accordance with this decision. Thereafter, it will be returned to Art Unit 2714 for further prosecution.

Richard R. Cole
Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: (703)308-6314
Fax: (703)308-6459

OIPE JC88
DEC 0 4 2002
PATENT & TRADEMARK OFFICE

2800
21/Con
of
Inventorship
P. Walker
1-3

P17856.A15 Application No. 09/319,258

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Motoo ASAI et al.

Group Art Unit: 2827

Appln. No : 09/319,258

Examiner: Jose H. ALCALA

I.A. Filed : December 18, 1997

For : PRINTED WIRING BOARD AND METHOD FOR MANUFACTURING THE SAME

RECEIVED
DEC 16 2002
TC 2800 MAIL ROOM

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 C.F.R. 1.48(b)

RECEIVED
DEC 0 3 2002
OFFICE OF PETITIONS

Commissioner of Patents and Trademarks
Washington, DC 20231

Sir:

Applicants respectfully request that the above-referenced application be amended by deleting the following inventors:

Yoshinori WAKIHARA and Kazuhito YAMADA

Accordingly, Motoo ASAI and Yasuji HIRAMATSU remain as inventors in the present application.

All of the listed inventors were correctly listed on the application as filed. Applicants canceled claims 13-21 and 28-43 in the Amendment Under 37 C.F.R. 1.116 And Request For Withdrawal Of Finality Of Office Action filed November 25,2002, whereby the invention as recited in the pending claims is the result of the inventive contribution of Motoo ASAI and Yasuji HIRAMATSU, and not that of Yoshinori WAKIHARA and Kazuhito YAMADA.

TECHNOLOGY CENTER 2800
DEC 11 2002
RECEIVED

00000013 09319258
130.00 OP

Since the correct inventors were named in the application as originally filed, this amendment is appropriately made in accordance with 37 C.F.R. 1.48(b). Applicants therefore respectfully request that the application be amended as discussed above.

This petition is accompanied by a check including the processing fee of $130.00 set forth in 37 C.F.R. 1.17(i), and accordingly is in full compliance with 37 C.F.R. 1.48(b).

The Commissioner is hereby authorized to credit any overpayment or charge any additional fee to Deposit Account No. 19-0089.

Should there be any questions or comments regarding the foregoing, please contact the undersigned at (703) 716-1191.

Respectfully submitted,
Motoo ASAI et al.

Bruce H. Bernstein
Reg. No. 29,027

Reg No. 33,094

December 3, 2002
GREENBLUM & BERNSTEIN, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

MAIL

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BANNER & WITCOFF
1001 G STREET NW
ELEVENTH FLOOR
WASHINGTON DC 20001-4597

In re Application of:
Macridis et al.
Application No. 09/319,460
Filed: August 9, 1999
For: BANDWIDTH ALLOCATION METHOD AND APPARATUS

DECISION
ON PETITION

This is a decision on the petition filed June 30, 2003 to withdraw the holding of abandonment. No fee is required.

The application is abandoned for failure to timely pay the required issue fee within the three month statutory period from the mailing date of the Notice of Allowance mailed January 28, 2003. A Notice of Abandonment was mailed June 11, 2003.

Petitioner alleges that the Notice of Allowance was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to 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 the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) 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.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the Patent and Trademark Office.

Petitioner has meet requirements (a)-(c) above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED.**

A Notice of Allowability was mailed along with the Notice of Allowance. Since it has been established that the Notice of Allowance was not received, it is presumed that Petitioner also failed to receive the Notice of Allowability. The Notice of Allowance is vacated.

The application file will be forwarded to the Technology Center's technical support staff for issuing a new Notice of Allowance and Issue Fee Due and Notice of Allowability. The period for response will be reset to run from the mailing date thereof.

Allen MacDonald

Allen R. MacDonald, Director
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

Paper No. 17

J GEORG SEKA
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

DEC 1 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masakazu Hishinuma, et al. :
Application No. 09/319,688 :
Filed: June 9, 1999 :
Attorney Docket No. 84776 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2003, 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 non-final Office action mailed March 27, 2002, 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 June 28, 2002.

The application file is being forwarded to Technology Center 1700, Art Unit 1762 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 27

MERCHANT & GOULD
3100 NORWEST CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-4131

COPY MAILED

AUG 2 8 2002

OFFICE OF PETITIONS

In re Application of Houghton, et al. Application No. 09/319,764 Filed: September 9, 1999 Attorney Docket No. 8436.63USWO	:	DECISION ON PETITION

This is a decision on the petition filed on July 16, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed February 16, 2001. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the action, with extensions of time obtainable under §1.136(a). On June 29, 2001, applicants replied with an amendment, made timely by an accompanying petition for a two-month extension of time. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed July 12, 2001). No proper reply having been received and no further extensions of time obtainable, the application became abandoned effective July 17, 2001. A Notice of Abandonment was mailed on August 29, 2001.

With the instant petition, petitioner filed a request for a continued prosecution application (CPA) of the above-identified application under 37 CFR 1.53(d), and met all other requirements for a grantable petition under 37 CFR 1.137(b).

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 person submitting the petition is a registered practitioner. However, 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 (It is noted that the petition includes a statement that the filing of a revocation/appointment of power of attorney is forthcoming). 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 of currently of record until such time as appropriate instructions are received to the contrary.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the CPA, filed July 16, 2002.

The application file is being forwarded to Technology Center 3744 for processing of the CPA and accompanying preliminary amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: YOUNG & THOMPSON
745 SOUTH 23RD STREET
SECOND FLOOR
ARLINGTON, VA 22202

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 14 2003

Director's Office
Group 3700

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

Paper No. 31

In re Application of
HOUGHTON ET AL.
Application No.: 09/319,764
Filed: September 09, 1999

DECISION ON PETITION

This is a decision on petitioner's request filed July 7, 2003, requesting withdrawal of the holding of abandonment of the above-identified application because the applicant did not receive the Office communication mailed on December 17, 2002 at the correspondence address of record.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with Official Gazette Notice 1156 O.G. 53 (November 16, 1993). MPEP 711.03(c)II. While a notice of abandonment has not been mailed, the application is technically abandoned for failure to timely respond to the office action of December 17, 2002.

In view of the above, the holding of abandonment is withdrawn.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

#26

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

DINSMORE & SHOHL
1900 CHEMED CENTER
255 EAST 5TH STREET
CINCINNATI, OH 45202

In re Application of	:
Reto Crameri et al	:
Serial No.: 09/319,806	: PETITION DECISION
Filed: August 19, 1999	:
Attorney Docket No.: 10806-93	:

This is in response to the petition under 37 CFR 1.181, filed November 21, 2003, requesting withdrawal of abandonment based on timely filing of a reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on April 2, 2003, setting a two month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed November 4, 2003. Applicants state that a reply was submitted by facsimile transmission on May 6, 2003, and provide an indication of successful transmission. In view of the evidence presented, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

There is no fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 04-1133, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

JUL 31 2001

OIPE IAP72
MAR 23 2006
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR
INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

JUL 31 2001

Office of the Director
Group 3600

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of
Klaus-Juergen Westermann, et al.
Application No. 09/319,842
Filed: August 9, 1999
For: SUPPORT FOR THE JOINT HINGE OF WIPER BLADE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on April 23, 2001 and supplemented by facsimile on June 21, 2001.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action dated August 28, 2000.

Applicant's petition includes a copy of a response and request for a two-month extension of time, bearing a Certificate of Mailing date of January 29, 2001. A statement by Michael Striker was received within the petition, which attests to the personal knowledge of mailing the response and request for extension of time on the date indicated on the Certificate of Mailing. It is further noted that applicant's extension of time fee was charged to Deposit Account 19-4675 (instead of 14-4675 as indicated in the petition) and was credited to the application. This is acceptable evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Amendment filed with the petition, and then to the Primary Examiner for prompt action on the merits of the application.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.

Al Lawrence Smith, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597

SM/dc: 7/30/01
SM

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

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

In re Application of

Westermann, et al.

Application No. 09/319,842

Filed: August 9, 1999

Attorney Docket No. 686

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 12, 2006.

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

This application was held abandoned on June 4, 2004, after it was believed that no response was received to the Request for Reconstruction Notice under 37 CFR 37 CFR 1.251[1] mailed March 3, 2006. The notice allowed a period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed on June 13, 2006, indicating that a reply to the notice was not received.

The instant petition was filed on July 12, 2006. Petitioner maintains that a proper and timely response to the notice was filed on March 23, 2006. A copy of an Office date-stamped postcard acknowledging receipt of the response was filed with the petition. A review of the application file history also revealed a response to the Request for Reconstruction Notice under 37 CFR 37 CFR 1.251 that was filed March 23, 2006. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

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

The application file is being forwarded to the Office of Patent Publications for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that the Request for Reconstruction Notice under 37 CFR 1.251 was not found in the IFW application file. A record of the notice was found in the USPTO internal database.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 16

Jay L. Chaskin
General Electric Company
3135 Easton Turnpike
Fairfield, CT 06828

COPY MAILED

MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of
Vegeny Nikolaevich et al.
Application No. 09/319,906
Filed: June 14, 1999
Attorney Docket No. RD-25712

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed October 12, 2000, which set a shortened statutory reply period of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on January 13, 2001.

This application is being forwarded to Technology Center AU 1722 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC41
SEP 22 2003
PATENT & TRADEMARK OFFICE

Paper No.
R00190US

COPY MAILED
JUN 24 2002
OFFICE OF PETITIONS

D. PETER HOCHBERG
1940 EAST 6TH STREET
6TH FLOOR
CLEVELAND, OH 44114-2294

In re Application of
Michael Horstmann, et al.
Application No. 09/319,909
Filed: July 15, 1999
Attorney Docket No. FLA-0018

ON PETITION

This is a decision on the petition, filed June 24, 2002, 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 20, 2002, with a Certificate of Mailing dated May 8, 2002 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]

The application is being forwarded to Technology Center AU 1615 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the n w Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* 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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

ARNOLD WHITE & DURKEE
750 BERING DRIVE
HOUSTON, TX 77057-2198

COPY MAILED

JUN 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Patrick Notte et al.
Application No. 09/320,077
Filed: May 26, 1999
Attorney Docket No. SOLU113

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2001, 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 non-final Office action mailed May 5, 2000, 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 above-identified application became abandoned on August 6, 2000.

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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Craig M. Lundell
Howrey, Simon, Arnold & White
P.O. Box 4433
Houston, TX 77210

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

Craig M. Lundell
HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
Houston TX 77057-2198

COPY MAILED

SEP 02 2005

OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION
Patrick Notte et al	:
Application No.: 09/320,077	: UNDER 37 CFR 1.137(b)
Filed: 09/320,077	:
Attorney Docket No.: SOLU113	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee on or before September 4, 2002 as required by the Notice of Allowance and Fee(s) Due, mailed June 4, 2002, which set a statutory period for reply of three (3) months. Additionally, the concurrently mailed Notice of Allowability required the submission of a substitute oath or declaration and corrected formal drawings. Accordingly, the above-identified application became abandoned on September 5, 2002. A Notice of Abandonment was mailed on October 10, 2002.

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 payment of the issue fee, substitute oath/declaration and approved drawings (see attachment); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notices of June 4, 2002 is accepted as having been unintentionally delayed.

In view of the authorization contained in the petition to charge any additional fees, the $1,370 issue fee and $1,370 petition fee have been charged to Deposit Account No.: 01-2508.

Telephone inquiries concerning this decision should be directed to Rafael Bacares at (571) 272-3276 or in his absence, the undersigned at (571) 272-3217.

This matter is being to Publishing Division.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Drafts person's Review Form 948

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/2007

TO SPE OF : ART UNIT 2600 (2616)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,180,831

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file ***(PFW)**, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter changes to claim 4 as requested in C of C?**

Ernest C. White, LIE (703) 308-9390x122.
Certificates of Correction Branch

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:

LYNN FEILD
SUPERVISORY PATENT EXAMINER

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

DEC 17 2004

Technology Center 2100

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

In re Application of:
Paul Evan MATZ, et al.
Application No. 09/320,252
Filed: May 26, 1999
For: METHODS AND APPARATUS FOR EXECUTING A TRANSACTION TASK WITHIN A TRANSACTION PROCESSING SYSTEM EMPLOYING SYMMETRIC MULTIPROCESSORS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 25, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Andre L. Marais
Schwegman, Lundberg, Woessner & Kluth, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR &
ZAFMAN
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

MAILED
DEC 17 2004
Technology Center 2100

In re Application of:
Paul Evan Matz
Application No. 09/320,252
Filed: May 26, 1999
For: METHODS AND APPARATUS FOR EXECUTING A TRANSACTION TASKWITHIN A TRANSACTION PROCESSING SYSTEM EMPLOYING SYMMETRIC MULTIPROCESSORS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 25, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed October 25, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TFC Tower
121 Sough Eighth Street
Minneapolis, MN 55402

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

SCHWEGMAN LUNDBERG WOESSNER & KLUTH P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul Evan Matz et al	:	
Application No. 09/320,252	:	DECISION ON PETITION
Filed: May 26, 1999	:	TO WITHDRAW
Attorney Docket No. 02950.P033	:	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 24, 2006 and resubmitted on April 10, 2006.

The petition 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. 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 cannot be approved because the stated reason for the request is "[D]iscontinuation of attorney/client relationship." This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40.

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

This application is being referred to Technology Center AU 2143.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313
www.uspto.gov

Paper No. 26

Alston & Bird
Bank of America
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

COPY MAILED
SEP 2 2 2003
OFFICE OF PETITIONS

In re Application of	:	
Joel Sternheimer	:	
Application No. 09/320,637	:	ON PETITION
Filed: May 26, 1999	:	
Attorney Docket No. 033339/138407	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed January 13, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 14, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1631 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,756,217	2004-06-29	09/320,793	1999-05-27	5237-000021/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		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

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	/Bryan K. Wheelock/	Date (YYYY-MM-DD)	2010-06-25
Name	Bryan K. Wheelock	Registration Number	31441

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. 6756217
Issue Date: June 29,2004
Application No. 09320793
Filed: May 27,1999
Attorney Docket No. 16391-7267

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 26,2010 ,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 June 26,2010 .
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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APR 17 2003

Paper No. 7

In re Application of
William Vreeland *et al*
Application No. 09/320,822
Filed: May 27, 1999
For: Razor Glide Strip

: DECISION ON PETITION

This is a decision on the petition filed on March 27, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated January 6, 2000. A Notice of Abandonment was mailed on October 24, 2000. The relief requested is pursuant to 37 CFR 1.181, without fee.

The petition under 37 CFR 1.181 is dismissed as having been untimely filed.

Petitioner's attention is invited to MPEP § 711.03(c) which states that if a petition to withdraw a holding of abandonment is not filed within the period stated in 37 CFR 1.181(f), it will be dismissed as untimely filed unless accompanied by the appropriate terminal disclaimer. Petitioner should further note that the requisite terminal disclaimer has certain specific language differing from that found in the typical terminal disclaimer filed to overcome an obvious type double patenting rejection, and should consult MPEP § 711.03(c) for the precise language which would be acceptable in the event that a renewed petition under 37 CFR 1.181 is filed.

It is noted that the record correspondence address of this application is:

Charles W. Almer
Warner-Lambert Company
201 Tabor Road
Morris Plains, NJ 07950

which differs from counsel's address as set forth on the petition. The Morris Plains, New Jersey address is the correspondence address set forth in the originally filed 37 CFR 1.63 declaration of record, and the record does not show that a change of correspondence address was filed. Further, Office assignment records agree with the above record correspondence address.

This matter has relevance in that if the Notice of Abandonment was not received due to petitioners' failure to seasonably inform the Office of a change of correspondence address, then the failure to seasonably file the instant petition cannot be excused on the basis of the failure to receive the Notice of Abandonment and the above mentioned terminal disclaimer must be submitted. See, and compare, MPEP § 711.03(c), at page 700-149, wherein the failure to notify the Office of a change of correspondence address is discussed in relation to 37 CFR 1.137; certainly the discussion there is also applicable with respect to a petition under 37 CFR 1.181 based upon error by the Office. See also MPEP § 601.03 regarding seasonable notification of a change of correspondence address.

In addition, while petitioners refer to copies of a request for a continued prosecution application (CPA), petition for extension of time under 37 CFR 1.136(a), Express Mail label and unstamped postcard receipt provided as Appendix B to the declaration of Raymond D. Thompson which

was attached to the petition, and also refer to Appendix C as containing a copy of the postcard receipt stamped to show that the above mentioned papers were received in the Office on July 5, 2000, the undersigned has found none of the three Appendices mentioned as having been attached to that declaration. Accordingly, when petitioners file a renewed petition under 37 CFR 1.181 (which must be done within two months of the date of this decision pursuant to 37 CFR 1.181(f)) petitioners are advised to include copies of the aforementioned Appendices.

The application is being retained in Technology Center 3700 pending the filing of a renewed petition. If petitioners cannot demonstrate that a change of correspondence address was seasonably filed prior to the mailing of the Notice of Abandonment, then the renewed petition must be accompanied by a terminal disclaimer as discussed above.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Charles W. Almer
Warner-Lambert Company
201 Tabor Road
Morris Plains, NJ 07950

cc: Pfizer, Inc.
Patent Department, MS 8260-1611
Eastern Point Road
Groton, CT 06340

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JUL 22 2003

Paper No. 9

In re Application of
William Vreeland *et al*
Application No. 09/320,822
Filed: May 27, 1999
For: Razor Glide Strip

: DECISION ON PETITION

This is a decision on the renewed petition filed on June 17, 2003 by which petitioners again request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated January 6, 2000. No fee is required for the renewed petition.

The renewed petition is dismissed.

The original petition filed on March 27, 2003, paper No. 6, was dismissed as having been untimely filed under the provisions of 37 CFR 1.181(f). In the decision dated April 17, 2003, paper No. 7, it was pointed out that as a prerequisite to consideration of the merits of the petition, a terminal disclaimer would be required. It was also pointed out that the required terminal disclaimer would have to include certain specific language, and petitioners were advised to consult MPEP § 711.03(c) for the precise language which would be acceptable in the event that a renewed petition under 37 CFR 1.181 were filed.

A review of the renewed petition shows that while the renewed petition has been accompanied by a terminal disclaimer, the terminal disclaimer does not contain the language which is required pursuant to MPEP § 711.03(c). Absent a terminal disclaimer complying with the requirements of set forth in MPEP § 711.03(c), the merits of the petition cannot be reached. The relevant portion of MPEP § 711.03(c) reads (emphasis of the required language is supplied by the undersigned:

"Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may treat an untimely petition to withdraw the holding of abandonment on its merits on the condition that, in any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period between the mail date of the notice of abandonment and the filing date of such petition to withdraw the holding of abandonment. See 37 CFR 1.183 (the Office may suspend or waive the requirements of 37 CFR 1.181(f), subject to such other requirements as may be imposed). **The Office may treat an untimely petition to withdraw the holding of abandonment on its merits in a utility or plant application filed on or after June 8, 1995, on the condition that the petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon that would extend beyond the date 20 years from the filing date of the application, or the earliest application to which the application specifically refers under 35 U.S.C. 120, 121, or 365(c).** In either case, **the terminal disclaimer must also apply to any patent granted on any application that claims the benefit of the filing date of the application under 35 U.S.C. 120, 121, or 365(c).** Such a terminal disclaimer is not required under 37 CFR 1.137(d) because abandonment of an application is a per se failure to exercise due diligence, and as such, an applicant cannot obtain patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by abandonment of the application. Where a petition to withdraw the holding of abandonment is granted, the application is considered to never have been abandoned and, as such, the prosecution delay caused by the treatment of the application as abandoned is not considered a per se failure to exercise due diligence. Thus a terminal disclaimer is required to avoid granting patent term extension under 35 U.S.C. 154(b) due to prosecution delay caused by the treatment of the application as abandoned."

The Power of Attorney and corresponding change of address attached to the renewed petition will be entered. The application is being retained in Technology Center 3700 pending the filing of a renewed petition. The renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Richard R. Michaud
McCormick, Paulding & Hubber LLP
CitPlace II
185 Asylum Street
Harford, CT 06103-3402

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

MAY 13 2004

Paper No. 13

In re Application of
William Vreeland *et al*
Application No. 09/320,822
Filed: May 27, 1999
Attorney Docket No. 6579-371

DECISION ON SECOND
RENEWED PETITION

This is a decision on the second renewed petition filed on April 5, 2004 by which petitioners again request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated January 6, 2000. The second renewed petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The second renewed petition is granted.

On July 22, 2003, a decision was mailed dismissing a renewed petition that had been filed on June 17, 2003. The renewed petition was dismissed because it was not accompanied by a proper terminal disclaimer. On February 12, 2004, a memorandum clarifying terminal disclaimer practice in addressing untimely petitions to withdraw a holding of abandonment was promulgated. That memorandum abrogated the requirement for a terminal disclaimer to be filed in certain applications, and this application no longer is subject to the requirement for a terminal disclaimer as a prerequisite to the grant of **the instant second renewed petition** to withdraw the holding of abandonment. The memorandum is premised on the fact that in certain applications, a delay in filing a petition to withdraw a holding of abandonment will automatically reduce any patent term adjustment. It appears that this application falls in that category **in this instance**, since the application was filed after June 8, 1995 but prior to May 29, 2000 **and** the holding of abandonment did not involve a period during appellate review by the Board of Patent Appeals and Interferences, or an interference proceeding, or a period in which the application was suspended due to a secrecy order. Therefore, the terminal disclaimer accompanying the petition will not be recorded, and the second renewed petition is accepted as timely filed notwithstanding that it was filed more than two months after the date of the July 22, 2003 Decision.

A review of the material filed in support of the second renewed petition shows that a Continued Prosecution Application (CPA) was in fact received in the Office on July 5, 2000 together with a petition for a three month extension of time and the fees for the CPA and extension. Therefore, this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to:

1. Enter the CPA filed on July 5, 2000 and the concurrently filed extension of time. However, the correspondence address will **not** be changed as requested in the CPA papers in view of paper Nos. 10 and 11 already of record. No fees will be charged because they have already been paid

2. Endorse the terminal disclaimer filed on April 5, 2004 into the record as "not entered", and refund the $110.00 fee tendered with the disclaimer.

3. Forward the application to the examiner for action on the CPA filed on July 5, 2000.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Richard R. Michaud
McCormick, Paulding & Hubber
CityPlace II
185 Asylum Street
Hartford, CT 06103-3402

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. 11

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

SEP 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Balraj Singh, et al.
Application No. 09/320,833
Filed: May 26, 1999
For: **PREFETCH STREAMING BUFFER**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment, filed April 9, 2003 pursuant to MPEP §711.03(c)(II) and 37 C.F.R. § 1.181(a), resubmitted via facsimile transmission on June 29, 2004, and further supplemented on August 17, 2004. No fee is required.

On May 24, 2001, the Office mailed a non-final action in the subject application. Applicants' response was timely submitted, with three month extension of time and certificate of mailing, on November 26, 2001. On February 25, 2002 a non-responsive notice was mailed to Applicant due to the fact that the response by Applicant was unsigned. The application was held abandoned for failure to timely submit a response to the Notice of Non-Responsive communication mailed February 25, 2002 (paper No. 6). A Notice of Abandonment was mailed October 18, 2002 (paper No. 8).

Petitioner alleges that the Notice of Non-Responsive communication was not received. In support thereof, the Petitioner attests, within their supplement to the original petition, to a personal search of the file jacket and docket records. Petitioner's original petition stated that the non-responsive notice was not received and further referenced the accompanied docket records, indicating where the correspondence would have been recorded had it been received.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating: (1) that the Office communication was not received by the Practitioner and (2) 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 "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. The petition is **GRANTED.**

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

Petitioner included a signed copy of the original response to the Office action mailed May 24, 2001 with their petition. Therefore, the application will be forwarded to the TC2600's Technical Support Staff for recording the response and preparing a refund of the petition fee received. From there, the application will be forwarded to the examiner for action in appropriate turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

COPY MAILED

FEB 07 2001

OFFICE OF PETITIONS
A/C PATENTS

ON PETITION

BEN D. TOBOR
BRACEWELL & PATTERSON, LP
711 LOUSIANA
SUITE 2900
HOUSTON, TX 77002

In re Application of :
Glover :
Application No. 09/320,950 :
Filed: May 27, 1999 :
Attorney Docket No.: 2797.004 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned July 27, 2000, for failure to timely respond to the non-final Office action mailed April 26, 2000, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed November 7, 2000.

Since this application is revived for purposes of continuity only with the Continued Prosecution Application (CPA) filed January 22, 2001, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced CPA.

This application will be forwarded to Technology Center 1700 for processing of the CPA and Preliminary Amendment filed January 22, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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

Paper No. 34

Bracewell and Patterson
P. O. Box 61389
Houston, TX 77208-1389

COPY MAILED
APR 21 2004
OFFICE OF PETITIONS

In re Application of
John N. Glover
Application No. 09/320,950
Filed: May 27, 1999
Attorney Docket No. 20781.004

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner submitted a Continued Prosecution Application (CPA) as a reply to the outstanding office action on July 2, 2003. 37 CFR 1.53(d)(1) was amended to provide that the prior application of a CPA must be: (1) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, (2) a design application, or (3) the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000. *See Changes to Application Examination and Provisional Application Practice*, final rule: 65 *Fed. Reg.* 50092 (August 16, 2000), 1238 *Off. Gaz. Pat. Office* 13 (September 5, 2000); interim rule: 65 *Fed. Reg.* 14865, 14872 (March 20, 2000), 1233 *Off. Gaz. Pat. Office* 47, 52 (April 11, 2000). Applicant submitted an earlier CPA on January 22, 2001. Accordingly, a CPA of this application is not permitted under 37 CFR 1.53(d)(1) and the improper request for a CPA is being treated as a request for continued examination (RCE) under 37 CFR 1.114 as petitioner has requested in the instant petition. See *id.* at 14866, 1233 *Off. Gaz. Pat. Office* at 48. In view thereof, the amendment filed November 10, 2003 will be considered as the submission required by 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700 processing of the RCE.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
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

BEN D. TOBOR
BRACEWELL & PATTERSON, LLP
P.O. BOX 61389
HOUSTON, TX 77002

COPY MAILED

NOV 28 2008

OFFICE OF PETITIONS

In re Application of :
John N. Glover :
Application No. 09/320,950 :
Filed: May 27, 1999 :
Attorney Docket No. 2797.004 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2008, 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 August 27, 2007. 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). A three (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 28, 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 of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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 $1115 extension of time submitted with the petition on September 29, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1797 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.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Ben D. Tobor
1000 Louisiana Street, Suite 1800
Houston, TX 77002

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

COPY MAILED

AUG 14 2006

OFFICE OF PETITIONS

MERLE W. RICHMAN, III
P.O. BOX 3333
LA JOLLA, CA 92038

In re Application of	:
McNeill, et al.	: DECISION GRANTING PETITION
Application No. 09/321,351	: UNDER 37 CFR 1.137(b)
Filed: May 27, 1999	:
Atty. Dkt. No.: NU-027-PAP	:

This decision is in response to the petition under 37 CFR 1.137(b), filed May 5 2006.

The petition is **GRANTED**.

The above-identified application became abandoned May 9, 2005 for failure to timely submit a proper reply to the non-final Office action mailed February 8, 2005. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 5, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (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 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 2600.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

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

MCI INC
1133 19TH STREET NW
4TH FLOOR
WASHINGTON, DC 20036

COPY MAILED

SEP 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Karl Henderson et al	:	
Application No. 09/321,387	:	ON PETITION
Filed: May 27, 1999	:	
Attorney Docket No. RIC-97-123	:	

This is a decision on the petition under 37 CFR 1.313, filed September 20, 2005, which is being treated 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 19, 2005 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

VERIZON
PATENT MANAGEMENT GROUP
1514 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON, VA 22201-2909

COPY MAILED

MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Karl Henderson, et al.	:	
Application No. 09/321,387	:	ON PETITION
Filed: May 27, 1999	:	
Attorney Docket No. RIC-97-123	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 12, 2006, 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 14, 2006, 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]

It is noted that the address given on the petition slightly differs from the address of record. If appropriate, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

---

[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).

The application is being referred to Technology Center AU 2614 for further processing of the request for continued examination under 37 CFR 1.114 filed May 12, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EDEN U.I. STRIGHT
MCI, LLC
1515 COURTHOUSE ROAD, SUITE 500
ARLINGTON, VA 22201-2901

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

ALERT SERVICES INC
PO BOX 1088
SAN MARCOS TX 78667

COPY MAILED

MAR 03 2009

OFFICE OF PETITIONS

In re Patent No. 6,220,610
Lem L. Cox
Issue Date: April 24, 2001
Application No. 09/321,414
Filed: May 28, 1999

DECISION ON PETITION

This is a decision on the letter filed November 14, 2008, requesting a refund of a maintenance fee paid in patent No. 6,200,610.

The petition is **GRANTED**.

The above-identified patent issued April 24, 2001. Accordingly, the second maintenance fee could have been paid during the period from April 24, 2008 through October 24, 2008 without surcharge. Patentee paid $1,180 for the maintenance fee on April 30, 2008. However, patentee erroneously reference Patent No. 6,200,610. On October 1,2008, Patentee paid $1,240 for the second maintenance fee, this time correctly referencing Patent No. 6,220,610.

37 CFR 1.26(a) states that "The Director may refund any fee paid by mistake or in excess of that required". In addition, MPEP 2532 states:

> In the event a maintenance fee is submitted (hereafter, duplicate payment) in the required amount (including any necessary surcharge) within the payment window for the patent identified

for payment, but the same maintenance fee for that patent was already paid by a previous fee submitter (hereafter, first fee submitter), the Office intends to treat the duplicate from the second fee submitter as follows:

(A) If the duplicate payment does not comply with 37 CFR 1.366(c) by not containing both the patent number and the corroborating application number, the Office will return the duplicate payment to the second fee submitter with an indication that the maintenance fee for the patent was already paid.

(B) If the duplicate payment does comply with 37 CFR 1.366(c) by containing both the patent number and the corroborating application number, the Office will verify that the first payment was properly processed.

(1) If the first payment was properly processed, the Office will return the duplicate payment to the second fee submitter. In this event the returned payment will be accompanied by identification of the first fee submitter.

(2) If a review of the Office record of the first maintenance fee payment reveals that the first payment was not properly processed (e.g., did not comply with 37 CFR 1.366(c) or was not specially accepted in accordance with MPEP § 2530), the Office will attempt to determine whether the first payment should have been applied to a patent other than the patent identified under 37 CFR 1.366(c) by the second fee submitter. Based on this determination the Office will: (a) attempt to apply the duplicate payment (and retract the first payment); or (b) return the duplicate payment to the second fee submitter with identification of the first fee submitter.

Based on B(2) above, the Office is refunding the $1,180 paid on April 30, 2008. The refund will be submitted under separate cover.

The file is being forwarded to Files Repository.

Telephone inquiries specific to this decision may 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

MAILED

JUL 20 2006

Technology Center 2100

#15

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

In re Application of: Donghui QU Application No. 09/321,611 Attorney Docket No. 2925-0272P Filed: May 28, 1999 For: METHOD AND APPARATUS FOR CALCULATING THE REMAINDER OF A MODULO DIVISION	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, filed July 31, 2002 and resubmitted on June 27, 2006, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. The instant application was held abandoned for failure to timely pay the issue fee due in response to the Notice of Allowance and Fee(s) Due (PTOL-85) mailed March 12, 2002. The three-month statutory period for response expired on June 12, 2002. A notice of abandonment was mailed on July 23, 2002.

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance and Fee(s) Due was not received and that a search of the file jacket and docket records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, before **REDATING and REMAILING** the Notice of Allowance and Issue Fees Due to Applicant.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

COPY MAILED

JUL 05 2007

OFFICE OF PETITIONS

In re Application of
Anthony J. Nadalin, et. al.
Application No. 09/321,788
Filed: May 27, 1999
Attorney Docket No. AT9-99-081

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 17, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned after midnight November 17, 2004. See MPEP 1215.04.

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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Office acknowledges receipt of $1,500 for the petition fee and an appeal brief filed on October 24, 2006. However, petitioner failed to submit the required appeal brief fee of $500. Since the general authorization filed on October 24, 2006 only authorized a charge for fees required under 37 CFR 1.16 and 1.17, the $500 appeal brief fee could not be charged to the listed deposit account. Therefore, revival of the above application cannot occur until the $500 fee has been received.

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) 272-3226.

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

COPY MAILED
DEC 06 2007
OFFICE OF PETITIONS

In re Application of	:	
Anthony J. Nadalin, et. al.	:	
Application No. 09/321,788	:	ON PETITION
Filed: May 27, 1999	:	
Attorney Docket No. AT9-99-081	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on September 5, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an appeal brief and $500 fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2132, for further processing.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

JOHN W. BAILEY
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH , VA 22040-0747

MAIL

JUL 05 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Katsusuke Shimazaki, et al.
Serial Number: 09/321,795
Filed: May 28, 1999
For: A METHOD FOR RECORDING AND REPRODUCTION ON A MAGNETO-OPTICAL RECORDING MEDIUM

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment for the above-identified application, filed April 27, 2001.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed March 15, 2000. A Notice of Abandonment was mailed on April 9, 2001.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner has submitted, *inter alia*, a copy of the reply filed on July 17, 2000 and a date-stamped post card receipt evidencing receipt of the response on July 17, 2000.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Since no fee is required for a petition to withdraw the holding of abandonment, no fee has been charged.

The application file will be forwarded to the examiner for consideration.

James L. Dwyer, Director
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

MAIL

Paper No. 9

SEP 2 1 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of: Frank, et al. Application No. 09/321,990 Attorney Docket No. ORA99-07 (OID-1999-63-01) Filed: May 28, 1999 For: SYSTEM FOR EXTENDING AN ADDRESSABLE RANGE OF MEMORY	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the petition, filed February 9, 2004 requesting the Withdrawal of the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. This application was held abandoned for failure to timely respond to the Office action mailed November 12, 2002 (Paper No. 6). A Notice of Abandonment was mailed on August 8, 2003 (Paper No. 7).

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Office action of November 12, 2002 was not received and that a search of the file jacket and document records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the Holding of Abandonment and to restore the application to pending status, before redating and remailing the Office action of November 12, 2002.

Telephone inquiries should be directed to the undersigned at (703) 308-0885.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100, Computer Architecture, Software, and Information Security

9/10/04

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

MAIL Paper No. 15

OCT 06 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BAKER BOTTS L.L.P.
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON TX 77002-4995

In re Application of:
Avinoam RUBINSTAIN, et al.
Application No. 09/322,062
Filed: May 27, 1999
For: HIGH DATA RATE ETHERNET TRANSPORT FACILITY OVER DIGITAL SUBSCRIBER LINES

DECISION ON PETITION

This is a response to the petition for withdrawal of the holding of abandonment, filed April 12, 2004. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the Office action mailed December 4, 2002, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on March 22, 2004.

Petitioner alleges to have timely filed a response to the Office action on June 4, 2003. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of June 4, 2003. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that an 11 page document from Petitioner was received in the U.S. Patent and Trademark Office on June 4, 2003.

37 C.F.R. § 1.8(b) states that 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 Patent and Trademark Office, and the application is held to be abandoned or the proceeding 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 Commissioner 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.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entry of the response and for charging petitioner's deposit account No. 13-2490 $930 for a three month extension of time included with the response. From there, the file will be forwarded to the examiner for consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

Wagner Murabito & Hao
Two North Market Street, Third Floor
San Jose, CA 95113

COPY MAILED
NOV 1 2 2002
OFFICE OF PETITIONS

In re Application of
Kenneth Araujo
Application No. 09/322,114
Filed: May 27, 1999
Attorney Docket No. 3COM-2108.RAPD.US.P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2002, 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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 2001, which set a shortened statutory reply period of three-months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on April 1, 2002.

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) and (3).

As to item (1), The instant petition was accompanied by a request for continued examination (RCE) under the provisions of 37 CFR 1.114 and no submission. However, the filing of the RCE was improper since prosecution in the application had not closed. Prosecution in an application is closed when an application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application. Since the non-final Office action of December 31, 2001 did not close prosecution, the filing of an RCE was improper. Accordingly, the RCE filed on October 1, 2002 will not be processed. In view thereof, the $740 RCE fee, the $450 total claims fee and the $252 fee for independent claims will be refunded to petitioner's deposit account. The response required for a grantable petition to revive in this case must be either an Amendment, a Request for Reconsideration, or a Continuing Application. See MPEP section 711.03(c).

As to item (3), 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition will be construed as the statement required by 37 CFR 1.137(b) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

In order to expedite a decision on the petition, petitioner may wish to submit the response to the address indicated below and to the attention of the undersigned.

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

By mail: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

Wagner Murabito & Hao
Two North Market Street
Third Floor
San Jose, CA 95113

COPY MAILED
MAR 2 4 2003
OFFICE OF PETITIONS

In re Application of
Kenneth Araujo
Application No. 09/322,114
Filed: May 27, 1999
Attorney Docket No. 3COM-2108.RAPD.US.P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2152.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
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 WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/322,174
Filing Date	June 6, 1995
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	600204509-6

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700
1-3-06

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [x] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[x] The address associated with Customer Number: 022879

OR

[ ] Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone				Fax	
Signature	William H. Dippert				
Name	William H. Dippert, Esq.		Registration No.	26,723	
Date			Telephone No.	(212) 790-9200	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. 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.

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 Jul-05

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

JUL 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Hirohiko Itoh	:	
Application No. 09/322,177	:	ON PETITION
Filed: 28 May, 1999	:	
Atty Docket No. 35.G1549-CI	:	

This is a decision on the petition under 37 CFR 1.182, filed on 22 June, 2004, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120.

The Office apologizes for the delay in responding to the present petition.

The petition is **DISMISSED**.

The record discloses that a request for a Continued Prosecution Application (CPA) was filed on 4 October, 2002. Pursuant to the provisions of 37 CFR 1.53(d)(1)(v), a request for a CPA is a request to expressly abandon the prior application as of the filing date of the request. A request for a CPA is the specific reference required by 35 U.S.C. § 120 to every application assigned the application number; however, the prior application failed to make a specific reference to the prior-filed application, namely Application No. 08/528,423, filed on 12 March, 1998, prior to the abandonment thereof. Petitioner now requests that the prior abandoned application be amended by inserting a reference to the earlier-filed applications. On 16 June, 2004, the issue fee in the present application was paid. On 22 June, 2004, petitioner filed an amendment to include a reference to the prior-filed application in the first line of the specification following the title of the invention.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to 29 November,

2000, to include the benefit of an earlier filing date for purposes other than prosecution.[1]

The petition must be dismissed, however, because the issue fee was paid 16 June, 2004, prior to the filing of the amendment on 22 June, 2004. Pursuant to 37 CFR 1.312, no amendments may be entered after payment of the issue fee.[2]

Petitioner may wish to consider filing a request to withdraw the application from issue and a Request for Continued Examination, along with a submission under 37 CFR 1.114.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 06-1205, as authorized in the present 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) 272-3231
Attn: Office of Petitions

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

---

[1] See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (D.C.D.C. 1976).

[2] 37 CFR § 1.312. No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. **Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee**, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue. Id (Emphasis added).

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 Sep-05

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

SEP 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Hirohiko Itoh	:	
Application No. 09/322,177	:	ON PETITION
Filed: 28 May, 1999	:	
Atty Docket No. 35.G1549-CI	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed on 26 August, 2005, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120.

The petition is **GRANTED**.

The record discloses that a request for a Continued Prosecution Application (CPA) was filed on 4 October, 2002. Pursuant to the provisions of 37 CFR 1.53(d)(1)(v), a request for a CPA is a request to expressly abandon the prior application as of the filing date of the request. A request for a CPA is the specific reference required by 35 U.S.C. § 120 to every application assigned the application number; however, the prior application failed to make a specific reference to an earlier-filed application, namely Application No. 08/528,423, filed on 14 September, 1995, prior to the abandonment thereof. Petitioner now requests that the prior abandoned application be amended by inserting a reference to the earlier-filed application. On 16 June, 2004, the issue fee in the present application was paid. On 22 June, 2004, petitioner filed an amendment to include a reference to the prior-filed application in the first line of the specification following the title of the invention.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to 29 November,

2000, to include the benefit of an earlier filing date for purposes other than prosecution.[1]

Upon reconsideration, based on the circumstances of this case, the request will be granted.

In view thereof, the request for entry of an amendment to insert a reference to the above-noted earlier-filed applications is granted.

The application is being referred to Technology Center Art Unit 2624 for entry of the amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] See Sampson v. Commissioner of Patents and Trademarks 195 USPQ 136 (D.C.D.C. 1976).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/322177

Paper No.: _____

DATE : 2-16-06

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 6963410

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:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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 (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

check Ref

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 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** 2625

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: US 6,963,410 B2

DATED: NOVEMBER 8, 2005

INVENTOR(S): HIROHIKO ITOH

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

COVER PAGE [56] US PATENT DOCUMENTS

Insert --5,200,830	4/1993	Imaizumi, et al.	358/296
5,206,735	4/1993	Gauronski, et al.	358/296
5,257,115	10/1933	Takayanagi	358/43
5,260,742	11/1993	Kikkawa	393/83
5,262,851	11/1993	Nakatani, et al.	358/500
5,270,775	12/1993	Suzuki	355/204
5,287,203	2/1994	Namizuka	358/443
5,349,448	9/1994	Hirai	358/444
5,377,016	12/1994	Kashiwagi, et al.	358/403
5,506,692	4/1996	Murata	358/442
5,815,280	9/1998	Ohmura et al.	358/296
4,705,393	11/1987	Ito	355/14
4,719,516	1/1988	Nagashima	358/444
4,963,932	10/1990	Horvath	399/185
4,975,738	12/1990	Senma, et al.	355/77
4,990,941	2/1991	Kawai	346/153.1
4,990,954	2/1991	Higashio et al.	399/83
5,043,762	8/1991	Iwaki et al.	399/81
5,091,746	1/1992	Watanabe	355/202
5,175,632	12/1992	Hayashi et al.	358/401--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 6,963,410 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)
NY_MAIN549573 v1

FEB 6 2006

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: US 6,963,410 B2

DATED: NOVEMBER 8, 2005

INVENTOR(S): HIROHIKO ITOH

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

COVER PAGE [56] FOREIGN PATENT DOCUMENTS

Insert --JP 56-164673 12/1981
JP 59-223463 12/1984
JP 4-256971 9/1992--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 6,963,410 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)
NY_MAIN549573 v1

EFR 6 2006

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

DEC -8 2004

Paper No. 9

In re Application of	:
Marcello Quadrana	:
Application No. 09/322,248	: DECISION ON PETITION
Filed: May 28, 1999	:
Attorney Docket No 23786/DOB/rf	:

This is a decision on the petition filed by facsimile transmission on September 24, 2004, by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated December 17, 1999. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that a proper reply to the Office letter in question was in fact filed by facsimile transmission on June 16, 2000. Petitioner further alleges that the reply was timely by reason of a concurrently filed petition for a three month extension of time that authorized the then applicable three month extension fee of $435.00 to be charged to Deposit Account No. 13-3860. Petitioner has supported this allegation by furnishing a copy of these papers. The papers each have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated June 16, 2000, a date within the period set for filing a reply to the Office letter in question as extended by three months. It is clear from this evidence that the application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on June 16, 2000, and treatment of the concurrently filed petition for extension of time including charging the above noted deposit account for the fee. Thereafter, the application will be forwarded to the examiner for immediate action on the reply filed on June 16, 2000.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Daniel O'Byrne
Via del Parione, 8
50123 Firenze - ITALY

VIA AIR MAIL

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. 20

MODIANO & ASSOCIATI
Via Meravigli, 16
20123 MILAN
ITALY

COPY MAILED
AUG 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Marcello Quadrana	:	
Application No. 09/322,248	:	ON PETITION
Filed: May 28, 1999	:	
For: Food Grinder	:	

This is in response to the "REQUEST FOR REMAILING OF NOTICE OF ALLOWANCE AND CONDITIONAL PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" filed June 8, 2006. This paper signed by the attorney of record is also being treated as a request for change of correspondence address.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed April 25, 2005. A courtesy Notice of Abandonment was mailed on June 13, 2006.

Petitioner requests that the Office re-date and mail the Notice of Allowance (and Allowability) on the basis that the Notices mailed April 25, 2005 were mailed to the wrong address of paper No. 4. Petitioner further requests that the Office withdraw any holding of abandonment on the basis of the Office's failure to correctly mail the Notice of Allowance to the correspondence address filed with paper No. 5.

Petitioner's arguments have been considered, but not found persuasive. A review of the application record reveals that pursuant to the authorization of agent filed by sole inventor Marcello Quadrana on June 21, 2000 (Paper No. 4), all previous powers of attorney were revoked, patent agent Daniel O'Byrne was appointed to prosecute the application and the correspondence

address was changed to the address used to mail the Notices mailed April 25, 2005. Subsequently, on June 29, 2000, revoked attorney Albert Smith filed a request to withdraw and a change of correspondence address. This request was made by attorney Smith and was not signed by sole inventor Quadrana. Thus, given the prior revocation of power of attorney, attorney Smith's request to change the correspondence address was ineffective. Attorney Smith was no longer attorney of record for applicant, and thus, could not change the correspondence address. See 37 CFR § 1.33(a). Thus, the correspondence address remained that requested by sole inventor Quadrana in the paper filed June 21, 2000. The application record has been carefully reviewed. No prior request for change of correspondence address to the address cited in this request filed June 8, 2006, made by agent of record O'Byrne or inventor Quadrana is present in the record.

A review of the record reveals that the Notice of Allowance was mailed to the correspondence address of record properly in effect on the day of mailing. In this context, on April 25, 2005, the Notice of Allowance was mailed to the uncorrected correspondence address of record, but was not received by petitioner at the address he had intended to, but never did, make of record in the application.

In view thereof, abandonment for failure to timely respond to the Notice of Allowance mailed to the correspondence address of record was proper. Non-receipt of the Notice of Allowance is properly attributed to the failure to file a change of correspondence address by a proper party. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration 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 not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

Further correspondence with respect to this decision 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

The instant request for change of correspondence address is acknowledged and made of record.

Telephone inquiries concerning 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 22

MODIANO & ASSOCIATI
Via Meravigli, 16
20123 MILAN
ITALY

COPY MAILED

JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Marcello Quadrana	:	
Application No. 09/322,248	:	DECISION ON
Filed: May 28, 1999	:	PETITION
For: Food Grinder	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF DISMISSED PETITION AND PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT AND REQUEST FOR REMAILING OF NOTICE OF ALLOWANCE filed October 23, 2006.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed April 25, 2005. A courtesy Notice of Abandonment was mailed on June 13, 2006.

By decision mailed August 21, 2006, the initial petition filed June 8, 2006 was dismissed. Petitioner failed to show that there was an error in the mailing of the Notice of Allowance warranting withdrawal of the holding of abandonment. The evidence of record showed that the Notice was properly mailed to the uncorrected correspondence address of record.

On instant renewed petition, applicant submitted persuasive evidence that a revocation of power of attorney and change of correspondence address signed by the sole inventor (with a copy signed by an appointed agent) were filed on July 11, 2000. This evidence included a date-stamped and itemized return postcard. However, the Notice was not mailed to this corrected address.

Given this additional evidence, it is concluded that withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed June 13, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3962 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance and Fee(s) Due (and the Notice of Allowability) mailed April 25, 2005 and for restarting of the period for reply.

Telephone inquiries related 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

MAIL

MAR 07 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WAGNER, MURABITO & HAO LLP
Two North Market Street,
Third Floor
San Jose, California 95113

In re Application of:
REAGAN ET AL.
Application No.: 09/322,259
Filed: May 28, 1999
For: IMPROVED VOCODER METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney filed February 11, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

The following attorney(s) are withdrawn from the record: James P. Hao, Anthony C. Murabito, John P. Wagner, Glenn D. Barnes, Thomas M. Catale, Jose S. Garcia, Kenneth N. Glass, Lin C. Hsu, Mehlin Dean Matthews, Ronald M. Pomerenke, John F. Ryan, William A. Zarbis, Matthew J. Blecher and Lawrence R. Goerke.

It is noted that Wilfred H. Lam and Patrick W. Ma are still of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

cc: Philips Electronics North American Corporation.
1251 Avenue of the Americas
New York, N.Y. 10020-1104

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

PHILIPS ELECTRONICS NORTH AMERICAN CORPORATION
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1104

COPY MAILED

APR 0 4 2002

OFFICE OF PETITIONS

In re Application of Reagan, et al. Application No.: 09/322,259 Filed: May 28, 1999 Attorney Docket No. PHA 51214 (new)/ VLSI-3410 (former) FOR: IMPROVED VOCODER METHOD	DECISION GRANTING PETITION

This is a decision on the petition entitled "PETITION TO SECURE FILING DATE AS OF MAILING DATE VIA EXPRESS MAIL," filed January 22, 2002 (certificate of mailing date December 28, 2001), requesting that the above-identified application be accorded a filing date of May 28, 1999, instead of the presently accorded date of May 28, 1998. The petition will be treated under 37 CFR 1.10(c).

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service, on May 28, 1999. In support, petitioners provided a copy of the Express Mail label, receipt no. EI214993063, showing a Date-In of May 28, 1999. The same Express Mail receipt number was referred to in the original Application Transmittal Letter submitted with the initial filing. Petitioners request that the application be accorded a filing date of May 28, 1999.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 28, 1999.

In view of the above, the petition is granted.

Pursuant to petitioners' authorization, deposit account no. 23-0085 will be credited the $130.00 petition fee.

A courtesy copy of this decision will be mailed to the former attorney of record who filed the instant petition.

The application will be returned to the Office of Initial Patent Examination for correction of Office records to show that the filing date of the instant application is May 28, 1999 and mailing of a corrected filing receipt.

Thereafter, the application will be returned to Technology Center 2600 for consideration of the Amendment filed March 6, 2002 (certificate of mailing date February 25, 2002).

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WAGNER, MURABITO & HAO, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

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

Date : November 24, 2007

Patent No. :7,106,372
Inventor(s) :Bell et al.
Issued :September 12, 2006
Title :METHOD AND APPARATUS FOR PROGRAMMABLE COLOR BALANCE
:IN AN IMAGE SENSOR
Doc/.File No. :

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.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's names and addresses. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 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 PETITIONS
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia B. Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Blakely, Sokoloff, Taylor & Zafman
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

CBN/arg

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. 6377269
Issue Date: April 23,2002
Application No. 09322447
Filed: May 28,1999
Attorney Docket No. 0305MH-29672

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 11,2010 .
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)
6377269	2002-04-23	09322447	1999-05-28	0305MH-29672

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

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	/jamesewaltonpat/	Date (YYYY-MM-DD)	2010-05-11
Name	James E. Walton	Registration Number	47245

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.

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)
6776944	2004-08-17	09322585	1999-05-28	13021-123

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

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	/Michael N. Spink/	Date (YYYY-MM-DD)	2008-08-20
Name	Michael N. Spink	Registration Number	47107

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 record s.

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. 6776944
Issue Date: August 17,2004
Application No. 09322585
Filed: May 28,1999
Attorney Docket No. P-2590-1/TAC

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 20,2008 ,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 20,2008 .
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
www.uspto.gov

In re Patent No. 6172040
Issue Date: January 9,2001
Application No. 09322700
Filed: May 28,1999
Attorney Docket No. P01-42718

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 June 5,2009 .
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)
6172040	2001-01-09	09322700	1999-05-28	National Beef - J. Craft

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

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	/Jeffrey Craft/	Date (YYYY-MM-DD)	2009-06-05
Name	Jeffrey Craft	Registration Number	30044

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

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

COPY MAILED
MAY 1 1 2006
OFFICE OF PETITIONS

In re Application of :
Peter HILDEBRANDT et al. :
Application No. 09/322,715 :
Filed: May 28, 1999 :
Attorney Docket No. GR98P4106 :

ON PETITION

This is a decision on the petitions, filed October 9, 2002 and resubmitted January 11, 2006, requesting withdrawal of the Notice of Abandonment mailed July 26, 2005 under the provisions of 37 CFR 1.8(b), and the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application.

The petition under 37 CFR 1.8(b) is **DISMISSED**.

Petitioner requests the Notice of Abandonment mailed July 26, 2005 for failure to respond to the Notice of Allowability mailed May 16, 2002 be withdrawn as petitioner timely filed a response. As evidenced by the attached post card receipt and issue fee payment with a certificate of mailing date of August 16, 2002 a response was timely entrusted to the mails and received at the USPTO on August 26, 2002. However, the evidence of record indicates that corrected drawings as required in the Notice of Allowability were not filed.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed May 16, 2002, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 17, 2002.

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 corrected drawings; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing is accepted as having been unintentionally delayed.

Application No. 09/322,715

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned.

The application file is being referred to the Office of Patent Publication.

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review, Form PTO-948

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/14/06

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/322735 Patent No.: 6477697

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. Please Review cofc! Thanks!

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

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: on Certificate of Correction filed 8/4/06:
- Approved all changes on col. 19;
- Denied change on col. 20.

Jack K. Chiang
JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE

2825
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

CATERPILLAR INC
PATENT DEPARTMENT AB6490
100 NE ADAMS STREET
PEORIA IL 61629-6490

COPY MAILED

OCT 30 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Reissue Application of	:	
Shinogle et al.	:	DECISION GRANTING
Application No. 09/322,770	:	PETITION
Filed: May 28, 1999	:	
Original Patent No.: 5,634,448	:	
Issue Date: June 3, 1997	:	
Attny Dckt No. 87-146-R	:	

This is a decision on the petition filed under 37 CFR 1.182 on Novmber 2, 1999, and resubmitted on October 10, 2000, which is being treated as a petition under 37 CFR 1.183 requesting that the delay in filing the temporary drawings required by 37 CFR 1.174 be excused, and, as such, the above-identified reissue application be accorded a filing date of May 28, 1999.

The petition is granted.

This application was deposited on May 28, 1999, as an application for reissue of U.S. Patent No. 5,634,448. The filing included a request to transfer the drawings from the original patent, but did not, *inter alia*, include the temporary drawings required by 37 CFR 1.174. On June 22, 1999, the Office of Initial Patent Examination (OIPE) mailed a "Notice" indicating that the above-identified application was incomplete as lacking drawings required under 35 USC 113 and, as such, was not entitled to a filing date, and further stated that the filing date would be the date of receipt of the omitted drawing. On the same date, another Notice was mailed which indicated that the declaration of record did not execute the item(s) indicated as missing on the aforementioned Notice.

In response, on November 2, 1999, the present petition was filed under 37 CFR 1.182, along with 7 sheets of drawings and a petition for a four month extension of time. Petitioner agrees that the drawings were inadvertently not filed initially, but points to the request, present on filing, to transfer the original drawings from the patented file to the instant reissue

application. Inspection of this file reveals that at least one method claim was present on filing. It has long been PTO policy that, as here, when an application presents at least one method claim, a drawing is usually not required for purposes of obtaining a filing date within the meaning of 35 USC 113. See MPEP 601.01(f). Rather, in an instance such as herein, OIPE should have accorded this application a filing date of May 28, 1999, but mailed a Notice of Omitted Items. See MPEP 601.01(d),(g). As such the Notices mailed June 22, 1999 were mailed in error, and are vacated.

Under the practice of MPEP 601.01(d),(g), an applicant is permitted to retain the original filing date, and cancel any reference(s) to the omitted item(s), or retain the original filing date by proving that the omitted item(s) was in fact received, or submit the missing item(s) and accept the date of submission of the omitted item(s) as the filing date. However, under the circumstances of this reissue application, (1) as the omitted drawings were a matter of public record in the patented file on the date this reissue application was filed, (2) as applicant requested, on filing, transfer of the drawings from the patented file to this application, and (3) as at least one method claim was present on filing, it is evident that the failure to also herein provide a temporary copy of the drawings does not raise any question of the introduction of new matter. As such, on petition, applicant's delay in providing the temporary drawings required by 37 CFR 1.174, that were not filed until November 21, 1999, is excused, and this reissue application is entitled to a filing date of May 28, 1999.

As the petition was necessitated by applicant's filing error, the $130 petition fee will not be excused.

This reissue application is being returned to OIPE for further processing <u>with a filing date of May 28, 1999, and an indication that seven sheets of drawings were present on filing</u>, using the temporary drawings filed November 2, 1999.

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
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

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

NOV 1 7 2008

OFFICE OF PETITIONS

In re Application of

Hasha, et al.

Application No. 09/322,964

Filed: May 28, 1999

Attorney Docket No. MSFT-0678/183205.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 13, 2008.

The petition is **granted**.

This application was held abandoned on August 7 2008, after no further action was taken after the decision on appeal rendered on May 6, 2008. A Notice of Abandonment was mailed on August 13, 2008.

Petitioner now files the instant petition arguing that the imposition of the holding of abandonment was improper because the application was determined to have allowable claims and in light of the guidance provided in the *Manual of Patent Examining Procedure* ("MPEP"), section 1214.06

In this case, the Board of Patent Appeals and Interferences reversed the examiner's rejection of claim 29, i.e., the application contains an allowable claim. It is noted that MPEP § 1214.06 provides, in pertinent part, that:

> The appellant is not required to file a reply. The examiner issues the application or *ex parte* reexamination certificate on the claims which stand allowed. For paper files, a red-ink line should be drawn through the refused claims and the notion "Board Decision" written in the margin in red ink.

As per the guidance provided in Section 1215.06 of the MPEP as cited above, the imposition of the holding of abandonment was not proper because the application has a claim that stands allowed. The proper response of the USPTO would be to cancel the claims on which the examiner was affirmed and allow claim 29. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 2100, GAU 2173 for further processing which, presumably, would include action by the examiner on the allowed claim.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Tatsuya Yaguchi :
Application No. 09/323,020 :
Filed: June 1, 1999 :
Attorney Docket No. 862.2851 :

ON PETITION

This is a decision on the petition, filed April 20, 2005, 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 29, 2005, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2634 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Tatsuya Yaguchi :
Application No. 09/323,020 :
Filed: June 1, 1999 :
Attorney Docket No. 862.2851 :

ON PETITION

This is a decision on the petition, filed July 11, 2005, 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 5, 2005, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2634 for further processing of the request for continued examination under 37 CFR 1.114.

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 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
www.uspto.gov

STERNE KESSLER GOLDSTEIN AND FOX
1100 NEW YORK AVENUE NW SUITE 600
WASHINGTON, DC 20005-3934

COPY MAILED

NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
William R. Bandy et al	:	
Application No. 09/323,206	:	ON PETITION
Filed: June 1, 1999	:	
Attorney Docket No. 1689.0010001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 4, 2005, 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 31, 2005 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/323,348	06/01/99	SANDERS M	BR-7088

EXAMINER
HOEY, B

ART UNIT	PAPER NUMBER
1724	6

DATE MAILED: 03/27/01

IM22/0327

PHILIP M PIPPENGER
PATENT AND TRADEMARK DIVISION
ALBEMARLE CORPORATION
451 FLORIDA STREET
BATON ROUGE LA 70801-1765

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

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/323,348	SANDERS ET AL.	
	Examiner	Art Unit	
	Hoey	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1)☒ Responsive to communication(s) filed on *19 December 2000*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31 and 36-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31 and 36-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)☐ All b)☐ Some * c)☐ None of the CERTIFIED copies of the priority documents have been:

1.☐ received.

2.☐ received in Application No. (Series Code / Serial Number) _____.

3.☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

14) ☐ Notice of References Cited (PTO-892)
15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
17) ☐ Interview Summary (PTO-413) Paper No(s). _____.
18) ☐ Notice of Informal Patent Application (PTO-152)
19) ☐ Other:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-31 and 36-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hight et al., U.S. Patent No. 5,464,636 (column 10, lines 19-31; column 11, lines 8-19, 44-50; column 30, lines 53-67; column 31, lines 23-50; column 34, lines 44-49).

Hight et al. disclose a method for controlling biofouling and microorganism population levels in water systems, such as swimming pools, comprising adding a biocidal composition of a hypochlorite donor, bromide donor, and volatilization suppressant. An example of such a composition is a solid composition compacted into tablets including trichloroisocyanuric acid, sodium bromide, and 5,5-dimethylhydantoin. Hight et al. disclose that the tablets provide a controlled release of the biocidal composition, which suggests to one of ordinary skill in the art that the hypochlorite donor is added to the water periodically.

The claims differ from Hight et al. by reciting specific amounts of dialkylhydantoin and bromide ion source expressed as millimoles per liter of water (claims 1, 10, 20, 37, 41 and 44), a specific molar ratio of dialkylhydantoin to bromide ion source (claims 6, 10, 20 and 39), a specific yielded concentration of Br_2 in the water, expressed as milligrams per liter (claims 9, 18, 19, 29, 30, 40, 43 and 46), that the composition is a granular mixture (claim 20), and that a specific concentration of Br_2 in the water is maintained (claim 31).

It is submitted that while Hight et al. may not disclose the specific amounts, ratios, and/or concentrations of components that are recited in the instant claims, Hight et al. are concerned with maintaining the disinfecting properties of the bromine-based biocide while simultaneously suppressing the amount of volatilization of bromine. One of ordinary skill in the art, when practicing the method of Hight et al., would have been expected to arrive at the optimum amounts, ratios, and concentrations of the components and/or products of the method by routine experimentation. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have practiced the method of Hight et al. by using the amount of dialkylhydantoin and bromide ion source recited in instant claim 1, the specific molar ratio of dialkylhydantoin to bromide ion source recited in instant claims 6, 10, 20 or 39, and a specific yielded and maintained concentration of Br_2 in the water as recited in instant claims 9, 18, 19, 29, 30, 40, 43 or 46, in order to optimize the disinfecting action of the composition while suppressing volatilization of bromine, absent a sufficient showing of unexpected results. It is further submitted that while Hight et al. do not specifically disclose that the composition is in granular form, Hight et al. suggest that the composition be used in solid form, and it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have used the composition in granular form, depending on the dissolution rate desired and means for adding the composition to water, absent a sufficient showing of unexpected results.

3. Applicants argue that the teachings of Hight et al. "lead toward limiting levels of dimethylhydantoin to less than 10 ppm", which teaches away from Applicants' claimed invention. Applicants base this assertion on column 31, lines 46-50 of Hight et al. However, if Applicants

read the entire paragraph containing these lines, they would appreciate that Hight et al. teach that the concentration of DMH appropriate for reducing volatilization of bromide ion is a **function of the free available chlorine** present in the water. It is noted in column 31, lines 45-46 of Hight et al. that DMH concentrations of over 50 mg/L can easily be reached using another biocide. One of ordinary skill in the art, when practicing the method of Hight et al., would have recognized and appreciated the relationship between the amount of DMH and amount of free available chlorine, and would have been expected to have arrived at the optimum amount of DMH to add to the water for inhibiting bromide ion losses by routine experimentation. In fact, Example 16 of Hight et al. demonstrates such experimentation, and the results show that DMH concentrations over 10 ppm are effective for preventing bromide ion losses under certain conditions. This example clearly would have suggested to one of ordinary skill in the art that the optimum concentration of DMH used for bromide ion loss suppression is a function of several conditional factors. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have arrived at the optimum amount of DMH to add to the water system being treated by routine experimentation.

4. The Declaration submitted on December 19, 2000 has been considered, but does not provide any information to overcome the rejections. Dr. Nalepa's opinion, stated on page 8, that "it is logical to conclude that solutions with HOBr concentrations as low as 2.5 ppm...maintain effective biocidal activity in the presence of DMH levels as high as 500 ppm" is noted. However, since the instant claims are not limited to the combination of 2.5 ppm of HOBr and 500 ppm of DMH, this opinion appears to be a moot point.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is (703) 305-3934. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6:00 PM, and on alternate Fridays from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972. The fax phone number for official after final faxes for this Group is (703)305-3599, for all other official faxes the number is (703)305-7718, and for unofficial faxes the number is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

David A. Simmons
Supervisory Patent Examiner
Technology Center 1700

B. M. Hoey
March 22, 2001

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

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 554401022

COPY MAILED

DEC 21 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Larry T. Harada et al	:	
Application No. 09/323,415	:	
Filed: June 1, 1999	:	
Attorney Docket No. 06975/041001	:	

This is a decision on the petition, filed December 29, 2005, which is being treated under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2132.

Wan Laymon
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
DIW Feb-06

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Nitta et al.	:	DECISION ON PETITION
Application No. 09/324,168	:	
Filed: June 2, 1999	:	
Atty. Docket No. 500.33793R00	:	

This is a decision on the petition under 37 CFR 1.47(a) filed on September 6, 2005, which is being taken as a petition filed under 37 CFR 1.183, requesting waiver of the reissue application filing requirements of 37 CFR 1.172. Section 1.172 requires that oaths/declarations in broadening reissue applications be signed by all of the inventors.

The petition is granted.

DECISION

37 CFR 1.172 requires that a reissue oath/declaration be made by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged.

This reissue application, which seeks to broaden the scope of the claims, was filed with signatures of all seven inventors on the original declaration. A supplemental declaration under 37 CFR 1.175(b)(1) was required by the examiner in the Office action of May 6, 2005.

Applicants then filed the present petition, accompanied by (1) a supplemental declaration signed by six of the seven inventors, (2) a declaration of Shinya Yamaji, captioned as "Declaration of Shinya Yamaji Presenting Statement of Facts under CFR § 1.47," (3) a copy of the returned envelope of the mail sent to the last known address of non-signing inventor, Makiko Miyamoto, and (4) a request for an extension of time for response within the first month accompanied by the fee.

In the petition, petitioner has described a factual situation relating to an inventor's refusal to sign a further declaration in this application, after the original declaration was signed by that inventor. 37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires such a declaration to be signed by the inventors. Since all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration, each must bear the appropriate signatures of the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999). Accordingly, the present petition under 37 CFR 1.47(a) is being taken as a petition filed under 37 CFR 1.183, requesting waiver of the reissue application filing requirements of 37 CFR 1.172.

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule that is not a requirement of the statute, where justice requires such waiver. As pointed out, applicants have requested a waiver of the requirement of 37 CFR 1.172 that a supplemental declaration be signed by all of the inventors. A petition of this type must be accompanied by proof that the inventor (i) cannot be found or reached after a diligent effort or (ii) refuses to execute the declaration.

The Declaration of Yamaji states that applicants obtained the last known address and telephone number of inventor Miyamoto from the Management Division and from a colleague in the department in which Miyamoto belonged. Applicants attempted to contact Miyamoto by telephone; however, the telephone number was no longer in use. Additionally, applicants mailed the supplemental declaration to Miyamoto for her signature at her last known address via registered mail. The mail was returned to applicants by the Japanese Post Office with a notice indicating that it could not be delivered because Miyamoto's new address was not known. A copy of the returned envelope accompanies the petition.

Applicants have made an appropriate showing as to the unavailability of the non-signing inventor, Makiko Miyamoto, including a requisite effort in ascertaining the inventor's address. Accordingly, the supplemental declaration of September 6, 2005, signed by each of the joint inventors except Miyamoto, who, by the showing accompanying the petition, cannot be located, will be accepted as though it was signed by all of the inventors as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172. *See In re Hayes, supra.*

CONCLUSION

1. The petition is **granted**.

2. The petition fee in the amount of $400.00 will be charged to counsel's deposit account, No. 01-2135, as authorized.

3. After mailing this decision, jurisdiction over the application will be transferred to Technology Center Art Unit 2674 for further action.

4. Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

2-27-05
C:\Kiva\Kenpet6\09324168_183 waiver of reissue 172 & 175 unavailable.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

#12

Dallas Office of Fullbright & Jaworski, LLP
2200 Ross Avenue
Suite 2800
Dallas, TX 75201-2784

MAILED

MAR 18 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Salim G. Kara
Application No. 09/324,241 : DECISION ON REQUEST
Filed: June 2, 1999 : FOR WITHDRAWAL OF
For: VERIFYING THE AUTHENTICITY OF : ATTORNEY
PRINTED DOCUMENTS

This is a decision on the request filed on June 11, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition A) above.

As to condition A), because the USPTO does not recognize law firms, the request made upon behalf of a particular firm is insufficient. The attorney should be signing on behalf of all the attorneys of record in this application.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 3/12/03

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 12 2002

In re Application of:	:	
Georg Heinrich Grosch, et al.	:	
Serial No. 09/324,271	:	NOTICE OF WITHDRAWAL
Filed: June 02, 1999	:	FROM ISSUE UNDER
For: SUSPENSION OF MULTIMETAL	:	37 CFR 1.313 (b)
CYANDIE COMPOUNDS, THEIR	:	
PREPARATION AND THEIR USE	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to: re-open prosecution. See 37 CFR 1.31(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Mark Bell at (703) 308-3823.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including applicant of the new status of this application.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

BASF Corporation
1609 Biddle Avenue
Wyandotte, MI 48192-3736

Cc: Allowed Files-PK3-915

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 22

Fernando A. Borrego
BASF Corporation
1609 Biddle Avenue
Wyandotte, MI 48192

COPY MAILED

SEP 0 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Georg Grosch et al.	:	
Application No. 09/324,271	:	ON PETITION
Filed: June 2, 1999	:	
Attorney Docket No. 7331	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before May 13, 2002. Accordingly, the application became abandoned on August 14, 2002.

Unless applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment of an application. See MPEP 1308.

A Notice of Withdrawal From Issue under 37 CFR 1.313(b) was mailed from Technology Center AU 1700 on August 12, 2002. Therefore, the application will be forwarded to Technology Center AU 1755 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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

MAIL

Paper No. 15

FEB 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MENDELSOHN AND ASSOCIATES PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA PA 19102

In re Application of
Zhenyu Wang
Application No. 09/324,304
Filed: June 2, 1999
For: **CONSTELLATION DESIGN FOR MODEM RECEIVER**

: DECISION ON PETITION TO
: WITHDRAW HOLDING OF
: ABANDONMENT

This is a decision on the petition filed November 13, 2003, to withdraw the holding of abandonment pursuant to 37 CFR § 1.181 (a). No fee is required.

The application was abandoned for failure to timely file a response to the Final Office Action mailed December 23, 2002. A Notice of Abandonment was mailed November 3, 2003.

Petitioner alleges that the finality of the outstanding Office action had been withdrawn and provides a copy of an interview summary stating as much.

MPEP 706.07(e) States in part:

> Once a final rejection that is not premature has been entered in an application/reexamination proceeding, it should not be withdrawn at the applicant's or patent owner's request except on a showing under 37 CFR 1.116(b). Further amendment or argument will be considered in certain instances. An amendment that will place the application either in condition for allowance or in better form for appeal may be admitted. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a).
> The examiner may withdraw the rejection of finally rejected claims. If new facts or reasons are presented such as to convince the examiner that the previously rejected claims are in fact allowable or patentable in the case of reexamination, then the final rejection should be withdrawn... When a final rejection is withdrawn, all amendments filed after the final rejection are ordinarily entered. [emphasis added]

An interview summary between Supervisory Patent Examiner Chi Pham and Applicant's representative Demetria Williams (paper No. 12, mailed March 19, 2003), states in part "The finality of the rejection submitted to Applicant's representative on December 23, 2002 has been withdrawn".

Therefore, Applicant's after final amendment (paper No. 10) submitted February 18, 2003 should have been entered effectively stopping any time period for response.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

For the reasons above, the petition is **GRANTED**.

The application file is forwarded to TC2600's Technical Support staff for entry of the after final amendment (paper No. 10). From there, the application will be forwarded to the examiner for action.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

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. 19

Woodcock Washburn, LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

COPY MAILED
OCT 21 2003
OFFICE OF PETITIONS

In re Application of :
Johan H. Geerke et al. :
Application No. 09/324,343 :
Filed: June 2, 1999 :
Attorney Docket No. ALZA-0022 ARC-2865-R3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed October 7, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the final Office action mailed March 13, 2001, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 14, 2001.

The application file is being forwarded to Technology Center AU 1617 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

Paper No. 8

SEP 02 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO CA 94306

In re Application of: :
Akyol et al. :
Application No. 09/324,367 :
Filed: June 2, 1999 :
For: **DYNAMIC RESOURCE ALLOCATION AND MEDIA ACCESS CONTROL FOR A WIRELESS ATM NETWORK** :

DECISION
ON PETITION

This is a decision on the petition filed June 30, 2003 to withdraw the holding of abandonment under MPEP 711.03(c)(II) and pursuant to 37 CFR § 1.181(a). No fee is required.

The application is abandoned for failure to timely file a proper reply to the non-final Office action mailed June 5, 2002 and re-mailed September 3, 2002. A Notice of Abandonment was mailed April 2, 2003.

Petitioner alleges that the non-final Office action was not received.

A review of the record indicates that a Change of Address was received in the Patent Office on July 27, 2000. However, the non-final Office action mailed on June 5, 2002 and again on September 3, 2002 was not mailed to the address specified in the Change of Address. Similarly, the Notice of Abandonment was also mailed to an incorrect address. Therefore, there was an irregularity in mailing the non-final Office action on the part of the Patent and Trademark Office.

Accordingly, the petition is GRANTED.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The present correspondence address above was verified in a phone conversation with Marcia Gideon on July 31, 2003. She stated that a disk listing numerous applications was sent to the Patent and Trademark Office on April 10, 2003 to effect changing addresses, and that another disk correcting errors from the first disk was sent in July 10, 2003. The Patent Application Location Monitoring (PALM) system confirms that the address listed above is the current correspondence address.

Due to the time lapse between the mailing date of the Office action and the mailing date of this decision, the application file will be forwarded to the examiner for updating the search and other action as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for re-mailing the non-final Office action. The period for response will be reset to run from the mailing date thereof.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 16

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

COPY MAILED

JUL 0 8 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John Henits :
Application No. 09/324,459 :
Filed: June 2, 1999 :
Attorney Docket No. 8740-031-999 :

This is a decision on the petition, filed by facsimile transmission on July 3, 2002, 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 16, 2002 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 the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center AU 2642 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* 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.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: #10

DATE : 10/11/05

TO SPE OF : ART UNIT 2683

SUBJECT : Request for Certificate of Correction on Patent No.: 6308084

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 - PK 3-915
Palm location 7580 - Tel. No. 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 shor scope or meaning of the claims be changed.

Henry Randall
Certificates of Correction Bran

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 appl
- ☐ Denied — State the reasons for denial below.

Comments:

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2683
Art U

SPE

U.S. DEPARTMENT OF COMMERCE Patent and Tra

PTOL-306 (REV. 7/03)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,308,084 B1
DATED : October 23, 2002
INVENTOR(S) : Pekka Lonka

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

Column 1,
Line 8, "WO 95/00374" should read -- WO 96/38762 --

Signed and Sealed this

Tenth Day of September, 2002

Attest:

Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,308,084 B1
DATED : October 23, 2001
INVENTOR(S) : Pekka Lonka

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

Title page,
Item [45], **Date of Patent:**, "Issued: **October 23, 2002**" should read
-- **October 23, 2001** --

Column 1,
Line 8, "WO 95/00374" should read -- WO 96/38762 --

Signed and Sealed this

Third Day of August, 2004

JON W. DUDAS
Acting Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,308,084 B1
DATED : October 23, 2001
INVENTOR(S) : Pekka Lonka

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

Title page,
Item [45], **Date of Patent:**, "Issued: **October 23, 2002**" should read
-- **October 23, 2001** --

Column 1,
Line 8, "WO 95/00374" should read -- WO 96/38762 --

Signed and Sealed this

Third Day of August, 2004

JON W. DUDAS
Acting Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,308,084 B1
DATED : October 23, 2001
INVENTOR(S) : Pekka Lonka

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

Column 1,
Line 8, "WO 95/00374" should read -- WO 96/38762 --.

Signed and Sealed this

Twenty-ninth Day of November, 2005

JON W. DUDAS
Director of the United States 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
www.uspto.gov

In re Patent No. 6744808
Issue Date: June 1,2004
Application No. 09325107
Filed: June 3,1999
Attorney Docket No. 231008.0292

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 29,2008 ,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 29,2008 . 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.

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)
6744808	2004-06-01	09325107	1999-06-03	231008.0292

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

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-09-29
Name	Kendal M. Sheets	Registration Number	47077

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 record s.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

THOMAS R MORRISON
MORRISON LAW FIRM
145 NORTH FIFTH AVE
MOUNT VERNON NY 10550

COPY MAILED

JUL 2 4 2002

OFFICE OF PETITIONS

In re Application of
Narahara, et al.
Application No. 09/325,214
Filed: June 31, 1999
Attorney Docket No. M2047-3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2002 (Certificate of Mailing dated April 25, 2002), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed February 26, 2001, 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 above-identified application became abandoned on May 27, 2001. A Notice of Abandonment was mailed on January 29, 2002.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment and the Information Disclosure Statement, both filed May 6, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
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

SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

COPY MAILED

AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Bryan L. Reidenbach :
Application No. 09/325,296 : ON PETITION
Filed: June 3, 1999 :
Attorney Docket No. 1493-M :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 20, 2004.

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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
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

WILLIAM H. BOLLMAN
MANELLI DENISON & SELTER PLLC
2000 M STREET NW
7TH FLOOR
WASHINGTON, DC 20036-3307

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Syed S. Ali, et al.	:	
Application No. 09/325,423	:	ON PETITION
Filed: June 4, 1999	:	
Attorney Docket No. ALI-12-8-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed January 3, 2006. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 2178, for further processing of the request for continued examination under 37 CFR 1.114 filed August 21, 2006.

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

MAIL Paper No. 9

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

NOV 07 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Naegeli et al.
Application No. 09/325,534

Filed: June 03, 1999
For: METHOD AND APPARATUS FOR MEASURING QUALITY OF UPSTREAM SIGNAL TRANSMISSION OF A CABLE MODEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the copy of the CPA paperwork filed 7/28/03, which is being treated as a petition to withdraw the holding of abandonment of the above identified application.

In the above identified application, Final Rejection was mailed to the applicant on August 22, 2002. An After-Final response was filed by the applicant on October 22, 2002. An Advisory Action was mailed to the applicant on October 30, 2002, informing the applicant that the response was not persuasive. The three month shortened statutory period for reply to the final rejection lapsed without any further reply rendering this application abandoned. No Notice of Abandonment was mailed.

Petitioner asserts that a proper response in the form of a Continued Prosecution Application (CPA), including a one month extension of time was timely filed on December 06, 2002. In support of the petition, petitioner submits a copy of date stamped post card evidencing receipt of the CPA request on December 06, 2002, showing the Express mailing label # EV267519067US; a copy of a Transmittal Request for Continued Prosecution Application (CPA) with the same Express Mailing Label number thereon. A review of the U.S. Patent and Trademark Office Revenue, Accounting and Management (RAM) records reveal that the extension of time fee for one month in the amount of $110.00 was also applied to the instant application on December 06, 2002.

The filing of papers and fees by Express mail is covered by 37 C.F.R § 1.10. 37 C.F.R 1.10 (e) states:

> "Any person mailing correspondence addressed as set out in § 1.1 (a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> *(1) the copy of the CPA paper work is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*

(3) the copy of the CPA paperwork includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official date entered by the USPS, a showing pursuant to paragraph (d) (3) of this section that the requested fling date was the date the correspondence was deposited in the "Express Mail Post office to Address" service prior to the last scheduled pickup for the day; and,

(4) the petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS."

Accordingly, the request to withdraw the holding of abandonment is deemed to meet the requirements.

Accordingly, the holding of the Abandonment is withdrawn.

The petition is **GRANTED**.

The Application file is being forwarded to the technical support staff for processing of the CPA request. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Jin F. Ng, Director
Technology Center 2600
Communications
(703) 305-4800

TAB 36
Appl. No. 09/325,542

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

STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

COPY MAILED
MAR 19 2004
OFFICE OF PETITIONS

MAR 22 2004

In re Application of
Gregor Meyers
Application No. 09/325,542
Filed: June 4, 1999
Attorney Docket No. 0652.1900000

ON PETITION

This is a decision on the petition, filed March 16, 2004, 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 November 18, 2003 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 (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1645 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

#10

COPY MAILED

MAR 1 9 2004

OFFICE OF PETITIONS

STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

In re Application of :
Gregor Meyers :
Application No. 09/325,542 :
Filed: June 4, 1999 :
Attorney Docket No. 0652.1900000

ON PETITION

This is a decision on the petition, filed March 16, 2004, 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 November 18, 2003 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 (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1645 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

Paper No.

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVE NW
SUITE 600
WASHINGTON DC 20005-3934

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Patent No. 7,179,473	:	
Meyers et al.	:	LETTER REGARDING
Issue Date: February 20, 2007	:	PATENT TERM ADJUSTMENT
Application No. 09/325,542	:	and
Filed: June 4, 1999	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 0652.1900000	:	CERTIFICATE OF CORRECTION
Title: ATTENUATED PESTIVIRUSES	:	

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT RECONSIDERATION," filed April 19, 2007.

Pursuant to their duty of good faith and candor to the Office, patentees disclose that the patent term adjustment indicated on the face of the Letters Patent should be corrected from six hundred and seventy (670) days to an unspecified period of time.

The request for reconsideration of the patent term adjustment is **GRANTED**.

On February 20, 2007, the above-identified application matured into U.S. Patent No. 7,179,473, with a revised Patent Term Adjustment of 670 days.

Pursuant to 37 C.F.R. § 1.702(a)(4), the Office is required to issue a patent no later than 4 months after the receipt of the issue fee and the satisfaction of all outstanding requirements. The issue fee was received on September 17, 2005, and the patent did not issue until February 20, 2007. This constitutes an Office delay of 764 days.

Thus, the proper period of adjustment for Office delay is 764 days.

Pursuant to 37 C.F.R. § 1.704(b), the failure to submit a response within three months of the mailing of an Office action is a failure to engage in reasonable efforts to conclude prosecution. A non-final Office action was mailed on January 11, 2002, and a response was received on June 11, 2002. This constitutes a delay of 61 days.

Similarly, a final Office action was mailed on August 23, 2002, and a response (Request for Continued Examination - RCE) was received on December 23, 2002. This constitutes a delay of 30 days.

Furthermore, a non-final Office action was mailed on February 13, 2003, and a response was received on June 13, 2003. This constitutes a delay of 31 days.

Pursuant to 37 C.F.R. § 1.704(c)(10), the submission of an amendment after a notice of allowance has been mailed constitutes a failure to engage in reasonable efforts to conclude prosecution. A notice of allowance was mailed on August 18, 2003, and amendments after notice of allowance were received on October 9, 2003 and November 18, 2003. A response to these amendments was mailed on March 9, 2004. This constitutes a delay of the lesser period of 4 months or 152 days - 120 days.

Finally, a notice under 37 C.F.R. § 1.251 was mailed on August 26, 2005, and set a three-month period for response. A response was received on November 28, 2005. Pursuant to 37 C.F.R. § 1.704(b), this is a failure to engage in reasonable efforts to conclude prosecution, and it constitutes a delay of 2 days.

Thus, the proper period of reduction is 244 (61 + 30 + 31 + 120 + 2) days.

In view thereof, the patent should have issued with a revised patent term adjustment of 520 (764 - 244) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 C.F.R. § 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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 twenty (520) days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski 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

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,179,473 B2

DATED : February 20, 2007

INVENTOR(S) : Meyers

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 cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 670 days

Delete the phrase "by 670" and insert – by 520 days--

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)
6095803	2000-08-01	09325783	1999-06-04	024972.003

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

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	/Robert M. Gamson/	Date (YYYY-MM-DD)	2009-06-15
Name	Robert M. Gamson	Registration Number	32986

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. 6095803
Issue Date: August 1,2000
Application No. 09325783
Filed: June 4,1999
Attorney Docket No. 024972.003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 15,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 June 15,2009 .
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)
6260323	2001-07-17	09325787	1999-06-04	

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

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	/DougB/	Date (YYYY-MM-DD)	2009-07-30
Name	Douglas S. Bishop	Registration Number	30822

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. 6260323
Issue Date: July 17,2001
Application No. 09325787
Filed: June 4,1999
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 July 30,2009 .
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
www.uspto.gov

In re Patent No. 6222188
Issue Date: April 24,2001
Application No. 09325925
Filed: June 4,1999
Attorney Docket No. ET-99-06

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed August 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 19,2009 .
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)
6222188	2001-04-24	09325925	1999-06-04	ET 99-06

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

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	/T F Marsteller, Reg No 29672/	Date (YYYY-MM-DD)	2009-08-19
Name	Thomas F. Marsteller, Jr.	Registration Number	29672

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

Duane Morris LLP
P.O. Box 5203
Princeton, NJ 08543-5203

COPY MAILED

SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
Hans Fiesel :
Application No. 09/325,930 :
Filed: June 4, 1999 :
Attorney Docket No. C-DIT-1806 Fiesel :

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed December 6, 2004. The Office of Petitions was recently forwarded the present petition for a decision on the merits. The Office immediately reviewed and decided the petition upon its receipt. The Office sincerely apologizes for any inconvenience.

This application was held abandoned for failure to respond timely to the final Office action mailed on November 18, 2003, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on February 19, 2004. A Notice of Abandonment was mailed on July 14, 2004.

The practitioner for petitioner asserted that the attorney of record filed a Change of Correspondence Address with the USPTO on September 24, 2001, requesting that the Office change the correspondence address for the above-identified application to Customer Number 28581. The practitioner averred that the law firm did not receive the final Office action or the Notice of Abandonment because they were mailed to the former address. Accordingly, petitioner requested that the Office withdraw the holding of abandonment based on non-receipt of the Office action.

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the Change of Correspondence Address (PTO/SB/122), signed by an attorney of record. Additionally, the practitioner provided the Office with a copy of a returned, date-stamped postcard receipt,[1] acknowledging receipt of the Change of Correspondence Address in the USPTO on September 26, 2001.

[1] Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

Unfortunately, the Office did not change the correspondence address as requested. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2614 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

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
CERTIFICATE OF CORRECTION

PATENT NO.: 7,083,849

DATED: December 15, 2006

INVENTOR(S): Bonnie W. Albrecht, et al.

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

Per the petition Decision of December 15, 2006, the inventorship of this patent is amended to be:

Bonnie W. Albrecht
Mark D. Gehlsen
Connie L. Hubbard
David L. Vall
Bryan C. Feisel
Steven J. Flynn

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

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. 6131838
Issue Date: October 17,2000
Application No. 09326209
Filed: June 4,1999
Attorney Docket No. 8148805/2625

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 2,2009 . 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.

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)
6131838	2000-10-17	09326209	1999-06-04	38166.4

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

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 A. Rosenberg/	Date (YYYY-MM-DD)	2009-02-02
Name	Daniel A. Rosenberg	Registration Number	44308

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 record s.

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
Washington, D.C. 20231
www.uspto.gov

COPY MAILED

JUN 1 2 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

PATRICK MICHAEL DWYER PC
1919 ONE UNION SQUARE
600 UNIVERSITY STREET
SEATTLE , WA 98101-1129

In re Application of	:
Hankejh, et al.	: DECISION REFUSING STATUS
Application No. 09/326,258	: UNDER 37 CFR 1.47(a)
Filed: June 4, 1999	:
Attorney Docket No. SESSIO.P01	:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 29, 1999.

The petition is **dismissed**.

Rule 47 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 1.47(a)," 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. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 4, 1999 without an executed oath or declaration and naming Damion L. Hankejh, Martin S. Rood, Hoa Ton-That and Jothan Frakes as a joint inventors.

Accordingly, on June 28, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a filing fee, and a surcharge for their late filing.

In response, on November 29, 1999 (Certificate of Mailing date, November 24, 1999), a Petition under 37 CFR 1.47, petition fee of $130.00, Combined Declaration and Power of Attorney, Statement Claiming Small Entity Status, filing fee of $380.00, surcharge for late filing of $65.00, Declaration of

Michael J. Lande with attached copy of assignment of Jothan Frakes and a request for a three (3) month extension of time were filed.

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 items (1) and (2) set forth above.

As to item (1), Petitioner states that [they] have been unable to locate Jothan Frakes and that "since June 1999 we have tried his old phone number and sent executable copies of power or attorney and verified statement documents for the captioned application to his old address." (Declaration of Michael J. Lande, Pg. 1). Petitioner should provide documents that evidence the attempts in locating Jothan Frakes, for example, a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable to the post office.

Furthermore, Petitioner states that [they] have attempted to send Jothan Frakes "executable copies of power or attorney and verified statement documents for the captioned application to his old address." (Declaration, Pg. 1). However, 37 CFR 1.47(a) requires an attempt be made to present the non-signing inventor with the application papers, <u>including</u> the specification, claims and drawings. As indicated in the Declaration of Michael J. Lande, an attempt to present Jothan Frakes with the application papers, <u>including</u> the specification, claims and drawings, has not been made.

As to item (2), the Combined Joint Declaration and Power of Attorney, filed November 29, 1999 , includes the signature of Damion L. Hankejh on behalf

of himself and the non-signing inventor, Jothan Frakes. However, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by **all** of the available joint-inventors on behalf of themselves **and** Jothan Frakes is REQUIRED. See MPEP 409.03(a). Furthermore, when using separate oath or declarations for joint inventors, the signature block of **every** joint inventor should appear on each oath or declaration to be signed by a joint inventor.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at 703-306-9200.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13
COPY MAILED

NOV 09 2000

OFFICE OF PETITIONS
A/C PATENTS

PATRICK MICHAEL DWYER PC
1818 WESTLAKE AVENUE N, SUITE 114
SEATTLE, WA 98109

In re Application of
Hankejh, et al.
Application No. 09/326,258
Filed: June 4, 1999
Attorney Docket No.: SESSIO.001
For: REAL TIME INTERNET COMMUNICATIONS SYSTEM

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a) filed October 16, 2000.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The petition fee of $130.00 and extension of time fee of $195.00 are unnecessary. Requests for refunds should be directed to the Office of Finance, Refund Section. A copy of this letter should accompany petitioner's request.

The change of correspondence address submitted October 16, 2000 has been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 14

FEB 2 8 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Patrick M. Dwyer PC
1818 Westlake Avenue N
Suite 114
Seattle, Washington 98109

In re Application of: Damien L. Hankejh et al.	)	
Application No. 09/326,258	)	DECISION ON PETITION TO
Filed: June 4, 1999	)	MAKE SPECIAL UNDER
For: REAL TIME INTERNET	)	M.P.E.P. §708.02(II):
COMMUNICATIONS SYSTEM	)	INFRINGEMENT

This is a decision on the petition, filed March 13, 2000, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a ***rigid comparison*** of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are **unquestionably infringed**: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission is deficient for the following reasons: (1) there is no statement that a ***rigid*** comparison was made or that a claim is ***unquestionably*** infringed as required in (B) above and (2) because no references have been submitted. Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

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

MANU J. TEJWANI
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10012-4498

COPY MAILED

JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Shree K. Nayar et al :
Application No. 09/326,422 : NOTICE
Filed: June 4, 1999 :
Attorney Docket No. A32368-070050

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

SONG K. JUNG
LONG ALSRIDGE & NORMAN, LLP
701 PENNSYLVANIA AVENUE, NW
SIXTH FLOOR
WASHINGTON, DC 20004

COPY MAILED

APR 2 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Hee Young Yun, et al.
Application No. 09/326,540
Filed: June 7, 1999
Attorney Docket No. 8733.20011

ON PETITION

This is a decision on the petition filed March 23, 2001 under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. As the original petition, CPA Request and Information Disclosure Statement filed March 23, 2001 have not been associated with the file, a copy papers thereof were provided by facsimile transmission on April 24, 2001,

The petition is GRANTED.

The above-identified application is withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

The application is hereby withdrawn from issue.

Petitioner is advised that the issue fee paid on March 5, 2001, in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed March 23, 2001.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2800 for processing of the CPA.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed

MAY 3 1 2001

Technology Center 2100

Paper No. 5

Charles B. Lobsenz, Esquire
Hunton & Williams
1751 Pinnacle Drive
Suite 1700
McLean, Virginia 22012

In re Application of: Shervin Pishevar et al.	)	
Application No. 09/326,646	)	**DECISION ON REQUEST FOR**
Filed: June 7,1999	)	**WITHDRAWAL AS ATTORNEY**
For: COLLECTIVE PROCUREMENT	)	
MANAGEMENT SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed May 4, 2001

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Frank V. Pietrantonio, is not of record. Accordingly, the request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Frank V. Pietrantonio
Cooley Godward LLP
Attn: Patent Group
One Freedom Square, Reston Town Center
11951 Freedom Drive
Reston, Virginia 20190-5601

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

Frank V. Pietrantonio
COOLEY GODWARD LLP
Attn: Patent Group
One Freedom Square, Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5601

MAILED

MAR 21 2002

Technology Center 2100

In re Application of	)	
PISHEVAR et al	)	
Application No. 09/326,646	)	**DECISION ON REQUEST FOR**
Filed: June 7, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: COLLECTIVE PROCUREMENT	)	
MANANGEMENT SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed February 08, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Electronic Commerce
(703) 305-9750

cc: Walter G. Hanchuk
John Kheit
MORGAN & FINNEGAN, LLP.
345 Park Avenue
New York, NY 10154

PTO/SB/66 (10-05)
Approved for use through 04/30/2009. 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 a valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Docket Number (Optional)
18856-03771

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,421,622 Application Number 09/326,738

Issue Date July 16, 2002 Filing Date June 4, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____ ;
original application number _____ ,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____ .

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ Date

_____ Signature

_____ Typed or printed name of person signing Certificate

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. **SEND TO: Mail Stop Petition, 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.

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.

1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 1/2 yr fee	(1551)	☑ $ 450.00	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 450

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☑ Please charge Deposit Account No. 19-2555 the sum of $ 2090.00. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 19-2555. A duplicate copy of this authorization is attached.

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

7. OVERPAYMENT

As to any overpayment made please

☑ Credit to Deposit Account No. 19-2555.

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Albert C. Smith — Signature(s) of Petitioner(s)

11/28/06 — Date

Albert C. Smith — Typed or printed name(s)

20,355 — Registration Number, if applicable

(650) 335-7296 — Telephone Number

Fenwick & West LLP, 801 California Street, Mountain View, CA 94041 — Address

Address

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."

ENCLOSURES:

☑ Maintenance Fee payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☑ Duplicate Petition

COPY

PTO/SB/66 (10-05)
Approved for use through 04/30/2009. 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 a valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Docket Number (Optional) 18856-03771

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,421,622 Application Number 09/326,738

Issue Date July 16, 2002 Filing Date June 4, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____ ;
original application number _____ ,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____ .

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ Date

_____ Signature

_____ Typed or printed name of person signing Certificate

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. **SEND TO: Mail Stop Petition, 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.

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.

1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 1/2 yr fee	(1551)	☑ $ 450.00	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 450

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☑ Please charge Deposit Account No. 19-2555 the sum of $ 2090.00. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 19-2555. A duplicate copy of this authorization is attached.

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

7. OVERPAYMENT

As to any overpayment made please

☑ Credit to Deposit Account No. 19-2555.

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Albert C. Smith — Signature(s) of Petitioner(s)

11/28/06 — Date

Albert C. Smith — Typed or printed name(s)

20,355 — Registration Number, if applicable

(650) 335-7296 — Telephone Number

Fenwick & West LLP, 801 California Street, Mountain View, CA 94041 — Address

Address

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."

ENCLOSURES:

☑ Maintenance Fee payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☑ Duplicate Petition

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)
6421622	2002-07-16	09326738	1999-06-04	18856-03771

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

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	/Albert C. Smith/	Date (YYYY-MM-DD)	2007-01-05
Name	Albert C. Smith	Registration Number	20355

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 record s.

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. 6421622
Issue Date: July 16,2002
Application No. 09326738
Filed: June 4,1999
Attorney Docket No. 3771US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 5,2007 ,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 5,2007 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

COPY MAILED

AUG 1 3 2001

OFFICE OF PETITIONS

ON PETITION

FORREST L COLLINS
COLLINS,CARY,ASSOCIATES
BOX 41040
BRECKSVILLE , OH 44141-0040

In re Application of:
LIN, VERNON WEN-HAU LIN
Application No. 09/326,853
Filed: 06/07/1999
For: TREATMENT OF EXCRETORY PROBLEMS

This is a decision on the April 10, 2001 petition under 37 C.F.R. §1.137(a).

RULES

37 C.F.R. §1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.

(a) Unavoidable. If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph 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 § 1.17(l);

(3) A showing to the satisfaction of the Commissioner 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 unavoidable; and

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

FACTS

This application became abandoned by operation of law due to Petitioner's failure to complete his reply within the one (1) month time period set by the January 17, 2001 notice of non-responsiveness. A notice of abandonment was mailed on April 9, 2001.

With regard to establishing unavoidable delay within the meaning of 37 C.F.R. §1.137(a)(3), the Commissioner may revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable."[1] Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in

[1] 35 U.S.C. §133.

determining if the delay was unavoidable.[2] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[3] Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[4] The burden of showing the cause of the delay is on the person seeking to revive the application.[5]

There are three periods to be considered in treating a petition to revive under 37 C.F.R. §1.137(a):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 C.F.R. §1.137 to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 C.F.R. §1.137 to revive the application.

This particular application appears to turn on period (1) above.

With respect to the first period, an application is "unavoidably" abandoned only where Petitioner, or counsel for Petitioner, takes all action necessary for a proper response to the outstanding office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the office.[6]

Petitioner alleges that the outstanding office action was mailed on July 13, 2000. Petitioner "did not observe that the second page of the Official Action...was not present". Nevertheless, Petitioner timely filed his reply on October 16, 2000.[7]

On January 17, 2001, Examiner Lacyk mailed an advisory action notifying Applicant that the reply did not adequately address the rejection under 35 U.S.C. §112. The action set a one (1) month deadline for replying, running from the date of mailing of the advisory action.

---

[2] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) ("the term '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"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[3] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982.

[4] *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[5] *Smith v. Mossinghoff, Id.*

[6] *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[7] The reply included a certificate of mailing dated October 11, 2000, which under 37 C.F.R. §1.8, was timely.

On February 15, 2001, Petitioner attempted to make telephone contact with Examiner Lacyk to better determine why the October 16, 2000 reply was not accepted. However, Applicant Petitioner learned that Examiner Lacyk was on leave and would not return until after the Washington's Day holiday, which fell on February 19, 2001. When Petitioner was finally able to contact Examiner Lacyk on February 26, 2001, he learned of the page allegedly missing from his copy of the July 13, 2000 office action.

However, the claim that the July 13, 2000 office action was not mailed in its entirety is unsubstantiated. Specifically, there is no evidence of any irregularity in the mailing of the action. In the absence of any irregularity, there is a strong presumption that the action was properly mailed to counsel at the address of record. This presumption may be overcome by a showing that the action was not in fact received. However, in the absence of a proper (documented) showing in this regard, the presumption is that Petitioner received the office action and simply did not file a proper reply. Such a circumstance does not warrant waiver of the time period for filing a proper reply.

Furthermore, Petitioner's inability to reach the Examiner before the deadline is also unpersuasive. Petitioner could have avoided missing the deadline by calling Examiner Lacyk at some point earlier than two days before the deadline was to pass. By waiting until two days before the deadline for replying, Petitioner assumed the risk that he would be unable to reach the Examiner before the passage of the deadline.

In view of the foregoing, this 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 C.F.R. §1.136(a) are permitted.[8] The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)". This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Applicant is encouraged to consider filing a petition under 37 C.F.R. §1.137(b) to revive an application unintentionally abandoned. Than that rule provides that where the delay in replying was unintentional, a petition may be filed to revive the application or lapsed patent, which will be grantable if accompanied by:

> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may ne 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 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

[8] *See* 37 C.F.R. §1.137(d).

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
Four Crystal Plaza, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

FORREST L COLLINS
COLLINS,CARY,ASSOCIATES
BOX 41040
BRECKSVILLE , OH 44141-0040

COPY MAILED

SEP 27 2001

OFFICE OF PETITIONS

In re Application of
Dr. Vernon Wen-Hau Lin, MD
Application No. 09/326,853
Filed: June 7, 1999
Attorney Docket No. 1135

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 4, 2001, in the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office Action mailed July 13, 2000, which set a shortened statutory period for reply of three (3) months. A response was received on October 16, 2000 (certificate of mailing dated October 11, 2000). However, a notice was mailed to petitioner on January 17, 2001, indicating that the response of October 16, 2000, was not fully responsive. The notice of January 17, 2001, allowed an additional one month period beginning form its mailing date for a response. No further response was received within the allowable period. Accordingly, the application became abandoned on February 18, 2001. A Notice of Abandonment was mailed on April 9, 2001,

The application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

FEB 13 2002

In re Application of
ENOMOTO et al.
Application No. 09/327,167
Filed: June 7, 1999
For: IMAGE FORMING APPARATUS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 15, 2001, to withdraw the holding of abandonment of the above-identified application.

The petition is **DENIED**.

This application was held abandoned for failure to file a proper response to the final Office action mailed on June 23, 2000. A Notice of Abandonment was mailed on March 2, 2001.

Petitioner asserts that the June 23, 2000 Office action failed to identify a reference used in the rejection of the claims and that on December 20, 2000, applicants' representative made a telephone call to the examiner in charge of this application requesting identification of the reference. Petitioner asserts that, in response, the examiner identified the reference as U.S. Patent No. 6,042,917 and indicated that she would restart the period for response to the outstanding Office action and that it was therefore unnecessary for applicant to respond to the June 23, 2000 Office action.

The examiner has been contacted and confirms that she indicated to applicants' representative she would send out a new Office action and restart the time period. However, the examiner indicates that she assumed that she was being notified of the error within the 3-month time period for reply set in the Office action and, after turning in a new Office action to be mailed, was informed that the time period could not be restarted and that the application had become abandoned because the 6-month statutory period had expired. The examiner indicates that she then contacted applicants' representative to inform him that the case was abandoned and that he would need to petition to have the case revived.

The evidence of record indicates that the examiner was not informed of her failure to properly identify the reference during the period for reply set in the June 23, 2000 Office action. As set forth in MPEP § 710.06, "If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted

and any appropriate extension fee will be required to render a reply timely." Thus the examiner was without authority to restart the period for reply. Moreover, the examiner was not informed of the matter prior to December 20, 2000, a mere three days prior to expiration of the maximum extendable period under 37 CFR 1.136(a) for reply to the June 23, 2000 Office action. As no request for an extension of time was filed during the statutory period for response, this application became abandoned by operation of law on midnight, September 23, 2000.

It is regretted that the examiner was unable, during the statutory period for reply, to mail an Office letter correcting the error and informing applicant that the time period for reply remains as set forth in the previous Office action. Nevertheless, in the absence of a proper response to the Office action, the application was properly held to be abandoned. Accordingly, the petition to withdraw the holding of abandonment is denied.

Petitioner may wish to consider filing a petition to the Commissioner under 37 CFR 1.137 requesting that the application be revived. See MPEP 711.03(c)(III).

Questions regarding this decision should be directed to Hien H. Phan at (703) 308-7502.

Howard Goldberg, Director
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components

HP/jc

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Fitzpatrick Cella Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

COPY MAILED

APR 05 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Naoki Enomoto et al. .
Application No. 09/327,167
Filed: June 7, 1999
Attorney Docket No. 00684.002848

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 23, 2000, 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 above-identified application became abandoned on September 24, 2000. A petition to Withdraw the Holding of Abandonment was filed on March 2, 2001 and Dismissed in a decision mailed February 13, 2002.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application is being forwarded to Technology Center 2852 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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

MAIL

Paper No. 9

OCT 23 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE101
ELLICOTT CITY MD 21043

In re Application of:
Wu et al.
Application No. 09/327,178

Filed: June 7, 1999
For: METHOD OF DIGITAL FM DEMODULATOR

:DECISION ON PETITION TO
:WITHDRAW HOLDING OF
:ABANDONMENT

This is a decision in response to the communication filed September 5, 2003, which is being treated as a petition to withdraw holding of abandonment of the above identified application.

The application became abandoned when no response to the Non-responsive letter mailed 9/6/02 was received. No Notice of Abandonment was mailed.

Petitioner alleges to have timely filed a response to the Office communication mailed 9/6/02. In support, Petitioner has provided a copy of the date-stamped post card acknowledging receipt of applicant's "Resubmission of amendment originally faxed on July 15, 2002" in the U.S. Patent and Trademark Office on September 11, 2002.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "a postcard receipt which itemizes and properly identifies the papers which are being filed serves as **prima facie** evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that a response to the Notice of Non-responsive letter was timely filed in the Patent and Trademark Office but not matched with the application file.

Accordingly, the petition is **GRANTED.**

The holding of abandonment is withdrawn. The application file will be forwarded to the Technology Center's Technical Support Staff for entry of the copy of the response filed by applicant. The file will then be forwarded to the examiner for appropriate action in due course.

Jin F. Ng, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR - 6 2002

#16

PIONEER HI-BRED INTERNATIONAL INC
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON, IA 50131

In re Application of	:
John Gray et al.	:
Serial No.:09/327,230	:WITHDRAWAL OF ABANDONMENT
Filed: June 7, 1999	:
Attorney Docket No.: 5718-4A	:

This is in response to applicant's petition, filed November 13, 2001 under 37 CFR 1.181, to withdraw the abandonment of the above identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed an Office action, setting a three month shortened statutory period for reply, to applicant on February 26, 2001. On October 15, 2001 the examiner mailed a Notice of Abandonment indicating that no response had been received. Applicant states that the Office action of February 26, 2001 was never received and provides as evidence thereof copies of the file jacket, docket control sheet and attorney docket records where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed October 15, 2001 is vacated and the application is restored to pending status with the mailing of this decision.

The Request to Withdraw Abandonment under 37 CFR 1.181 is **GRANTED**.

The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JAMES W HINEY
1872 PRATT DRIVE
SUITE 1100
BLACKSBURG, VA 24060

COPY MAILED

MAR 0 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Roe-Hoan Yoon :
Application No. 09/327,266 : ON PETITION
Filed: June 7, 1999 :
Attorney Docket No. MCT-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2000, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting 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 reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 15, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice.

Petitioner stated in the petition that the original declaration was filed with the new application. After reviewing the application, the declaration asserted to have been filed with the application is in fact in the application. Therefore, the requirement for an oath or declaration made in the Notice of July 15, 1999 was improper. Accordingly, the Notice of July 15, 1999 is vacated.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, petitioner may request a refund the petition fee of $620 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination Division for Preexamination Processing.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

APR 0 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 12

Henry T. Brendzel
P.O. Box 574
Springfield, NJ 07081

In re Application of: Golestani
Application No.: 09/327,347
Atty Docket No.: Golestani 3
Filed: June 5, 1999
For: END-TO-END INTERNET CONGESTION CONTROL

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8(b)

This decision is in response to the communication filed February 26, 2003, requesting withdrawal of the notice of abandonment. The paper is being treated as a petition under 37 CFR §1.8(b) to accept correspondence as timely filed. This application was held abandoned for failure to file a response in a timely manner to the Office action mailed on June 6, 2002 (Paper No. 8). A Notice of Abandonment was mailed on March 4, 2003 (Paper No. 10).

Applicable Prosecution History

June 6, 2002	Final Rejection mailed (Paper No. 8) with incorrect fax number included in Office action (703) 308-9051
Sept 27, 2002	USPTO Auto-Reply generated for fax received at 3:24 (24 pages including cover page) and 3:33 PM (5 pages including cover page) as evidenced by copies provided by petitioner
Jan 8, 2003	Practitioner contacted regarding status of application
Feb 11, 2003	Practitioner faxed in 30 pages plus cover letter pursuant to examiner's request
Feb 26, 2003	Petition filed with copy of after final amendment

Issues

Petitioner submits a response was timely filed on September 27, 2002. In support of that statement, Mr. Brendzel submitted with this petition a copy of the faxed cover letter to the examiner which was received Feb 11, 2003; copies of the Auto-Reply for Sept 27 at two separate times for 24 pages and 5 pages; a copy of the amendment after final; a copy of the fax transmittal form for Sept 27, 2002 and a copy of a "Petition for Exetension (sic) of Time" for one month which does not have a certificate of fax transmission. It is noted the Auto-Reply copies show a fax number lined through and hand

annotation of "746-7240". Mr. Brendzel also states the first fax was received at 15:39 and "the pages resent" at 15:58.

In an informal note to the examiner on or about Feb 10, 2003, Mr. Brendzel submits "(1) the 24 pages of the amendment, (2) the transmittal form, (3) the proof that the first transmission arrived at the PTO, (4) the cover sheet from the second fax transmission, (5) proof from my fax machine that the second transmission arrived at the PTO, and (6) proof from a fax sent by the PTO that the second transmission arrived. (I don't have a fax from the PTO regarding (sic) based on first transmission, but that is not unusual. The PTO response fax sometimes fails to arrive particularly when my fax is active on some other matter)."

Decision

Reviewing the papers, *en total*, it is difficult to discern what papers were filed and what the total submission was intended to be on September 27, 2002.

- The USPTO Auto-Reply shows 24 pages + 5 pages (including cover pages) or **27 total pages**.
- Applicant's cover pages reflect a hand annotated "Cover +26" for both transmissions on Sept 27, but with an additional annotation of "Transmission error skipped last three pages. These are included herein" without a signature by their author.
- Counting the pages mentioned in the informal note to the examiner shows the Mr. Brendzel believed he sent 24 pages of the amendment and a transmittal form or **25 pages** on September 27, 2002. (That same informal note to the examiner indicated no "Auto-Reply" was available for the first transmission, but there appears to be two different Auto-Reply's which accompanied the petition.)
- The copy of Applicant's Transmittal Form with the "Certificate of Facsimile" dated September 27, 2002 has "24" changed to "25" by an unknown editor.

Therefore, the record is unclear whether the applicant submitted 25, 26 or 27 pages (excluding cover pages) on September 27, 2002. Assuming the Office's Auto-Reply is the truth, the number of pages appears to be 27 pages. Assuming the complete after final amendment was received, that accounts for 24 pages. The transmittal form submitted has a "certificate of facsimile" dated September 27, 2002 that is accepted as another of the papers for a total of 25 pages. ***However, the transmittal form omits checking a box for "Extension of Time Request."*** There is no separate certificate on the Petition for Extension of Time and no fee has been paid to date. It does not appear that the amendment was accompanied by a general authorization to charge practitioner's deposit account so a further statement regarding that authorization is needed by the practitioner.

Therefore, the petition is **DISMISSED**.

Even if applicant overcomes this decision and a determination is made that the response was timely, the salient matter remains as to whether the after final amendment filed on September 27, 2002 would have placed the application in condition for allowance. Applicant is ultimately responsible for keeping the application alive. By his own admission, Mr. Brendzel did not follow-up to determine the status of the application until contacted by the examiner on January 7, 2003 (see Paper No. 9), which was seven months after the mailing date of the final rejection. An informal determination by the examiner is that the after final amendment would not have placed the application in condition for allowance so it appears the file was abandoned, a timely response notwithstanding.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Because this decision is a dismissal rather than a denial, the file is being retained in Technology Center 2100 until two months has elapsed from the mail date of this decision. Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137(b). Any inquiries related to this decision should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 0 6 2003

Technology Center 2100

Paper No. 14

Henry T. Brendzel
P.O. Box 574
Springfield, NJ 07081

In re Application of: Golestani	)	
Application No.: 09/327,347	)	**DECISION ON PETITION TO**
Atty Docket No.: Golestani 3	)	**WITHDRAW THE HOLDING OF**
Filed: June 5, 1999	)	**UNDER 37 CFR §1.181**
For: END-TO-END INTERNET	)	
CONGESTION CONTROL	)	

This decision is in response to the filing of a petition to withdraw a holding of abandonment and a notice of appeal filed May 6, 2003 (with a certificate of mailing dated May 1, 2003). The original communication filed February 26, 2003, requesting withdrawal of the notice of abandonment was treated as a petition under 37 CFR §1.8(b) to accept correspondence as timely filed and was dismissed April 1, 2003. This application was held abandoned for failure to file a response in a timely manner to the Office action mailed on June 6, 2002 (Paper No. 8).

Applicable Prosecution History

June 6, 2002	Final Rejection mailed (Paper No. 8) with incorrect fax number included in Office action (703) 308-9051
Sept 27, 2002	USPTO Auto-Reply generated for fax received at 3:24 (24 pages including cover page) and 3:33 PM (5 pages including cover page) as evidenced by copies provided by petitioner
Jan 8, 2003	Practitioner contacted regarding status of application
Feb 11, 2003	Practitioner faxed in 30 pages plus cover letter pursuant to examiner's request
Feb 26, 2003	Petition filed with copy of after final amendment
Mar 4, 2003	Notice of Abandonment mailed indicating the proposed reply received on "2-10-02" [sic] does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection

Issues

In the renewed petition, applicant's representative states the "primary cause for the abandonment was the operational breakdown within the PTO that lost, misplaced, or misfiled applicant's Office Action response." Petitioner has also submitted a new copy of the after final amendment, and a notice of appeal.

Decision

Reviewing the originally submitted papers, *en total*, it was difficult to discern what papers were filed and what the total submission was intended to be on September 27, 2002.

- The USPTO Auto-Reply shows 24 pages + 5 pages (including cover pages) or **27 total pages**.
- Applicant's cover pages reflect a hand annotated "Cover +26" for both transmissions on Sept 27, but with an additional annotation of "Transmission error skipped last three pages. These are included herein" without a signature by their author.
- Counting the pages mentioned in the informal note to the examiner shows the Mr. Brendzel believed he sent 24 pages of the amendment and a transmittal form or **25 pages** on September 27, 2002. (That same informal note to the examiner indicated no "Auto-Reply" was available for the first transmission, but there appears to be two different Auto-Reply's which accompanied the petition.)
- The copy of Applicant's Transmittal Form with the "Certificate of Facsimile" dated September 27, 2002 has "24" changed to "25" by an unknown editor.

Therefore, the record was unclear whether the applicant submitted 25, 26 or 27 pages (excluding cover pages) on September 27, 2002. Assuming the Office's Auto-Reply is the truth, the number of pages appears to be 27 pages. Assuming the complete after final amendment was received, that accounts for 24 pages. The transmittal form submitted has a "certificate of facsimile" dated September 27, 2002 that is accepted as another of the papers for a total of 25 pages. The practitioner's statements regarding an operational breakdown within the USPTO appear to have been at least partially induced by the practitioner's own facsimile practices.

However, for purposes of this decision, the Office will accept the practitioner's statement that the paper that accompanies the current petition was a true copy of the after final amendment faxed to the USPTO on September 27, 2002 along with a request for an extension of time. Therefore, the papers were timely filed.

However, as indicated in the earlier decision and as annotated in the Notice of Abandonment (Paper No. 10), the proposed reply did not constitute a proper reply under 37 CFR § 1.113(a) to the final rejection because the amendment did not place the application in condition for allowance. The filing of a Notice of Appeal with this petition is not considered timely and therefore does not constitute a proper reply under 37 CFR § 1.113(a). Attached herewith is a copy of an advisory action.

Therefore, the petition is **DENIED**. The application is held to be properly abandoned.

The application file is being forwarded to the Office of Petitions to consider petitioner's request in the alternative of consideration of a petition to revive an abandoned application under 37 CFR § 1.137. Any inquiries related to this decision should be directed to Special Programs Examiner Josie Ballato at (703) 308-0269.

Margaret A. Focarino

Margaret A. Focarino
Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

Attachment: Advisory Action

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

JJGJR.: 06-04

Paper No: 17

HENRY BRENDZEL
PO BOX 574
SPRINGFIELD NJ 07081

COPY MAILED
JUN 2 3 2004
OFFICE OF PETITIONS

In re Application of
Golestani :
Application No. 09/327,347 :
Filing Date: 5 June, 1999
Attorney Docket No. Golestani3 :

This is a decision on the petition filed on 6 May, 2003, alleging, *inter alia*, unavoidable delay under 37 C.F.R. §1.137(a).

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(a) is **DISMISSED**, and the fee is charged as authorized to Deposit Account 50-0732.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 6 June, 2002, with reply due absent extension of time on or before Friday, 6 September, 2002;
- the Examiner contacted Petitioner and a telephone interview was held on 7 January, 2003 (Summary mailed 8 January, 2003);
- the Office mailed a Notice of Abandonment on 4 March, 2003;

- Petitioner's requests of 26 February, 2003, and 6 May, 2003, to withdraw the holding of abandonment were denied by the Group Director on 1 April, 2003, and 6 October, 2003, respectively, because: (a) the evidence in support of a showing that the Office received the reply (that Petitioner contended was timely filed) was unclear and insufficient; and (b) the reply, even if timely filed and received by the Office, was not a proper reply to a final Office action;[1]

- Petitioner has made no further showing that his reply to the 6 June, 2002, final Office action was both timely and proper; and

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. 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.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5]

---

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or a CPA or RCE (with fee and submission). (See: MPEP §711.03(c).)

[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 unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and a terminal disclaimer where appropriate. Here the terminal disclaimer is unnecessary. Petitioner has filed the petition, fee and reply, but, as indicated above, has failed to carry his burden of proof as to the showing.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) hereby must be and is **dismissed**.

The file is held in the Office of Petitions for consideration of another matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] 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.

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

JJGJR.: 06-04

Paper No: 18

HENRY BRENDZEL
PO BOX 574
SPRINGFIELD NJ 07081

COPY MAILED
JUN 2 8 2004
OFFICE OF PETITIONS

In re Application of
Golestani :
Application No. 09/327,347 :
Filing Date: 5 June, 1999
Attorney Docket No. Golestani3 :

This is a decision on the petition filed on 6 May, 2003, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(b) is **GRANTED**, and the fee is charged as authorized to Deposit Account 50-0732.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 6 June, 2002, with reply due absent extension of time on or before Friday, 6 September, 2002;
- the Examiner contacted Petitioner and a telephone interview was held on 7 January, 2003 (Summary mailed 8 January, 2003);
- the Office mailed a Notice of Abandonment on 4 March, 2003;
- Petitioner's requests of 26 February, 2003, and 6 May, 2003, to withdraw the holding of

abandonment were denied by the Group Director on 1 April, 2003, and 6 October, 2003, respectively, because: (a) the evidence in support of a showing that the Office received the reply (that Petitioner contended was timely filed) was unclear and insufficient; and (b) the reply, even if timely filed and received by the Office, was not a proper reply to a final Office action;[1]

- because Petitioner made no further showing that the abandonment was due to unavoidable delay, in his reply to the 6 June, 2002, final Office action, the petition under 37 C.F.R.§1.137(a) was dismissed;

- Petitioner has filed a petition (with fee) under 37 C.F.R.§1.137(b), a reply, and–although he has not expressly made the statement of unintentional delay under the regulation–the instant petition is read and considered to state that the entire delay from the due date of the reply to the filing of a grantable petition was unintentional **and Petitioner must notify the Office immediately if this is not correct**.

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. 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.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is

---

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or a CPA or RCE (with fee and submission). (See: MPEP §711.03(c).)

[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 unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] 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).

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).[5] And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and a terminal disclaimer where appropriate. Here the terminal disclaimer is unnecessary. Petitioner has filed the petition, fee and reply, his statement has been interpreted to satisfy the regulatory requirements.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby must be and is **granted**.

The file is The instant application is forwarded to Technology Center 2100 to await the filing of the Appeal Brief and fee by Petitioners, pursuant to the regulations at 37 C.F.R. §1.192.

Petitioner has two months from the mail date of this decision to file the Appeal Brief in triplicate and fee. Extensions of time are governed by the regulations at 37 C.F.R. §1.136.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] 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.

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

STAAS & HALSEY LLP
1201 NEW YORK AVE., N.W., SUITE 700
WASHINGTON, D.C. 20005

COPY MAILED

JUL 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasutsugu Kuroda et al :
Application No. 09/327,477 :
Filed: June 8, 1999 :
Attorney Docket No. 826.1547JDH

This is a decision on the petition, filed July 14, 2004, 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 June 16, 2004 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 (703) 306-5684.

The file will be forwarded to Technology Center AU 2132 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

In re Patent No. 6277037
Issue Date: August 21,2001
Application No. 09327590
Filed: June 8,1999
Attorney Docket No. PDLL-103

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 9,2009 . 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.

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)
6277037	2001-08-21	09327590	1999-06-08	0109265.00114US3

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

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	/Michael J. Bevilacqua/	Date (YYYY-MM-DD)	2009-09-09
Name	Michael J. Bevilacqua	Registration Number	31091

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 record s.

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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 7

Louis P. Herzberg
IBM Corporation
P.O. Box 218
Yorktown Heights, NY 10598

MAILED

JUL 2 2 2003

Technology Center 2100

In re Application of: Booth et al. Application No. 09/327,708 Attorney Docket No. YOR919990190US1 Filed: June 8, 1999 For: REPRESENTING, CONFIGURING, ADMINISTERING, MONITORING, AND/OR MODELING CONNECTIONS USING CATALOGS AND MATRIXES	DECISION ON PETITION TO WITHDRAWAL HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the "Petition to Enter Amendment as Filed" (filed April 16, 2003), filed in response to a Notice of Abandonment (Paper No. 5, mail date April 8, 2003). The petition is being considered under 37 CFR § 1.181 as requesting the withdrawal of the holding of abandonment and acceptance of papers as timely filed.

BACKGROUND

Sep 4, 2002	Restriction mailed setting one-month period for reply (Paper No. 4)
Apr 8, 2003	Notice of Abandonment mailed (Paper No. 5)

ISSUES

The practitioner states a fax was sent to phone number "703-305-9731" and "703-705-9731". The Notice of Abandonment is provided as Exhibit A, a confirmation of fax transmittal is Exhibit B including a certification of facsimile transmission and pages 5-6 of the Office action are Exhibit C with the group phone number circled in red for emphasis.

DECISION

A review of the documents provided by the practitioner includes a petition with an express mail certificate which certifies submission of "Petition to Enger [sic] Amendment as filed and Contingency Petition to Revive Application," "Exhibit A" and "Exhibit B." Also provided is a USPTO letter signed by Nicholas Godici addressed to "Patent Business Customer" regarding the revised amendment procedures. Exhibit B is a copy of a facsimile cover sheet with the date of "4/7/03". A certificate of facsimile transmission signed by Margaret McCabe to telephone number "(703) 308-9031" on September 13, 2002 along with a transmittal report for the same date to "7033059731" for 2 pages is provided. The final page is a response to the restriction

requirement with a certificate of facsimile transmission to "(703) 308-9031" signed by Margaret McCabe. The submission does not include "Exhibit C" and no evidence is "circled in red for emphasis." Petitioners did not include a copy of an "Auto Reply" confirming receipt of the facsimile by the USPTO. The practitioner also appears to have made a typographical error on page 1 of the petition citing the fax number as "703-705-9731."

The Office action of September 4, 2002 included two different fax numbers: (703) 305-9731 and "(703) 308-9051." The certificate of transmission signed by Ms. McCabe states the fax was transmitted to "308-9031", a number not provided by the examiner. This number is at odds with the number listed on the fax report of "7033059731." The certificate of facsimile transmission included on the "Amendment" page is also "308-9031".

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence can be considered timely filed if petitioners meet at least three conditions:

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 that **attests on a personal knowledge basis** or to the satisfaction of the Commissioner 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.

   [Emphasis added.]

Considering the errors in the petition (no Exhibit C and misstatement of the telephone number) along with the errors in the practitioner's certificate of express mail (submission of "Enger Amendment") and the apparent errors in the original certificates of transmission of September 13, 2002; a more complete statement from the parties (Ms. McCabe and Mr. Herzberg) attesting to their personal knowledge is needed. The practitioner should also explain why Exhibit B, a fax cover sheet dated "4/7/03," should be considered a confirmation of this fax transmittal.

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-308-0269.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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. 9

Louis P. Herzberg
IBM Corporation
P.O. Box 218
Yorktown Heights, NY 10598

MAILED

OCT 31 2003

Technology Center 2100

In re Application of: Booth et al.	)	
Application No. 09/327,708	)	
Attorney Docket No. YOR919990190US1	)	DECISION ON PETITION TO
Filed: June 8, 1999	)	WITHDRAWAL HOLDING OF
For: REPRESENTING, CONFIGURING,	)	ABANDONMENT UNDER 37 CFR §
ADMINISTERING, MONITORING,	)	1.181(a)
AND/OR MODELING CONNECTIONS	)	
USING CATALOGS AND MATRIXES	)	

This is a decision on the "Request for Reconsideration of Petition to Enter Amendment as file" (sic). The original petition, dismissed July 22, 2003, was filed in response to a Notice of Abandonment (Paper No. 5, mail date April 8, 2003). The request is being considered under 37 CFR § 1.181 as requesting the withdrawal of the holding of abandonment and acceptance of papers as timely filed.

Among the evidence submitted in the request for reconsideration, the practitioner has provided the previously omitted Exhibit C, clarification of the significance of Exhibit B and personal statements from Mr. Herzberg and Ms. McCabe that attest on a personal knowledge basis to the previous timely transmission of the restriction response; all of which complete the record and suffice to meet the minimum requirements to prove timely submission under 37 CFR § 1.8(b).

Accordingly, the petition is **GRANTED**. The application was not abandoned, in fact.

The application file is being forwarded to Technology Center support staff for further processing of the filed response to the restriction requirement and consideration by the examiner of record.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

OIPE JC131
JAN 2 9 2001
PATENT & TRADEMARK OFFICE

Docket No. 59131/JPW/AKC/WL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

June 7, 1999

Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

S I R:

Transmitted herewith for filing are the specification and claims of the patent application of:

Taka-Aki Sato for
Inventor(s)

GENE ENCODING NADE, p75NTR - ASSOCIATED CELL DEATH EXECUTOR AND USES THEREOF
Title of Invention

RECEIVED
FEB 0 2 2001
TECH CENTER 1600/2900

Also enclosed are:

x 17 sheet(s) of ____informal x formal drawings.

____ Oath or declaration of Applicant(s).

____ A power of attorney

____ An assignment of the invention to _____

x A Preliminary Amendment

x A verified statement to establish small entity status under 37 C.F.R. §1.9 and §1.27.

The filing fee is calculated as follows:

CLAIMS AS FILED, LESS ANY CLAIMS CANCELLED BY AMENDMENT

	NUMBER FILED		NUMBER EXTRA*		RATE SMALL ENTITY	RATE OTHER ENTITY		FEE SMALL ENTITY	FEE OTHER ENTITY
Total Claims	23 -20	=	3	X	$ 9.00	$18.00	=	$27.00	$
Independent Claims	7 -3	=	1	X	$39.00	$78.00	=	$39.00	$
Multiple Dependent Claims Presented:	____Yes X No				$130.00	$260.00	=	$ 0	$
						BASIC FEE		$ 380	$ 760
						TOTAL FEE		$446.00	$

*If the different in Col. 1 is less than zero, enter "0" in Col. 2

Applicant: Taka-Aki Sato
U.S. Serial No: Not Yet Known
Filed: Herewith

X A check in the amount of $446.00 to cover the filing fee.

___ Please charge Deposit Account No. _____ in the amount of $_____.

X The Commissioner is hereby authorized to charge any additional fees which may be required in connection with the following or credit any over-payment to Account No. 03-3125:

___ Filing fees under 37 C.F.R. §1.16.

___ Patent application processing fees under 37 C.F.R. §1.17.

___ The issue fee set in 37 C.F.R. §1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. §1.311(b).

X Three copies of this sheet are enclosed.

___ A certified copy of previously filed foreign application No. _____ filed in _____ on _____. Applicant(s) hereby claim priority based upon this aforementioned foreign application under 35 U.S.C. §119.

X Other (identify) Express Mail Certificate of Mailing bearing label No. EJ 700 079 781 US and one loose set of figures

Respectfully submitted,

Albert Wai-Kit Chan

John P. White
Registration No. 28,678
Albert Wai-Kit Chan
Registration No. 36,479
Attorneys for Applicant(s)
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

The PTO did not receive the following listed item(s) a check for $446.00

OIPE JC131
JAN 2 9 2001
PATENT & TRADEMARK OFFICE

Application No.:09/327,750

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [X] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [X] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: the topology of the sequence was not reported.

RECEIVED
FEB 0 2 2001
TECH CENTER 1600/2900

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
For PatentIn software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

APR 2 3 2001
PATENT & TRADEMARK OFFICE

Application No.: 09/327,750

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [X] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support (SIRA)
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

J. Kerr

BIOTECHNOLOGY SYSTEMS BRANCH

RAW SEQUENCE LISTING ERROR REPORT

OIPE
APR 2 3 2001
PATENT & TRADEMARK OFFICE

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

RECEIVED
MAR 0 1 2001
TECH CENTER 1600/2900

Application Serial Number: 09/327,750A

Source: 1633

Date Processed by STIC: 2-9-01

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.
PATENTIN 2.1 e-mail help: patin21help@uspto.gov or phone 703-306-4119 (R. Wax)
PATENTIN 3.0 e-mail help: patin3help@uspto.gov or phone 703-306-4119 (R. Wax)

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 3.0 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW:

Checker Version 3.0

The Checker Version 3.0 application is a state-of the-art Windows based software program employing a logical and intuitive user-interface to check whether a sequence listing is in compliance with format and content rules. Checker Version 3.0 works for sequence listings generated for the original version of 37 CFR §§1.821 – 1.825 effective October 1, 1990 (old rules) and the revised version (new rules) effective July 1, 1998 as well as World Intellectual Property Organization (WIPO) Standard ST.25.
Checker Version 3.0 replaces the previous DOS-based version of Checker, and is Y2K-compliant. Checker allows public users to check sequence listings in Computer Readable form (CRF) before submitting them to the United States Patent and Trademark Office (USPTO). Use of Checker prior to filing the sequence listing is expected to result in fewer errored sequence listings, thus saving time and money.

Checker Version 3.0 can be down loaded from the USPTO website at the following address:
http://www.uspto.gov/web/offices/pac/checker

Raw Sequence Listing Error Summary

SERIAL NUMBER: 09/327,750A

	ERROR DETECTED	SUGGESTED CORRECTION

ATTN: NEW RULES CASES: PLEASE DISREGARD ENGLISH "ALPHA" HEADERS, WHICH WERE INSERTED BY PTO SOFTWARE

1 ____	Wrapped Nucleics	The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3, as this will prevent "wrapping".
2 ____	Wrapped Aminos	The amino acid number/text at the end of each line "wrapped " down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3, as this will prevent "wrapping".
3 ____	Incorrect Line Length	The rules require that a line not exceed 72 characters in length. This includes spaces.
4 ____	Misaligned Amino Acid Numbering	The numbering under each 5th amino acid is misaligned. This may be caused by the use of tabs between the numbering. It is recommended to delete any tabs and use spacing between the numbers.
5 ____	Non-ASCII	This file was not saved in ASCII (DOS) text, as required by the Sequence Rules. Please ensure your subsequent submission is saved in ASCII text so that it can be processed.
6 ____	Variable Length	Sequence(s) ____ contain n's or Xaa's which represented more than one residue. As per the rules, each n or Xaa can only represent a single residue. Please present the maximum number of each residue having variable length and indicate in the (ix) feature section that some may be missing.
7 ____	PatentIn ver. 2.0 "bug"	A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequence(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. **This applies primarily to the mandatory <220>-<223> sections for Artificial or Unknown sequences.**
8 ____	Skipped Sequences (OLD RULES)	Sequence(s) ____ missing. If intentional, please use the following format for each skipped sequence: **(2) INFORMATION FOR SEQ ID NO:X:** **(i) SEQUENCE CHARACTERISTICS:**(Do not insert any headings under "SEQUENCE CHARACTERISTICS") **(xi) SEQUENCE DESCRIPTION:SEQ ID NO:X:** **This sequence is intentionally skipped** Please also adjust the "(iii) NUMBER OF SEQUENCES:" response to include the skipped sequence(s).
9 ____	Skipped Sequences (NEW RULES)	Sequence(s) ____ missing. If intentional, please use the following format for each skipped sequence. **<210> sequence id number** **<400> sequence id number** **000**
10 ____	Use of n's or Xaa's (NEW RULES)	Use of n's and/or Xaa's have been detected in the Sequence Listing. Use of <220> to <223> is MANDATORY if n's or Xaa's are present. In <220> to <223> section, please explain location of n or Xaa, and which residue n or Xaa represents.
11 ____	Use of <213>Organism (NEW RULES)	Sequence(s) _____ are missing this mandatory field or its response.
12 ✓	Use of <220>Feature (NEW RULES)	3-11 Sequence(s) ✓ are missing the <220>Feature and associated headings. Use of <220> to <223> is MANDATORY if <213>ORGANISM is "Artificial" or "Unknown" **Please explain source of genetic material in <220> to <223> section.** (See "Federal Register," 6/01/98, Vol. 63, No. 104, pp. 29631-32) (Sec. 1.823 of new Rules)
13 ____	PatentIn ver. 2.0 "bug"	**Please do not use "Copy to Disk" function of PatentIn version 2.0.** This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other means to copy file to floppy disk.

OIPE JC173
APR 2 3 2001
PATENT & TRADEMARK OFFICE

RECEIVED 1633
MAR 0 1 2001
TECH CENTER 1600/2900

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750A

DATE: 02/09/2001
TIME: 14:16:09

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

```
  3 <110> APPLICANT: Sato, Taki-Aki
  5 <120> TITLE OF INVENTION: GENE ENCODING NADE, P75NTR- ASSOCIATED CELL DEATH EXECUTOR AND USES
  6       THEREOF
  8 <130> FILE REFERENCE: 0575/59131/JPW/APE
 10 <140> CURRENT APPLICATION NUMBER: 09/327,750A
 11 <141> CURRENT FILING DATE: 1999-06-07
 13 <160> NUMBER OF SEQ ID NOS: 45
 15 <170> SOFTWARE: PatentIn version 3.0
 17 <210> SEQ ID NO: 1
 18 <211> LENGTH: 36
 19 <212> TYPE: DNA
 20 <213> ORGANISM: MOUSE
 22 <400> SEQUENCE: 1
 23 aattgtctac gcatccttat gggggagctg tctaac                          36
 26 <210> SEQ ID NO: 2
 27 <211> LENGTH: 12
 28 <212> TYPE: PRT
 29 <213> ORGANISM: MOUSE
 31 <400> SEQUENCE: 2
 33 Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
 34 1               5                   10
 36 <210> SEQ ID NO: 3
 37 <211> LENGTH: 30
 38 <212> TYPE: DNA
 39 <213> ORGANISM: Artificial Sequence
W--> 41 <220> FEATURE:
W--> 41 <223> OTHER INFORMATION:
 41 <400> SEQUENCE: 3
 42 ctagctagca tcatggtgag caagggcgag                                 30
 45 <210> SEQ ID NO: 4
 46 <211> LENGTH: 28
 47 <212> TYPE: DNA
 48 <213> ORGANISM: Artificial Sequence
W--> 50 <220> FEATURE:
W--> 50 <223> OTHER INFORMATION:
 50 <400> SEQUENCE: 4
 51 ccgctcgagt cttgtacagc tcgtccat                                   28
 54 <210> SEQ ID NO: 5
 55 <211> LENGTH: 29
 56 <212> TYPE: DNA
 57 <213> ORGANISM: Artificial Sequence
W--> 59 <220> FEATURE:
W--> 59 <223> OTHER INFORMATION:
 59 <400> SEQUENCE: 5
 60 atcctcgagc gatcatggcc aatgtccac                                  29
 63 <210> SEQ ID NO: 6
 64 <211> LENGTH: 27
```

Does Not Comply
Corrected Diskette Needed

Missing Mandatory <220>, <223> response to explain source of genetic material in the artificial sequence. See #12 on the Error Summary Sheet.

Note: <220> is a mandatory blank line feature.

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750A

DATE: 02/09/2001
TIME: 14:16:09

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

```
     65 <212> TYPE: DNA
     66 <213> ORGANISM: Artifcial Sequence
     68 <400> SEQUENCE: 6                                                  27
     69 atcggatcct ctcagctgta gctccct
     72 <210> SEQ ID NO: 7
     73 <211> LENGTH: 27
     74 <212> TYPE: DNA
     75 <213> ORGANISM: Artificial Sequence
W--> 76 <220> FEATURE:
W--> 77 <223> OTHER INFORMATION:
     77 <400> SEQUENCE: 7                                                  27
     78 atcggatccg atctctctca tctcctc
     81 <210> SEQ ID NO: 8
     82 <211> LENGTH: 27
     83 <212> TYPE: DNA
     84 <213> ORGANISM: Artificial Sequence
W--> 85 <220> FEATURE:
W--> 86 <223> OTHER INFORMATION:
     86 <400> SEQUENCE: 8                                                  27
     87 aaagcttagg gaggcacagc tgagaaa
     90 <210> SEQ ID NO: 9
     91 <211> LENGTH: 27
     92 <212> TYPE: DNA
     93 <213> ORGANISM: Artificial Sequence
W--> 94 <220> FEATURE:
W--> 95 <223> OTHER INFORMATION:
     95 <400> SEQUENCE: 9                                                  27
     96 tttctcagct gtgcctccct aagcttt
     99 <210> SEQ ID NO: 10
    100 <211> LENGTH: 26
    101 <212> TYPE: DNA
    102 <213> ORGANISM: Artificial Sequence
W--> 103 <220> FEATURE:
W--> 104 <223> OTHER INFORMATION:
    104 <400> SEQUENCE: 10                                                 26
    105 atccggagaa aggctaggga ggcaca
    108 <210> SEQ ID NO: 11
    109 <211> LENGTH: 26
    110 <212> TYPE: DNA
    111 <213> ORGANISM: Artificial Sequence
W--> 112 <220> FEATURE:
W--> 113 <223> OTHER INFORMATION:
    113 <400> SEQUENCE: 11                                                 26
    114 tgtgcctccc tagcctttct ccggat
    117 <210> SEQ ID NO: 12
    118 <211> LENGTH: 124
    119 <212> TYPE: PRT
    120 <213> ORGANISM: MOUSE
    122 <400> SEQUENCE: 12
```

Error #12
refer to
p. 1

RAW SEQUENCE LISTING DATE: 02/09/2001
PATENT APPLICATION: US/09/327,750A TIME: 14:16:09

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

124 Met Ala Asn Val His Gln Glu Asn Glu Glu Met Glu Gln Pro Leu Gln
125 1 5 10 15
127 Asn Gly Glu Glu Asp Arg Pro Val Gly Gly Gly Glu Gly His Gln Pro
128 20 25 30
130 Ala Gly Asn Asn Asn Asn Asn Asn His Asn His Asn His Asn His His
131 35 40 45
133 Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg Trp Ala Ile
134 50 55 60
136 Pro Asn Arg Gln Met Asn Asp Gly Leu Gly Gly Asp Gly Asp Asp Met
137 65 70 75 80
139 Glu Met Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys Leu Arg Glu
140 85 90 95
142 Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
143 100 105 110
145 His His Asp His His Asp Glu Phe Cys Leu Met Pro
146 115 120
148 <210> SEQ ID NO: 13
149 <211> LENGTH: 111
150 <212> TYPE: PRT
151 <213> ORGANISM: HUMAN
153 <400> SEQUENCE: 13
155 Met Ala Asn Ile His Gln Glu Asn Glu Glu Met Glu Gln Pro Met Gln
156 1 5 10 15
158 Asn Gly Glu Glu Asp Arg Pro Leu Gly Gly Gly Glu Gly His Gln Pro
159 20 25 30
161 Ala Gly Asn Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg
162 35 40 45
164 Trp Ala Ile Pro Asn Arg Gln Ile Asn Asp Gly Met Gly Gly Asp Gly
165 50 55 60
167 Asp Asp Met Glu Ile Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys
168 65 70 75 80
170 Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu
171 85 90 95
173 Leu Ser Asn His His Asp His His Asp Glu Phe Cys Leu Met Pro
174 100 105 110
176 <210> SEQ ID NO: 14
177 <211> LENGTH: 13
178 <212> TYPE: PRT
179 <213> ORGANISM: czyxin
181 <400> SEQUENCE: 14
183 Leu Thr Met Lys Glu Val Glu Glu Leu Glu Leu Leu Thr
184 1 5 10
186 <210> SEQ ID NO: 15
187 <211> LENGTH: 13
188 <212> TYPE: PRT
189 <213> ORGANISM: MAPKK
191 <400> SEQUENCE: 15
193 Ala Leu Gln Lys Lys Leu Glu Glu Leu Glu Leu Asp Glu
194 1 5 10

RAW SEQUENCE LISTING DATE: 02/09/2001
PATENT APPLICATION: US/09/327,750A TIME: 14:16:09

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

196 <210> SEQ ID NO: 16
197 <211> LENGTH: 10
198 <212> TYPE: PRT
199 <213> ORGANISM: PK1-alpha
201 <400> SEQUENCE: 16
203 Leu Ala Leu Lys Leu Ala Gly Leu Asp Ile
204 1 5 10
206 <210> SEQ ID NO: 17
207 <211> LENGTH: 9
208 <212> TYPE: PRT
209 <213> ORGANISM: TF III A
211 <400> SEQUENCE: 17
213 Leu Pro Val Leu Glu Asn Leu Thr Leu
214 1 5
216 <210> SEQ ID NO: 18
217 <211> LENGTH: 9
218 <212> TYPE: PRT
219 <213> ORGANISM: Rev HIV-1
221 <400> SEQUENCE: 18
223 Leu Pro Pro Leu Glu Arg Leu Thr Leu
224 1 5
226 <210> SEQ ID NO: 19
227 <211> LENGTH: 12
228 <212> TYPE: PRT
229 <213> ORGANISM: Ran BP1
231 <400> SEQUENCE: 19
233 Lys Val Ala Glu Lys Leu Glu Ala Leu Ser Val Arg
234 1 5 10
236 <210> SEQ ID NO: 20
237 <211> LENGTH: 13
238 <212> TYPE: PRT
239 <213> ORGANISM: FMRP
241 <400> SEQUENCE: 20
243 Glu Val Asp Gln Leu Arg Leu Glu Arg Leu Gln Ile Asp
244 1 5 10
246 <210> SEQ ID NO: 21
247 <211> LENGTH: 8
248 <212> TYPE: PRT
249 <213> ORGANISM: Gle 1
251 <400> SEQUENCE: 21
253 Leu Pro Leu Gly Lys Leu Thr Leu
254 1 5
256 <210> SEQ ID NO: 22
257 <211> LENGTH: 14
258 <212> TYPE: PRT
259 <213> ORGANISM: Rex HTLV-1
261 <400> SEQUENCE: 22
263 Ala Leu Ser Ala Gln Leu Tyr Ser Ser Leu Ser Leu Asp Ser
264 1 5 10

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750A

DATE: 02/09/2001
TIME: 14:16:09

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

266 <210> SEQ ID NO: 23
267 <211> LENGTH: 13
268 <212> TYPE: PRT
269 <213> ORGANISM: human NADE
271 <400> SEQUENCE: 23
273 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
274 1 5 10
276 <210> SEQ ID NO: 24
277 <211> LENGTH: 13
278 <212> TYPE: PRT
279 <213> ORGANISM: mouse NADE
281 <400> SEQUENCE: 24
283 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
284 1 5 10
286 <210> SEQ ID NO: 25
287 <211> LENGTH: 27
288 <212> TYPE: PRT
289 <213> ORGANISM: MOUSE
291 <400> SEQUENCE: 25
293 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu
294 1 5 10 15
296 Arg Ile Leu Met Gly Glu Leu Ser Asn His His
297 20 25
299 <210> SEQ ID NO: 26
300 <211> LENGTH: 27
301 <212> TYPE: PRT
302 <213> ORGANISM: HUMAN
304 <400> SEQUENCE: 26
306 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu
307 1 5 10 15
309 Arg Ile Leu Met Gly Glu Leu Ser Asn His His
310 20 25
312 <210> SEQ ID NO: 27
313 <211> LENGTH: 8
314 <212> TYPE: PRT
315 <213> ORGANISM: CONSENSUS (MOUSE v. HUMAN)
317 <400> SEQUENCE: 27
319 Arg Leu Leu Asn Arg Leu Leu Asn
320 1 5
322 <210> SEQ ID NO: 28
323 <211> LENGTH: 700
324 <212> TYPE: DNA
325 <213> ORGANISM: MOUSE
327 <400> SEQUENCE: 28
328 acgagcgtct ggccagcagc tcggagctcc tctgcgcgcg gcgggctggc agcgggcccg 60
330 aggcgagcgg gacagattga ctggaagccg agagtccagg cggcagcggg aattgacagg 120
332 aggactacgc cgcaagggat aggcccagaa tagcaaccag gaaacaaaat ctcatcatgg 180
334 ccaatgtcca ccaggaaaac gaagagctgg agcagcccct gcagaatgga caggaacacc 240
336 gccctgtggg aggaggtgag gyccaccagc ctgctgcaaa caacaacaac aacaaccaca 300

VERIFICATION SUMMARY DATE: 02/09/2001
PATENT APPLICATION: US/09/327,750A TIME: 14:16:10

Input Set : A:\PTO.txt
Output Set: N:\CRF3\02092001\I327750A.raw

L:41 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:41 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:50 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:50 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:59 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:59 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:77 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:77 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:86 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:86 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:95 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:95 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:104 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:104 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:
L:113 M:258 W: Mandatory Feature missing, <220> FEATURE:
L:113 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:

BIOTECHNOLOGY SYSTEMS BRANCH

RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

RECEIVED
MAY 1 7 2001
TECH CENTER 1600/2900

Application Serial Number: 09/327,750B

Source: 1633

Date Processed by STIC: 5/4/2001

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.
PATENTIN 2.1 e-mail help: patin21help@uspto.gov or phone 703-306-4119 (R. Wax)
PATENTIN 3.0 e-mail help: patin3help@uspto.gov or phone 703-306-4119 (R. Wax)

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 3.0 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW:

Checker Version 3.0

The Checker Version 3.0 application is a state-of the-art Windows based software program employing a logical and intuitive user-interface to check whether a sequence listing is in compliance with format and content rules. Checker Version 3.0 works for sequence listings generated for the original version of 37 CFR §§1.821 – 1.825 effective October 1, 1990 (old rules) and the revised version (new rules) effective July 1, 1998 as well as World Intellectual Property Organization (WIPO) Standard ST.25.

Checker Version 3.0 replaces the previous DOS-based version of Checker, and is Y2K-compliant. Checker allows public users to check sequence listings in Computer Readable form (CRF) before submitting them to the United States Patent and Trademark Office (USPTO). Use of Checker prior to filing the sequence listing is expected to result in fewer errored sequence listings, thus saving time and money.

Checker Version 3.0 can be down loaded from the USPTO website at the following address:
http://www.uspto.gov/web/offices/pac/checker

59131

JPW

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/327,750	6/7/99 06/07/99	Taka-Aki Sato	T 0575/59131/JPW/APW/AK

EXAMINER	
Janet M. Kerr, T	
ART UNIT	PAPER NUMBER
1633 1632	13
DATE MAILED:	
06/01/01	

JUN - 7 2001
DOCKET CLERK
HZ12/0601
1m. 7. 1. 01
2m. 8. 1. 01
3m. 9. 1. 01
4m. 10. 1. 01
5m. 11. 1. 01
6m. 12. 1. 01
AP

JOHN P WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

The communication, filed on 4/23/01, is non-responsive to the prior Office action, mailed 3/20/01, because of the following reason:

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR § 1.821 through 1.825 (see the attached Raw Sequence Listing Error Report). Failure to respond to this requirement may result in abandonment of the instant application.

Since the response appears to be *bona fide*, but through an apparent oversight or inadvertence failed to provide a complete response, applicant is required to complete the response within a time limit of one month from the date of this letter or as extended as follows. AN EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136(a) OR (b) UP TO A MAXIMUM OF SIX MONTHS.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is either (703)305-3014 or (703)308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Kerr, Ph.D., whose telephone number is (703)305-4055.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Clark, can be reached at (703)305-4051.

Any inquiry of a general nature or relating to the status of this application should be directed to Patent Analyst, Kimberly Davis, whose telephone number is (703)305-3015.

Deborah Clark

DEBORAH J. R. CLARK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Application No.: 09/327,750

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [x] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [x] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other:

Applicant Must Provide:

- [x] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [x] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [x] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support (SIRA)
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

Raw Sequence Listing Error Summary

ERROR DETECTED | SUGGESTED CORRECTION | SERIAL NUMBER: 09/327,250B

ATTN: NEW RULES CASES: PLEASE DISREGARD ENGLISH "ALPHA" HEADERS, WHICH WERE INSERTED BY PTO SOFTWARE

RECEIVED
MAY 1 7 2001
TECH CENTER 1600/2900

1 ____	Wrapped Nucleics	The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3, as this will prevent "wrapping".
2 ____	Wrapped Aminos	The amino acid number/text at the end of each line "wrapped " down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3, as this will prevent "wrapping".
3 ____	Incorrect Line Length	The rules require that a line not exceed 72 characters in length. This includes spaces.
4 ____	Misaligned Amino Acid Numbering	The numbering under each 5th amino acid is misaligned. This may be caused by the use of tabs between the numbering. It is recommended to delete any tabs and use spacing between the numbers.
5 ____	Non-ASCII	This file was not saved in ASCII (DOS) text, as required by the Sequence Rules. Please ensure your subsequent submission is saved in ASCII text so that it can be processed.
6 ____	Variable Length	Sequence(s) ____ contain n's or Xaa's which represented more than one residue. As per the rules, each n or Xaa can only represent a single residue. Please present the maximum number of each residue having variable length and indicate in the (ix) feature section that some may be missing.
7 ____	PatentIn ver. 2.0 "bug"	A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequence(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. **This applies primarily to the mandatory <220>-<223> sections for Artificial or Unknown sequences.**
8 ____	Skipped Sequences (OLD RULES)	Sequence(s) ____ missing. If intentional, please use the following format for each skipped sequence: **(2) INFORMATION FOR SEQ ID NO:X:** **(i) SEQUENCE CHARACTERISTICS:**(Do not insert any headings under "SEQUENCE CHARACTERISTICS") **(xi) SEQUENCE DESCRIPTION:SEQ ID NO:X:** **This sequence is intentionally skipped** Please also adjust the "(iii) NUMBER OF SEQUENCES:" response to include the skipped sequence(s).
9 ____	Skipped Sequences (NEW RULES)	Sequence(s) ____ missing. If intentional, please use the following format for each skipped sequence. **<210> sequence id number** **<400> sequence id number** **000**
10 ____	Use of n's or Xaa's (NEW RULES)	Use of n's and/or Xaa's have been detected in the Sequence Listing. Use of <220> to <223> is MANDATORY if n's or Xaa's are present. In <220> to <223> section, please explain location of **n** or **Xaa**, and which residue **n** or **Xaa** represents.
11 ____	Use of "Artificial" (NEW RULES)	Use of "Artificial" only as "<213> Organism" response is incomplete, per 1.823(b) of New Sequence Rules. Valid response is Artificial Sequence.
12 ____	Use of <220>Feature (NEW RULES)	Sequence(s) 6 are missing the <220>Feature and associated headings. Use of <220> to <223> is MANDATORY if <213>ORGANISM is "Artificial Sequence" or "Unknown" **Please explain source of genetic material in <220> to <223> section.** (See "Federal Register," 6/01/98, Vol. 63, No. 104, pp. 29631-32) **(Sec. 1.823 of new Rules)**
13 ____	PatentIn ver. 2.0 "bug"	**Please do not use "Copy to Disk" function of PatentIn version 2.0.** This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other means to copy file to floppy disk.

AMC - Biotechnology Systems Branch - 4/06/2001

Kent

1633

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750B

DATE: 05/04/2001
TIME: 16:34:33

p.2

Does Not Comply
Corrected Diskette Needed

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

3 <110> APPLICANT: Sato, Taki-Aki
5 <120> TITLE OF INVENTION: GENE ENCODING NADE, P75NTR- ASSOCIATED CELL DEATH EXECUTOR AND USES
6 THEREOF
8 <130> FILE REFERENCE: 0575/59131/JPW/APE
10 <140> CURRENT APPLICATION NUMBER: 09/327,750B
11 <141> CURRENT FILING DATE: 1999-06-07
13 <160> NUMBER OF SEQ ID NOS: 45
15 <170> SOFTWARE: PatentIn version 3.0
17 <210> SEQ ID NO: 1
18 <211> LENGTH: 36
19 <212> TYPE: DNA
20 <213> ORGANISM: MOUSE
22 <400> SEQUENCE: 1
23 aattgtctac gcatccttat gggggagctg tctaac 36
26 <210> SEQ ID NO: 2
27 <211> LENGTH: 12
28 <212> TYPE: PRT
29 <213> ORGANISM: MOUSE
31 <400> SEQUENCE: 2
33 Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
34 1 5 10
36 <210> SEQ ID NO: 3
37 <211> LENGTH: 30
38 <212> TYPE: DNA
39 <213> ORGANISM: Artificial Sequence
41 <220> FEATURE:
42 <221> NAME/KEY: misc_feature
43 <222> LOCATION: (1)..(30)
44 <223> OTHER INFORMATION: Mouse Nade DNA
47 <400> SEQUENCE: 3
48 ctagctagca tcatggtgag caagggcgag 30
51 <210> SEQ ID NO: 4
52 <211> LENGTH: 28
53 <212> TYPE: DNA
54 <213> ORGANISM: Artificial Sequence
56 <220> FEATURE:
57 <221> NAME/KEY: misc_feature
58 <222> LOCATION: (1)..(28)
59 <223> OTHER INFORMATION: Mouse Nade DNA
62 <400> SEQUENCE: 4
63 ccgctcgagt cttgtacagc tcgtccat 28
66 <210> SEQ ID NO: 5
67 <211> LENGTH: 29
68 <212> TYPE: DNA
69 <213> ORGANISM: Artificial Sequence
71 <220> FEATURE:
72 <221> NAME/KEY: misc_feature

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750B

DATE: 05/04/2001
TIME: 16:34:33

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

```
   73 <222> LOCATION: (1)..(29)
   74 <223> OTHER INFORMATION: Mouse Nade DNA
   77 <400> SEQUENCE: 5
   78 atcctcgagc gatcatggcc aatgtccac                                    29
   81 <210> SEQ ID NO: 6
   82 <211> LENGTH: 27
   83 <212> TYPE: DNA
-> 84 <213> ORGANISM: Artifcial Sequence
-> 86 <220> FEATURE:
-> 86 <223> OTHER INFORMATION:
   86 <400> SEQUENCE: 6
   87 atcggatcct ctcagctgta gctccct                                      27
   90 <210> SEQ ID NO: 7
   91 <211> LENGTH: 27
   92 <212> TYPE: DNA
   93 <213> ORGANISM: Artificial Sequence
   95 <220> FEATURE:
   96 <221> NAME/KEY: misc_feature
   97 <222> LOCATION: (1)..(27)
   98 <223> OTHER INFORMATION: Mouse Nade DNA
  101 <400> SEQUENCE: 7
  102 atcggatccg atctctctca tctcctc                                      27
  105 <210> SEQ ID NO: 8
  106 <211> LENGTH: 27
  107 <212> TYPE: DNA
  108 <213> ORGANISM: Artificial Sequence
  110 <220> FEATURE:
  111 <221> NAME/KEY: misc_feature
  112 <222> LOCATION: (1)..(27)
  113 <223> OTHER INFORMATION: Mouse Nade DNA
  116 <400> SEQUENCE: 8
  117 aaagcttagg gaggcacagc tgagaaa                                      27
  120 <210> SEQ ID NO: 9
  121 <211> LENGTH: 27
  122 <212> TYPE: DNA
  123 <213> ORGANISM: Artificial Sequence
  125 <220> FEATURE:
  126 <221> NAME/KEY: misc_feature
  127 <222> LOCATION: (1)..(27)
  128 <223> OTHER INFORMATION: Mouse Nade DNA
  131 <400> SEQUENCE: 9
  132 tttctcagct gtgcctccct aagcttt                                      27
  135 <210> SEQ ID NO: 10
  136 <211> LENGTH: 26
  137 <212> TYPE: DNA
  138 <213> ORGANISM: Artificial Sequence
  140 <220> FEATURE:
  141 <221> NAME/KEY: misc_feature
  142 <222> LOCATION: (1)..(26)
```

Artificial Sequence

see item 12 on Error Summary Sheet

RAW SEQUENCE LISTING DATE: 05/04/2001
PATENT APPLICATION: US/09/327,750B TIME: 16:34:33

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

143 <223> OTHER INFORMATION: Mouse Nade DNA
146 <400> SEQUENCE: 10
147 atccggagaa aggctaggga ggcaca 26
150 <210> SEQ ID NO: 11
151 <211> LENGTH: 26
152 <212> TYPE: DNA
153 <213> ORGANISM: Artificial Sequence
155 <220> FEATURE:
156 <221> NAME/KEY: misc_feature
157 <222> LOCATION: (1)..(26)
158 <223> OTHER INFORMATION: Mouse Nade DNA
161 <400> SEQUENCE: 11
162 tgtgcctccc tagcctttct ccggat 26
165 <210> SEQ ID NO: 12
166 <211> LENGTH: 124
167 <212> TYPE: PRT
168 <213> ORGANISM: MOUSE
170 <400> SEQUENCE: 12
172 Met Ala Asn Val His Gln Glu Asn Glu Glu Met Glu Gln Pro Leu Gln
173 1 5 10 15
175 Asn Gly Glu Glu Asp Arg Pro Val Gly Gly Gly Glu Gly His Gln Pro
176 20 25 30
178 Ala Gly Asn Asn Asn Asn Asn Asn His Asn His Asn His Asn His His
179 35 40 45
181 Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg Trp Ala Ile
182 50 55 60
184 Pro Asn Arg Gln Met Asn Asp Gly Leu Gly Gly Asp Gly Asp Asp Met
185 65 70 75 80
187 Glu Met Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys Leu Arg Glu
188 85 90 95
190 Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
191 100 105 110
193 His His Asp His His Asp Glu Phe Cys Leu Met Pro
194 115 120
196 <210> SEQ ID NO: 13
197 <211> LENGTH: 111
198 <212> TYPE: PRT
199 <213> ORGANISM: HUMAN
201 <400> SEQUENCE: 13
203 Met Ala Asn Ile His Gln Glu Asn Glu Glu Met Glu Gln Pro Met Gln
204 1 5 10 15
206 Asn Gly Glu Glu Asp Arg Pro Leu Gly Gly Gly Glu Gly His Gln Pro
207 20 25 30
209 Ala Gly Asn Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg
210 35 40 45
212 Trp Ala Ile Pro Asn Arg Gln Ile Asn Asp Gly Met Gly Gly Asp Gly
213 50 55 60
215 Asp Asp Met Glu Ile Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys
216 65 70 75 80

RAW SEQUENCE LISTING DATE: 05/04/2001
PATENT APPLICATION: US/09/327,750B TIME: 16:34:33

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

```
218 Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu
219                 85                  90                  95
221 Leu Ser Asn His His Asp His His Asp Glu Phe Cys Leu Met Pro
222             100                 105                 110
224 <210> SEQ ID NO: 14
225 <211> LENGTH: 13
226 <212> TYPE: PRT
227 <213> ORGANISM: czyxin
229 <400> SEQUENCE: 14
231 Leu Thr Met Lys Glu Val Glu Glu Leu Glu Leu Leu Thr
232 1               5                   10
234 <210> SEQ ID NO: 15
235 <211> LENGTH: 13
236 <212> TYPE: PRT
237 <213> ORGANISM: MAPKK
239 <400> SEQUENCE: 15
241 Ala Leu Gln Lys Lys Leu Glu Glu Leu Glu Leu Asp Glu
242 1               5                   10
244 <210> SEQ ID NO: 16
245 <211> LENGTH: 10
246 <212> TYPE: PRT
247 <213> ORGANISM: PKI-alpha
249 <400> SEQUENCE: 16
251 Leu Ala Leu Lys Leu Ala Gly Leu Asp Ile
252 1               5                   10
254 <210> SEQ ID NO: 17
255 <211> LENGTH: 9
256 <212> TYPE: PRT
257 <213> ORGANISM: TF III A
259 <400> SEQUENCE: 17
261 Leu Pro Val Leu Glu Asn Leu Thr Leu
262 1               5
264 <210> SEQ ID NO: 18
265 <211> LENGTH: 9
266 <212> TYPE: PRT
267 <213> ORGANISM: Rev HIV-1
269 <400> SEQUENCE: 18
271 Leu Pro Pro Leu Glu Arg Leu Thr Leu
272 1               5
274 <210> SEQ ID NO: 19
275 <211> LENGTH: 12
276 <212> TYPE: PRT
277 <213> ORGANISM: Ran BP1
279 <400> SEQUENCE: 19
281 Lys Val Ala Glu Lys Leu Glu Ala Leu Ser Val Arg
282 1               5                   10
284 <210> SEQ ID NO: 20
285 <211> LENGTH: 13
286 <212> TYPE: PRT
```

RAW SEQUENCE LISTING DATE: 05/04/2001
PATENT APPLICATION: US/09/327,750B TIME: 16:34:33

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

```
287 <213> ORGANISM: FMRP
289 <400> SEQUENCE: 20
291 Glu Val Asp Gln Leu Arg Leu Glu Arg Leu Gln Ile Asp
292 1               5                   10
294 <210> SEQ ID NO: 21
295 <211> LENGTH: 8
296 <212> TYPE: PRT
297 <213> ORGANISM: Gle 1
299 <400> SEQUENCE: 21
301 Leu Pro Leu Gly Lys Leu Thr Leu
302 1               5
304 <210> SEQ ID NO: 22
305 <211> LENGTH: 14
306 <212> TYPE: PRT
307 <213> ORGANISM: Rex HTLV-1
309 <400> SEQUENCE: 22
311 Ala Leu Ser Ala Gln Leu Tyr Ser Ser Leu Ser Leu Asp Ser
312 1               5                   10
314 <210> SEQ ID NO: 23
315 <211> LENGTH: 13
316 <212> TYPE: PRT
317 <213> ORGANISM: human NADE
319 <400> SEQUENCE: 23
321 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
322 1               5                   10
324 <210> SEQ ID NO: 24
325 <211> LENGTH: 13
326 <212> TYPE: PRT
327 <213> ORGANISM: mouse NADE
329 <400> SEQUENCE: 24
331 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
332 1               5                   10
334 <210> SEQ ID NO: 25
335 <211> LENGTH: 27
336 <212> TYPE: PRT
337 <213> ORGANISM: MOUSE
339 <400> SEQUENCE: 25
341 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu
342 1               5                   10                  15
344 Arg Ile Leu Met Gly Glu Leu Ser Asn His His
345             20                  25
347 <210> SEQ ID NO: 26
348 <211> LENGTH: 27
349 <212> TYPE: PRT
350 <213> ORGANISM: HUMAN
352 <400> SEQUENCE: 26
354 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu
355 1               5                   10                  15
357 Arg Ile Leu Met Gly Glu Leu Ser Asn His His
```

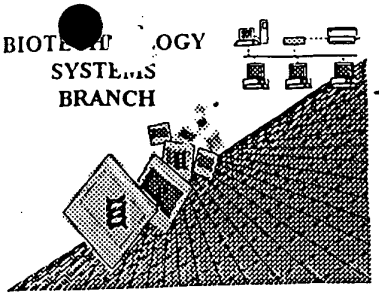
VERIFICATION SUMMARY
PATENT APPLICATION: US/09/327,750B

DATE: 05/04/2001
TIME: 16:34:34

Input Set : A:\PTO.txt
Output Set: N:\CRF3\05042001\I327750B.raw

84 M:220 C: Keyword misspelled or invalid format, <213> ORGANISM for SEQ ID#:6
86 M:258 W: Mandatory Feature missing, <220> FEATURE:
86 M:258 W: Mandatory Feature missing, <223> OTHER INFORMATION:

BIOTECHNOLOGY SYSTEMS BRANCH



RECEIVED
OCT 1 8 2001
TECH CENTER 1600/2900

RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

RECEIVED
JUL 2 3 2001
TECH CENTER 1600/2900

Application Serial Number: 09/327,780C

Source: 1633

Date Processed by STIC: 7/5/2001

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.
PATENTIN 2.1 e-mail help: patin21help@uspto.gov or phone 703-306-4119 (R. Wax)
PATENTIN 3.0 e-mail help: patin3help@uspto.gov or phone 703-306-4119 (R. Wax)

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 3.0 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW:

Checker Version 3.0

The Checker Version 3.0 application is a state-of the-art Windows based software program employing a logical and intuitive user-interface to check whether a sequence listing is in compliance with format and content rules. Checker Version 3.0 works for sequence listings generated for the original version of 37 CFR §§1.821 – 1.825 effective October 1, 1990 (old rules) and the revised version (new rules) effective July 1, 1998 as well as World Intellectual Property Organization (WIPO) Standard ST.25.
Checker Version 3.0 replaces the previous DOS-based version of Checker, and is Y2K-compliant. Checker allows public users to check sequence listings in Computer Readable form (CRF) before submitting them to the United States Patent and Trademark Office (USPTO).
Use of Checker prior to filing the sequence listing is expected to result in fewer errored sequence listings, thus saving time and money.

Checker Version 3.0 can be down loaded from the USPTO website at the following address:
http://www.uspto.gov/web/offices/pac/checker

OIPE JC97
OCT 15 2001
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE JPW
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
			0575/59131

9/7/01
w to Furnish: 10/7/2001
quence List
SL Extension: 11/7/2001
SL Extension: 12/7/2001
SL Extension: 1/7/2002
SL Extension: 2/7/2002
SL Deadline: 3/7/2002
SMB

RECEIVED
COOPER & DUNHAM
SEP 17 2001
DOCKET CLERK

EXAMINER
Jeanine Enewold Goldberg

ART UNIT	PAPER
1655	16

DATE MAILED:

RECEIVED
OCT 18 2001
TECH CENTER 1600/2900

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

Commissioner of Patents and Trademarks

The communication filed June 22, 2001 is not fully responsive to the Office communication mailed June 1, 2001 for the reason(s) set forth on the attached Notice To Comply With The Sequence Rules or CRF Diskette Problem Report. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

Since the reply appears to be bona fide attempt to comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825), applicant is given a TIME PERIOD of **ONE (1) MONTH** from the mailing date of this communication within which to correct the deficiency so as to comply with the sequence rules (37 CFR 1.821 - 1.825) in order to avoid abandonment of the application under 37 CFR 1.821(g). EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication should be directed to Examiner **Jeanine Enewold Goldberg**, Art Unit 1655, whose telephone number is **(703) 306-5817**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.

W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

PTO-900 (Rev. 8-98)

Notice to Comply	Application No.	Applicant(s)	
	09/327,750	SATO, TAKA-AKI	
	Examiner	Art Unit	
	Jeanine Enewold Goldberg	1655	

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

☐ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

☒ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

☐ 7. Other:

Applicant Must Provide:

☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".

☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY

Raw Sequence Listing Error Summary

ERROR DETECTED	SUGGESTED CORRECTION	SERIAL NUMBER: 09/327,750 C

ATTN: NEW RULES CASES: PLEASE DISREGARD ENGLISH "ALPHA" HEADERS, WHICH WERE INSERTED BY PTO SOFTWARE

1____	Wrapped Nucleics Wrapped Aminos	The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor **after** creating it. Please adjust your right margin to .3; this will prevent "wrapping."
2____	Invalid Line Length	The rules require that a line **not exceed** 72 characters in length. This includes white spaces.
3____	Misaligned Amino Numbering	The numbering under each 5th amino acid is misaligned. Do **not** use tab codes between numbers; use **space characters**, instead.
4____	Non-ASCII	The submitted file was **not** saved in ASCII(DOS) text, as **required** by the Sequence Rules. **Please ensure your subsequent submission is saved in ASCII text.**
5____	Variable Length	Sequence(s)____contain n's or Xaa's representing more than one residue. **Per Sequence Rules, each n or Xaa can only represent a single residue.** Please present the **maximum** number of each residue having variable length and indicate in the <220>-<223> section that some may be missing.
6____	PatentIn 2.0 "bug"	A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequences(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. **This applies to the mandatory <220>-<223> sections for Artificial or Unknown sequences.**
7____	Skipped Sequences (OLD RULES)	Sequence(s) _____ missing. If intentional, please insert the following lines for **each** skipped sequence: (2) INFORMATION FOR SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) (i) SEQUENCE CHARACTERISTICS: (Do not insert any subheadings under this heading) (xi) SEQUENCE DESCRIPTION:SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) This sequence is intentionally skipped Please also adjust the "(ii) NUMBER OF SEQUENCES:" response to **include** the skipped sequences.
8____	Skipped Sequences (NEW RULES)	Sequence(s) _____ missing. If **intentional**, please insert the following lines for **each** skipped sequence. <210> sequence id number <400> sequence id number 000
9____	Use of n's or Xaa's (NEW RULES)	Use of n's and/or Xaa's have been detected in the Sequence Listing. Per 1.823 of Sequence Rules, use of <220>-<223> is MANDATORY if n's or Xaa's are present. In <220> to <223> section, please explain location of **n** or **Xaa**, and which residue **n** or **Xaa** represents.
10✓	Invalid <213> Response	Per 1.823 of Sequence Rules, the only **valid** <213> responses are: Unknown, Artificial Sequence, or scientific name (Genus/species). <220>-<223> section is **required** when <213> response is Unknown or is Artificial Sequence
11____	Use of <220>	Sequence(s) _____ missing the <220> "Feature" and associated numeric identifiers and responses. Use of <220> to <223> is MANDATORY if <213> "Organism" response is "Artificial Sequence" or "Unknown." Please explain source of genetic material in <220> to <223> section. (See "Federal Register," 06/01/1998, Vol. 63, No. 104, pp. 29631-32) (Sec. 1.823 of Sequence Rules)
12____	PatentIn 2.0 "bug"	Please do not use "Copy to Disk" function of PatentIn version 2.0. This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other manual means to copy file to floppy disk.

AMC – Biotechnology Systems Branch – 06/04/2001

1633

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:15

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

3 <110> APPLICANT: Sato, Taki-Aki
5 <120> TITLE OF INVENTION: GENE ENCODING NADE, P75NTR- ASSOCIATED CELL DEATH EXECUTOR
ND USES
6 THEREOF
8 <130> FILE REFERENCE: 0575/59131/JPW/APE
10 <140> CURRENT APPLICATION NUMBER: 09/327,750C
11 <141> CURRENT FILING DATE: 1999-06-07
13 <160> NUMBER OF SEQ ID NOS: 45
15 <170> SOFTWARE: PatentIn version 3.0

Does Not Comply
Corrected Diskette Needed

17 <210> SEQ ID NO: 1
18 <211> LENGTH: 36
19 <212> TYPE: DNA
20 <213> ORGANISM: MOUSE
22 <400> SEQUENCE: 1
23 aattgtctac gcatccttat gggggagctg tctaac 36
26 <210> SEQ ID NO: 2
27 <211> LENGTH: 12
28 <212> TYPE: PRT
29 <213> ORGANISM: MOUSE
31 <400> SEQUENCE: 2
33 Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
34 1 5 10
36 <210> SEQ ID NO: 3
37 <211> LENGTH: 30
38 <212> TYPE: DNA
39 <213> ORGANISM: Artificial Sequence
41 <220> FEATURE:
42 <221> NAME/KEY: misc_feature
43 <222> LOCATION: (1)..(30)
44 <223> OTHER INFORMATION: Mouse Nade DNA
47 <400> SEQUENCE: 3
48 ctagctagca tcatggtgag caagggcgag 30
51 <210> SEQ ID NO: 4
52 <211> LENGTH: 28
53 <212> TYPE: DNA
54 <213> ORGANISM: Artificial Sequence
56 <220> FEATURE:
57 <221> NAME/KEY: misc_feature
58 <222> LOCATION: (1)..(28)
59 <223> OTHER INFORMATION: Mouse Nade DNA
62 <400> SEQUENCE: 4
63 ccgctcgagt cttgtacagc tcgtccat 28
66 <210> SEQ ID NO: 5
67 <211> LENGTH: 29
68 <212> TYPE: DNA
69 <213> ORGANISM: Artificial Sequence
71 <220> FEATURE:
72 <221> NAME/KEY: misc_feature

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:15

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

```
73 <222> LOCATION: (1)..(29)
74 <223> OTHER INFORMATION: Mouse Nade DNA
77 <400> SEQUENCE: 5
78 atcctcgagc gatcatggcc aatgtccac                                    29
81 <210> SEQ ID NO: 6
82 <211> LENGTH: 27
83 <212> TYPE: DNA
-> 84 <213> ORGANISM: Artifcial Sequence
86 <220> FEATURE:
87 <221> NAME/KEY: misc_feature
88 <222> LOCATION: ()..()
89 <223> OTHER INFORMATION: Mouse Nade DNA
92 <400> SEQUENCE: 6
93 atcggatcct ctcagctgta gctccct                                       27
96 <210> SEQ ID NO: 7
97 <211> LENGTH: 27
98 <212> TYPE: DNA
99 <213> ORGANISM: Artificial Sequence
101 <220> FEATURE:
102 <221> NAME/KEY: misc_feature
103 <222> LOCATION: (1)..(27)
104 <223> OTHER INFORMATION: Mouse Nade DNA
107 <400> SEQUENCE: 7
108 atcggatccg atctctctca tctcctc                                      27
111 <210> SEQ ID NO: 8
112 <211> LENGTH: 27
113 <212> TYPE: DNA
114 <213> ORGANISM: Artificial Sequence
116 <220> FEATURE:
117 <221> NAME/KEY: misc_feature
118 <222> LOCATION: (1)..(27)
119 <223> OTHER INFORMATION: Mouse Nade DNA
122 <400> SEQUENCE: 8
123 aaagcttagg gaggcacagc tgagaaa                                      27
126 <210> SEQ ID NO: 9
127 <211> LENGTH: 27
128 <212> TYPE: DNA
129 <213> ORGANISM: Artificial Sequence
131 <220> FEATURE:
132 <221> NAME/KEY: misc_feature
133 <222> LOCATION: (1)..(27)
134 <223> OTHER INFORMATION: Mouse Nade DNA
137 <400> SEQUENCE: 9
138 tttctcagct gtgcctccct aagcttt                                      27
141 <210> SEQ ID NO: 10
142 <211> LENGTH: 26
143 <212> TYPE: DNA
144 <213> ORGANISM: Artificial Sequence
146 <220> FEATURE:
```

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:15

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

147 <221> NAME/KEY: misc_feature
148 <222> LOCATION: (1)..(26)
149 <223> OTHER INFORMATION: Mouse Nade DNA
152 <400> SEQUENCE: 10
153 atccggagaa aggctaggga ggcaca 26
156 <210> SEQ ID NO: 11
157 <211> LENGTH: 26
158 <212> TYPE: DNA
159 <213> ORGANISM: Artificial Sequence
161 <220> FEATURE:
162 <221> NAME/KEY: misc_feature
163 <222> LOCATION: (1)..(26)
164 <223> OTHER INFORMATION: Mouse Nade DNA
167 <400> SEQUENCE: 11
168 tgtgcctccc tagcctttct ccggat 26
171 <210> SEQ ID NO: 12
172 <211> LENGTH: 124
173 <212> TYPE: PRT
174 <213> ORGANISM: MOUSE
176 <400> SEQUENCE: 12
178 Met Ala Asn Val His Gln Glu Asn Glu Glu Met Glu Gln Pro Leu Gln
179 1 5 10 15
181 Asn Gly Glu Glu Asp Arg Pro Val Gly Gly Gly Glu Gly His Gln Pro
182 20 25 30
184 Ala Gly Asn Asn Asn Asn Asn Asn His Asn His Asn His Asn His His
185 35 40 45
187 Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg Trp Ala Ile
188 50 55 60
190 Pro Asn Arg Gln Met Asn Asp Gly Leu Gly Gly Asp Gly Asp Asp Met
191 65 70 75 80
193 Glu Met Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys Leu Arg Glu
194 85 90 95
196 Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu Leu Ser Asn
197 100 105 110
199 His His Asp His His Asp Glu Phe Cys Leu Met Pro
200 115 120
202 <210> SEQ ID NO: 13
203 <211> LENGTH: 111
204 <212> TYPE: PRT
205 <213> ORGANISM: HUMAN
207 <400> SEQUENCE: 13
209 Met Ala Asn Ile His Gln Glu Asn Glu Glu Met Glu Gln Pro Met Gln
210 1 5 10 15
212 Asn Gly Glu Glu Asp Arg Pro Leu Gly Gly Gly Glu Gly His Gln Pro
213 20 25 30
215 Ala Gly Asn Arg Arg Gly Gln Ala Arg Arg Leu Ala Pro Asn Phe Arg
216 35 40 45
218 Trp Ala Ile Pro Asn Arg Gln Ile Asn Asp Gly Met Gly Gly Asp Gly
219 50 55 60

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:15

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

```
221 Asp Asp Met Glu Ile Phe Met Glu Glu Met Arg Glu Ile Arg Arg Lys
222 65                  70                  75                  80
224 Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu Arg Ile Leu Met Gly Glu
225                 85                  90                  95
227 Leu Ser Asn His His Asp His His Asp Glu Phe Cys Leu Met Pro
228             100                 105                 110
230 <210> SEQ ID NO: 14
231 <211> LENGTH: 13
232 <212> TYPE: PRT
233 <213> ORGANISM: czyxin
235 <400> SEQUENCE: 14
237 Leu Thr Met Lys Glu Val Glu Glu Leu Glu Leu Leu Thr
238 1               5                   10
240 <210> SEQ ID NO: 15
241 <211> LENGTH: 13
242 <212> TYPE: PRT
243 <213> ORGANISM: MAPKK
245 <400> SEQUENCE: 15
247 Ala Leu Gln Lys Lys Leu Glu Glu Leu Glu Leu Asp Glu
248 1               5                   10
250 <210> SEQ ID NO: 16
251 <211> LENGTH: 10
252 <212> TYPE: PRT
253 <213> ORGANISM: PKI-alpha
255 <400> SEQUENCE: 16
257 Leu Ala Leu Lys Leu Ala Gly Leu Asp Ile
258 1               5                   10
260 <210> SEQ ID NO: 17
261 <211> LENGTH: 9
262 <212> TYPE: PRT
263 <213> ORGANISM: TF III A
265 <400> SEQUENCE: 17
267 Leu Pro Val Leu Glu Asn Leu Thr Leu
268 1               5
270 <210> SEQ ID NO: 18
271 <211> LENGTH: 9
272 <212> TYPE: PRT
273 <213> ORGANISM: Rev HIV-1
275 <400> SEQUENCE: 18
277 Leu Pro Pro Leu Glu Arg Leu Thr Leu
278 1               5
280 <210> SEQ ID NO: 19
281 <211> LENGTH: 12
282 <212> TYPE: PRT
283 <213> ORGANISM: Ran BP1
285 <400> SEQUENCE: 19
287 Lys Val Ala Glu Lys Leu Glu Ala Leu Ser Val Arg
288 1               5                   10
290 <210> SEQ ID NO: 20
```

see item # 10 on ERROR SUMMARY SHEET

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:15

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

291 <211> LENGTH: 13
292 <212> TYPE: PRT
293 <213> ORGANISM: FMRP
295 <400> SEQUENCE: 20
297 Glu Val Asp Gln Leu Arg Leu Glu Arg Leu Gln Ile Asp
298 1 5 10
300 <210> SEQ ID NO: 21
301 <211> LENGTH: 8
302 <212> TYPE: PRT
303 <213> ORGANISM: Gle 1
305 <400> SEQUENCE: 21
307 Leu Pro Leu Gly Lys Leu Thr Leu
308 1 5
310 <210> SEQ ID NO: 22
311 <211> LENGTH: 14
312 <212> TYPE: PRT
313 <213> ORGANISM: Rex HTLV-1
315 <400> SEQUENCE: 22
317 Ala Leu Ser Ala Gln Leu Tyr Ser Ser Leu Ser Leu Asp Ser
318 1 5 10
320 <210> SEQ ID NO: 23
321 <211> LENGTH: 13
322 <212> TYPE: PRT
323 <213> ORGANISM: human NADE
325 <400> SEQUENCE: 23
327 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
328 1 5 10
330 <210> SEQ ID NO: 24
331 <211> LENGTH: 13
332 <212> TYPE: PRT
333 <213> ORGANISM: mouse NADE
335 <400> SEQUENCE: 24
337 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg
338 1 5 10
340 <210> SEQ ID NO: 25
341 <211> LENGTH: 27
342 <212> TYPE: PRT
343 <213> ORGANISM: MOUSE
345 <400> SEQUENCE: 25
347 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu
348 1 5 10 15
350 Arg Ile Leu Met Gly Glu Leu Ser Asn His His
351 20 25
353 <210> SEQ ID NO: 26
354 <211> LENGTH: 27
355 <212> TYPE: PRT
356 <213> ORGANISM: HUMAN
358 <400> SEQUENCE: 26
360 Arg Glu Ile Arg Arg Lys Leu Arg Glu Leu Gln Leu Arg Asn Cys Leu

see page 4

VERIFICATION SUMMARY
PATENT APPLICATION: US/09/327,750C

DATE: 07/05/2001
TIME: 12:58:16

Input Set : A:\ES.txt
Output Set: N:\CRF3\07032001\I327750C.raw

84 M:220 C: Keyword misspelled or invalid format, <213> ORGANISM for SEQ ID#:6

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.
09/327,978	06/08/1999	ROBERT A. ASMUS	51800USA3C	6157

32692 7590 06/18/2010
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
SHEIKH, HUMERA N

ART UNIT	PAPER NUMBER
1615	

NOTIFICATION DATE	DELIVERY MODE
06/18/2010	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100608

DATE : June 08, 2010

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction on Patent No.: 6,534,069

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:

Correction resolves typographical error in the formula (at column 10). The correction does not constitute new matter, nor change the scope of the instant claims.

/Robert A. Wax/
Supervisory Patent Examiner, Art Unit 1615

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. 6103109
Issue Date: August 15,2000
Application No. 09328255
Filed: June 8,1999
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 24,2008 . 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.

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)
6103109	2000-08-15	09328255	1999-06-08	229.003

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

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	/MMM/	Date (YYYY-MM-DD)	2008-11-24
Name	Melissa M. Martinez	Registration Number	56568

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 record s.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Mailed

DEC 21 2000

Technology Center 2100

Paper No. 7

Kenneth L. Cage
McDermott Will & Emery
600 13th Street, N.W.
Washington, DC 2005-3096

In re Application of: Manuel A. Correa Jr.	)	
Application No. 09/328,417	)	**DECISION ON REQUEST FOR**
Filed: June 9, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: POSTAL OUTGOING AND REPLY	)	
ENVELOPE FORM SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed November 15, 2000.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is deficient in the following aspects: (1) the United States Patent and Trademark Office (Office) does not recognize firms - each attorney for whom withdrawal is requested must be individually listed; (2) there is no statement that Mr. Cage is ***authorized*** to sign on behalf of the other listed attorneys. Therefore, the request is **DENIED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 13

COPY MAILED

MAY 2 0 2005

Director's Office
Office of Patent Publication

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:	
Yoichi Yamagishi,	:	
Application No. 09/328,469	:	**DECISION ON PETITION**
Filed: June 9, 1999	:	
Attorney's Docket No. 862.2858	:	

This is a decision on the Request For Withdrawal Of Erroneously Issued Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on June 1, 2004, which is being treated as a Petition To Withdraw Holding Of Abandonment under 37 CFR 1.181.

The application was held abandoned for failure to timely pay the issue fee as required in the Corrected Notice of Allowance and Fee(s) Due, mailed November 20, 2003, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on April 29, 2004.

The petition is **DISMISSED**

Petitioner states that the Applicant's timely paid the Issue Fee on September 24, 2003 as required in the Notice Of Allowance mailed June 24, 2003. Also, that the Applicant filed a request for Corrected Notice of Allowance to correct an error in the title as given in the Notice of Allowance. Further, that the Applicant received the Corrected Notice of Allowance dated November 20, 2003 erroneously asserted that an additional fee of $30 was due.

Petitions argues that since the fee was paid September 24, 2003, the increase in fees that took effect in October 2003 did not apply to this application, therefore no action was required in connection with the November 20, 2003 Notice of Allowance and the application should not have been abandoned.

On August 20, 2003, the Office received the Applicants Request For Corrected Notice Of Allowance, to correct the title of the invention on the Notice of Allowance mailed on June 24, 2003. In response to the Applicants request, a Corrected Notice of Allowance was mailed on January 26, 2004 indicating that $30 was due for the issue fee. The Applicant was required to return the PTOL – 85B, Part B- Fee(s) Transmittal and pay the $30 for the issue fee within three months form the mailing date of the Notice.

Although the issue fee had been previously paid, since the Office mailed the Corrected Notice of Allowance, **as requested by the Applicant**, the fee increase effective October 1, 2003 did apply the Notice.

Petitioner's attention is directed to the first page of the Corrected Notice of Allowance, which states in bold print:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

And, clearly noted in **HOW TO REPLY TO THIS NOTCE:**
II. PART B – FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B – Fee(s) should be completed and returned.

Further, if the Applicant feels the Corrected Notice of Allowance was issued only as result of a USPTO error — although the Applicant requested the Corrected Notice of Allowance — the Applicant should have replied in writing (see 37 CFR § 1.2) or contacted the examiner, rather then ignoring the Office requirement to return the PTOL – 85B.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov) Petitioner may contact Karin Ferriter, Legal Advisor, in the Office Of Patent Legal Administration (OPLA) at 571-272-7701 to explain the US patent law and Office policies and procedures in regards to this decision.

Further correspondence with respect to the Petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 703-305-9282 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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

Fitzpatrick, Cella, Harper, & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

FEB 21 2007

In re Application of
Yoichi Yamagishi
Application No. 09/328,469
Filed: June 9, 1999
Attorney Docket No. 00862.002858

DECISION ON PETITION

This is a decision on the petition entitled "Request for Review of Decision on Petition under 37 CFR 1.181, Contingent Petition under 37 CFR 1.183 to Suspend Rules, Contingent Petition under 37 CFR 1.182, and Contingent Petition under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application" filed on November 8, 2005. The present petition under 37 CFR 1.181 requests that the holding of abandonment in the above-identified application be withdrawn.

This petition has been forwarded to the Acting Director of the Office of Patent Legal Administration for decision.

The petition under 37 CFR 1.181 is **granted**. The petition decision mailed on May 20, 2005 is improper and is therefore **vacated**. The holding of abandonment has been **withdrawn**. The notice of allowance mailed November 20, 2003, has been **vacated**. The contingent petitions under 37 CFR 1.183, 37 CFR 1.182, and 37 CFR 1.137(b) have been rendered **moot.**

REVIEW OF THE FACTS

- On December 11, 2002, a first Office action was mailed, requiring a new title of the invention.
- On June 16, 2003, an amendment in response to the first Office action, including an amendment to the title, was received.
- On June 24, 2003, a notice of allowance was mailed, requiring an issue fee payment on or before September 24, 2003. The title of the invention reflected on the notice of allowance differed from the title as amended in the June 16, 2003 amendment.
- On August 20, 2003, a request for a corrected notice of allowance was received, requesting that the Office correct the title of the invention. The correction reflected the title as amended by the June 16, 2003 amendment.
- On September 24, 2003, the issue fee was timely paid in response to the notice of allowance mailed June 24, 2003.

- On November 20, 2003, a corrected notice of allowance was mailed, requiring an issue fee payment of $30 on or before February 20, 2004 (although the issue fee had been previously paid, the corrected notice of allowance was mailed after October 1, 2003, the effective date of a fee increase.) To date, no reply to the November 20, 2003 notice of allowance has been received.

- On April 29, 2004, a notice of abandonment, for failure to pay the issue fee, was mailed.

- On June 1, 2004, a petition to withdraw the holding of abandonment was received.

- On May 20, 2005, a decision dismissing the petition received June 1, 2004, was mailed.

- On November 8, 2005, the present petition, entitled "Request for Review of Decision on Petition under 37 CFR 1.181, Contingent Petition under 37 CFR 1.183 to Suspend Rules, Contingent Petition under 37 CFR 1.182, and Contingent Petition under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application," was received.

DECISION

The issue fee was timely paid in response to the notice of allowance mailed June 24, 2003. Since it was not necessary to mail a second, corrected notice of allowance restarting the time period for reply in order to correct the title of the invention[1], the second notice of allowance mailed on November 20, 2003 has been vacated. Therefore, no issue fee payment in reply to the second notice of allowance, or other reply in the form of a completed Part B of form PTOL-85, or equivalent, is required. Furthermore, the petition decision mailed on May 20, 2005, is improper and is therefore vacated.

For the reasons given above, the petition under 37 CFR 1.181 has been **granted**. The second notice of allowance mailed November 20, 2003, has been **vacated.** The holding of abandonment has been **withdrawn**. The petition decision mailed on May 20, 2005, has been **vacated**. The alternative petitions under 37 CFR 1.182, 37 CFR 1.183, and 37 CFR 1.137(b), have been rendered **moot**.

No further action being required, this file will be forwarded to the Office of Publications for issuance of the patent.

---

[1] The Office also notes that the September 24, 2003 request for a corrected notice of allowance requested the correction of an error of the Office. The amendment to the title of the invention on June 16, 2003 was made in response to the examiner's requirement that the title be corrected in the first Office action mailed December 11, 2002. The title appearing on the June 24, 2003 notice of allowance contained a typographical error (see the above review of the facts). The August 20, 2003 request for a correction of the title corrected the typographical error and, therefore, was filed to correct an error of the Office.

Any questions concerning this matter may be directed to Cynthia L. Nessler, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7724.

Robert A. Clarke

Robert A. Clarke
Acting Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,318,536	2001-11-20	09/328,529	1999-06-09	

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/BRUCE KORMAN/	Date (YYYY-MM-DD)	2007-11-15
Name	BRUCE KORMAN		

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 record s.

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. 6318536
Issue Date: November 20,2001
Application No. 09328529
Filed: June 9,1999
Attorney Docket No. 34596/CAG/C6

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 15,2007 ,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 15,2007. 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

COPY MAILED

SEP 2 6 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Ward & Olivo
708 Third Avenue
New York, NY 10017

In re Application of
Palardy
Application No. 09/328,565
Filed: June 9, 1999
Attorney Docket No. 935-017

DECISION ON PETITION

This is a decision on the Petition to Revive an Abandoned Application, filed September 6, 2000, which is treated as a petition to withdraw the holding of abandonment, under 37 CFR 1.181, for the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application ("Notice") mailed July 6, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 7, 1999. A Notice of Abandonment was mailed on August 18, 2000.

Petitioner asserts that a proper response was timely filed. In support of the Petition, Petitioner submits a Declaration Attesting to Mailing of Patent Office Correspondence Under 37 CFR 1.8(a), stating that Petitioner's office records indicate that on Monday, September 6, 1999, the following were mailed via first class mail in an envelope addressed to "Commissioner of Patents and Trademarks, Washington, D.C. 20231":

1. Transmittal (with Certificate of Mailing and authorization to withdraw basic filing fee and surcharge);
2. Copy of Notice to File Missing Parts; and
3. Declaration and Power of Attorney Form.

37 CFR 1.8(b) states that 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 Patent and Trademark Office, and the application is held abandoned or the proceeding dismissed, terminated or decided with prejudice, the correspondence will be considered timely if the party who forwarder 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 that 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 Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of sending unit's report confirming transmission may be used to support this statement.

This Petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

JUN 0 2 2003

Technology Center 2100

In re Application of: Thomas Collins, et al.	)	
Application No. 09/328,726	)	
Filed: October 26, 1998	)	**DECISION ON REQUEST FOR**
For: PUBLIC KEY CRYPTOGRAPHIC	)	**WITHDRAWAL AS ATTORNEY**
APPARATUS AND METHOD	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Attn: Bill Streeter

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7
COPY MAILED

SEP 21 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ON PETITION

Joseph E. Gerber
Weintraub, Genshlea, Chediak, and Sproul
400 Capitol Mall, 11th Floor
Sacramento, CA 95814

In re Application of
Davis et al.
Application No. 09/328,856
Filed: June 9, 1999
Attorney Docket No. 3144.01A

This a decision on the petition under 37 CFR 1.137(b), filed August 17, 2000, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 2, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 3, 1999.

On July 2, 1999, the Office also mailed a Notice of Omitted Items indicating that the Office had only received the first three pages of formal drawings. The instant petition includes a postcard receipt showing that the Office received six pages of formal drawings. Apparently the last three pages of drawings were misplaced. The instant petition is not accompanied by copies of the missing three pages.

Upon petitioner filing pages 4, 5, and 6 of the drawings, the Office will:
1) grant the petition to revive,
2) accept the missing drawings as if they had been received on June 9, 1999,
3) schedule the petition fee of $130 for a refund since the loss of the drawings was due to Office error,
4) forward the file to OIPE for further processing.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9
COPY MAILED

SEP 27 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ON PETITION

Joseph E. Gerber
Weintraub, Genshlea, Chediak, and Sproul
400 Capitol Mall, 11th Floor
Sacramento, CA 95814

In re Application of
Davis et al.
Application No. 09/328,856
Filed: June 9, 1999
Attorney Docket No. 3144.01A

This a decision on the renewed petition under 37 CFR 1.137(b), filed September 21, 2000, to revive the above-identified application.

The petition is **GRANTED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 2, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 3, 1999.

On July 2, 1999, the Office also mailed a Notice of Omitted Items indicating that the Office had only received the first three pages of formal drawings. The original petition included a postcard receipt showing that the Office received six pages of formal drawings. Apparently the last three pages of drawings were misplaced. The original petition was not accompanied by copies of the missing three pages. A decision was mailed requesting submission of pages 4, 5 and 6 of the drawings. On September 21, 2000, copies of the formal drawings were submitted.

The file is now being forwarded to OIPE for further processing and to treat the missing drawings as if they had been received on June 9, 1999.

Petitioner has established that the missing drawings were misplaced by the Office. Therefore, the $130 petition fee which accompanied the response to the Notice of Omitted Items has been scheduled for a refund.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Charles Steven Brantley
Petitions Attorney
Office of Petitions
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

Paper No.

Keyvan Davoudian
PILLSBURY WINTHROP SHAW PITTMAN LLP
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406

MAILED

JUN 0 5 2005

Technology Center 2100

In re Application of: Philip T. Davis et al.)
Application No. 09/328,856)
Attorney Docket No. 18680-250518) DECISION ON PETITION TO
Filed: June 9, 1999) MAKE SPECIAL
For: METHOD AND SYSTEM FOR)
PROVIDING INSURANCE PROTECTION)
AGAINST LOSS OF RETIREMENT)
ACCUMULATIONS IN A TAX FAVORED
DEFINED CONTRIBUTION PLAN IN THE
EVENT OF A PARTICIPANT'S
DISABILITY

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, April 29, 2005, 2001, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration of Philip T. Davis in which he declares that he will be 78 years old on July 15, 2005.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for expedited prosecution.

For James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

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.

Keyvan Davoudian
PILLSBURY WINTHROP LLP
725 S. Figueroa Street
Suite 2800
Los Angeles, CA 90017

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of: Philip T. Davis, et al.	)	
Application No. 09/328,856	)	
Filed: June 9, 1999	)	DECISION ON PETITION TO
For: METHOD AND SYSTEM FOR	)	MAKE SPECIAL
PROVIDING INSURANCE PROTECTION	)	
AGAINST LOSS OF RETIREMENT	)	
ACCUMULATIONS IN A TAX FAVORED	)	
DEFINED CONTRIBUTION PLAN IN THE		
EVENT OF A PARTICIPANT'S		
DISABILITY		

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed April 29, 2005, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes the declaration that the applicant, Philip T. Davis, will be sixty five (65) years of age on July 15, 2005.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for expedited prosecution.

James R. Matthews
for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

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

JJGJR.: 07-06

COPY MAILED

JUL 1 0 2006

OFFICE OF PETITIONS

Paper No: __

KARAMBELAS & ASSOCIATES
655 DEEP VALLEY DRIVE, SUITE 303
ROLLING HILLS ESTATES CA 90274

In re Application of	:	
Gelon, et al.	:	
Application No. 09/328,911	:	DECISION
Filing Date: 9 June, 1999	:	
Attorney Docket No.: PA98038	:	

This is a decision on the petition filed on 5 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 18 November, 2005, with reply due under a non-extendable deadline on or before 21 February, 2006;
- the instant application went abandoned after midnight 21 February, 2006;
- the Office mailed the Notice of Abandonment on 4 April, 2006;
- on 5 May, 2006, Petitioner filed the instant petition (with fee), with the reply in the form of fees due, and made the statement of unintentional delay–thus Petitioner appears to have satisfied the requirements under 37 C.F.R. §1.137(b);

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to 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

---

[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).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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. 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.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5] And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

---

[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 unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] 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.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JAN 21 2003

Mailed:_____

glm
Paper Number: 22

In re application of
Collins et al.
Serial No. 09/328,914
Filed: June 9,1999
For: PROCESSES USED IN AN INDUCTIVELY COUPLED PLASMA REACTOR

DECISION ON PETITION

This is in response to the RESPONSE TO NOTICE OF ABANDONMENT AND/OR PETITION TO REVIVE, filed July 30, 2002, and the supplemental response filed December 30, 2002. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 27, 2002, for failure to timely file a proper response to the Office letter mailed January 6, 2002, be withdrawn. The petitioner asserts that the Office letter was not received at the applicant's correspondence address.

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. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the above noted Office letter was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided is a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 13

Gardere Wynne Sewell
1601 Elm Street, Suite 3000
Dallas, TX 75201-4761

COPY MAILED

FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
R. W. Barber et al. :
Application No. 09/328,921 :
Filed: June 9, 1999 :
Attorney Docket No. 126239 - 1003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2003, 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 non-final Office action mailed January 28, 2002, which set a shortened statutory reply period of THREE MONTHS (3), from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Accordingly, the above-identified application became abandoned on April 29, 2002.

The file is being forwarded to Technology Center AU 2152 for further processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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.go

MAILED

OCT 25 2005

Director's Office
Group 3700

TIMOTHY E SIEGEL
1868 KNAPPS ALLEY
SUITE 206
WEST LINN, OR 97068

Paper No. 46

In re Application of
MORRIS, DAVID CURT
Appl No.: 09/328,931
Filed: June 09, 1999

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed March 31, 2005 to review the holding of abandonment, mailed March 15, 2005. The petition is considered pursuant to 37 CFR 1.181 and no fee is required for this petition.

The petition is granted.

A review of the record indicates that the BPAI rendered a decision on December 30, 2004 containing a new ground of rejection pursuant to 37 CFR 41.50. As outlined in the decision, appellant has two months to take action. The examiner held the application abandoned on March 15, 2005 as there was no response in the file at that time. Petitioner alleges that an amendment to the claims was timely filed. In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated March 3, 2005. The copy of the response also had a certificate of mailing under 37 CFR 1.8 certifying that the response was deposited with the USPS as first class mail with sufficient postage on February 28, 2005. Furthermore, the originally filed response is now in the application file.

In view of the above, the Notice of Abandonment mailed March 15, 2005 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner.

Richard A. Bertsch, Director
Technology Center 3700

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. 18

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of
Shuzo Fujimura, et. al.
Application No. 09/328,939
Filed: June 9, 1999
Attorney Docket No. 18867-000410

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2003, to revive the above-identified application.

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 slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 1700, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition, and for consideration of the previously submitted amendment filed on October 15, 2002.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 15

DATE : September 8, 2005

TO SPE OF : ART UNIT 2876 Karl D. Frech 72019

SUBJECT : Request for Certificate of Correction on Patent No.: 6220514 B1

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:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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 (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

SHOULD INVENTORSHIP BE CHANGED AS SHOWN ON PTO 1050 FORM (PTO SB44)

Thank You For Your Assistance

Antonio Johnson

Certificates of Correction Branch

Tel. No. 703-308-9390 ext. 112

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:

New proposal inventorship OK

SPE

2876

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

JUN 13 2005

Tarek N Fahmi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re application of:
Anders R. Wallgren et al
Application No. 09/328,983 :
Filed: June 09, 1999 :
For: ITERATIVE CONSTRAINT COLLECTION SCHEME FOR PREPARATION OF CUSTOM MANUFACTURING :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 16, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "Discontinuation of the attorney/client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 05/31/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAY 23 2003

Edwards Lifesciences LLC
Law Department
One Edwards Way
Irvine, CA 92614

Paper No.

In re Application of	:	DECISION
Charles R. Mooney et al	:	
Serial No. : 09/329,002	:	
Filed : June 8, 1999	:	
For : Multiple Lumen Access Device	:	

This is a decision on petitioner's request filed April 23, 2003, requesting cancellation of a petition under 37 CFR 1.182 filed April 30, 2002. The petition filed April 30, 2002 requested that the Office reset the date of an Office action.

The request for the cancellation of the petition filed under 37 CFR 1.182 to reset the date of an Office action is granted. Accordingly, the petition filed April 30, 2002 is dismissed as being moot.

Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to have a two-month extension of time fee charged to Deposit account No. 501225, per the statement made on page 1, lines 30-32, of the preliminary amendment filed April 30, 2002, in order to make the filing of the Request for Continued Prosecution (RCE) on April 30, 2002 timely. Thereafter, the application will be forwarded to the examiner for an action on the RCE.

Summary: Request to cancel petition filed April 30, 2003 GRANTED.
Petition filed April 30, 2003 dismissed as being moot.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/5/12/03

07/02/2003 THARGROV 00000005 501225 09329002
01 FC:1252 400.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Finnegan, Henderson, Farabow,
Garrett & Dunner L.L.P.
1300 I Street N.W.
Washington, D.C. 20005-3315

MAIL

MAR 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: G. E. LeClair et al.	)	
Application No. 09/329,182	)	
Filed: June 10, 1999	)	
For: METHODS AND APPARATUS FOR REMOTE EXECUTION OF AN APPLICATION OVER THE INTERNET	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed March 4, 2002 and supplemented by the submission of March 20, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Mark P. Watson
General Patent Counsel
Epson Research and Development, Inc.
150 River Oaks Parkway, Suite 225
San Jose, California 95134

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

JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Whitham Curtis & Christofferson, PC
11491 Sunset Hills Road
Suite 340
Reston VA 20190

In re Application of
PROKOSKI, FRANCINE J.
Application No. 09/329,217
Filed: June 10, 1999
For: **METHOD AND APPARATUS FOR ALIGNMENT, COMPARISON & IDENTIFICATION OF CHARACTERISTIC TOOL MARKS, INCLUDING BALLISTIC SIGNATURES**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Revive Application and Request for re-mailing of Notice of Allowance and Allowability, filed June 17, 2004. The petition is being treated as a petition to withdraw holding of abandonment.

This application was held abandoned for failure to timely file the Issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 19, 2003. A Notice of Abandonment was mailed July 9, 2003.

Petitioner has provided a date stamped post card receipt showing that a Power of Attorney and change of address was filed December 23, 2003. The Power of Attorney changed the correspondence address prior to the mailing of the Notice of Allowance on February 19, 2003. The Notice of Allowance was mistakenly mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn. The Notice of Allowance mailed February 19, 2003 is vacated.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability. The three month statutory period for payment of the issue fee will be re-started to begin on the mailing date of the new Notice of Allowance.

Kenneth A. Wieder
Special Program Examiner
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

MAILED

JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Whitham Curtis & Christofferson, PC
11491 Sunset Hills Road
Suite 340
Reston VA 20190

In re Application of
PROKOSKI, FRANCINE J.
Application No. 09/329,217
Filed: June 10, 1999
For: **METHOD AND APPARATUS FOR ALIGNMENT, COMPARISON & IDENTIFICATION OF CHARACTERISTIC TOOL MARKS, INCLUDING BALLISTIC SIGNATURES**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Revive Application and Request for re-mailing of Notice of Allowance and Allowability, filed June 17, 2004. The petition is being treated as a petition to withdraw holding of abandonment.

This application was held abandoned for failure to timely file the Issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 19, 2003. A Notice of Abandonment was mailed July 9, 2003.

Petitioner has provided a date stamped post card receipt showing that a Power of Attorney and change of address was filed December 23, 2003. The Power of Attorney changed the correspondence address prior to the mailing of the Notice of Allowance on February 19, 2003. The Notice of Allowance was mistakenly mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn. The Notice of Allowance mailed February 19, 2003 is vacated.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability. The three month statutory period for payment of the issue fee will be re-started to begin on the mailing date of the new Notice of Allowance.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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)
6,216,382	2001-04-17	09/329,287	1999-06-10	83401.00002

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

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	/J. Eric Sumner/	Date (YYYY-MM-DD)	2009-05-27
Name	J. Eric Sumner	Registration Number	58699

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. 6216382
Issue Date: April 17,2001
Application No. 09329287
Filed: June 10,1999
Attorney Docket No. 7375-23

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 27,2009 .
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/12/03

Paper No.: _____

TO SPE OF : ART UNIT 2100

SUBJECT : Request for Certificate of Correction on Patent No.: 6,289,433

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 - PK 3-915
Palm location **7580** - Tel. No. 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 Certificate of Correction in the above-identified patent 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:

Corrections do not change the scope of the claims.

Mary [illegible]
SPE

2154
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090316

DATE : 2/12/09

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 09329354 Patent No.: 6289433 B1

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)
South Tower - 9A22
Palm Location 7580

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

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:

/LD/

/Andrew Caldwell/
SPE

2442 (for 2454)
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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED

SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of Soepenberg et al. :
Application No. 09/329,391 :
Filing Date: June 10, 1999 :
Attorney Docket No. PHN 16,974 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed February 3, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The file wrapper failed to indicate petitioner had taken any action in response to the Board of Patent Appeals and Interferences decision mailed September 30, 2004. As a result, a Notice of Abandonment was mailed on December 2, 2004.

Petitioner has supplied a postcard receipt establishing the Office received a RCE and amendment on December 2, 2004. Petitioner has established the papers were mailed to the Office in compliance with 37 CFR 1.8 on November 30, 2004.

Since petitioner has established a proper reply was timely filed in response to the Board decision, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2616 will be informed of the instant decision and the RCE and amendment originally filed on December 2, 2004, will be considered by the examiner 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

COPY MAILED

FEB 0 5 2001

OFFICE OF PETITIONS
A/C PATENTS

BRUCE D. SUNSTEIN
BROMBERG & SUNSTEIN, LLP
125 SUMMER STREET, 11TH FLOOR
BOSTON , MA 02110-1618

In re Application of
Heinrich, et al.
Application No. 09/329,557
Filed: June 10, 1999
For: System for Reducing Aliasing on a Display Device

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), timely filed January 12, 2000, Petitioner having obtained a four (4) months extension of time.

The petition is **DISMISSED**.

Rule 47 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 1.47(a)," 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. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 10, 1999 without an executed oath or declaration and naming Heinrich, Mosley, Whitmore, Deming, Carlton, Buckelew, and Kirkland as joint inventors. None of the named joint inventors executed the declaration. Additionally, the declaration did not name Timothy Johnson as one of the joint inventors.

Accordingly, on July 19, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, the statutory basic filing fee, additional claims fees and a surcharge for late filing.

In response, on January 12, 2000, a Combined Declaration and Power of Attorney signed by Heinrich, Mosley, Whitmore, Deming, Carlton, Buckelew and Kirkland was filed. Although this declaration named Mr. Johnson as a joint inventor, he did not execute the declaration. Also filed on January 12, 2000 were the following: Petition Under 37 CFR 1.47(a) and Request for Four (4) Months Extension of Time Under 37 CFR 1.136(a) signed by attorney of record Steven G. Saunders; Declaration of Wendy Ormstedt (administrative assistant for assignee Intergraph Corporation) in Support of Petition Under 37 CFR 1.47; Declaration of Steven Saunders in Support of Petition Under 37 CFR 1.47; a copy of the Notice to File Missing Parts, mailed on July 19, 1999; and Response to Notice of Missing Parts. A check in payment of the statutory basic filing fee, surcharge, additional claims fees, and four (4) months extension of time fee was also included with the January 12, 2000 filing.

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.

As to Item (1), it is unclear whether Mr. Johnson, the non-signing inventor, was presented with a complete copy of the application papers (specification, claims and drawings). See MPEP 409.03(d). In his declaration, Petitioner states in pertinent part:

> On July 20, 1999, I mailed a "Declaration and Power of Attorney" (hereinafter "declaration") for the application to Mr. Stephen Phillips, Executive Vice President and General Counsel for Intergraph Corporation, for execution by all of the named inventors.

In her declaration, Ms. Ormstedt states:

> One of my duties as administrative assistant is to forward declarations for patent applications to inventors for execution.
>
> On August 5, 1999, I mailed a "Declaration and Power of Attorney" (hereinafter "declaration") for the immediate U.S. patent application (hereinafter "the application") to Mr. Johnson with a letter requesting that he execute and return the declaration at his "earliest convenience."
>
> On August 19, 1999 ... I then mailed the same documents ... to (Mr. Johnson's) correct address on the same day.

The above-cited statements suggest that only a declaration and power of attorney were sent from Petitioner to Intergraph, and then from Intergraph to Mr. Johnson. However, the inventor must be presented with a complete copy of the application papers, including specification, claims and drawings. See MPEP 409.03(d). Although Ms. Ormstedt also states that on August 25, 1999 she "mailed a copy of the application to Mr. Johnson", it is unclear whether this "application" included the specification, claims and drawings (especially in light of Petitioner's statement that he only sent a "Declaration and Power of Attorney" to Intergraph, and Ms. Ormstedt's statements that her previous mailings to Mr. Johnson only included a "Declaration and Power of Attorney".)

Unless Mr. Johnson was presented with a complete copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which was provided to him. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a complete copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. If Applicant fails to show (via affidavit) that a complete copy of the application papers was presented to the non-signing inventor, then a copy of a cover letter transmitting the entire application papers to the non-signing inventor is required.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Nelson B. Snyder III at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

COPY MAILED

JUL 9 2001

OFFICE OF PETITIONS
A/C PATENTS

ROBERT GROVER
1700 PRESTON ROAD, #230
DALLAS, TX 75248

In re Application of :
Heinrich, Mosely, Whitmore, :
Deming, Carlton, Buckelew, :
Kirkland, and Johnson :
Application No. 09/329,557 :
Filed: June 10, 1999 :
Attorney Docket No. TDA-23 :
For: System for Reducing :
Aliasing on a Display Device :

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This is in response to the request for reconsideration of the petition under 37 CFR 1.47(a), filed April 9, 2001 (certificate of mailing April 5, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of facts of Steven Saunders and Wendy Ormstedt established that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Christina T. Tartera

Christina T. Tartera
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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

Paper No. 22

Brian W. Bockhop
ARNALL GOLDEN GREGORY LLP
1201 WEST PEACHTREE STREET
ATLANTA, GA 30309-3450

COPY MAILED

JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Heinrich et al.
Application No. 09/329,557
Filed: June 10, 1999
Attorney Docket Number:TDA-23

ON PETITION

This is a decision on the petition filed March 17, 2003 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration 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(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due and to submit corrected drawings as was required of the Notice of Allowability both of which were mailed October 23, 2002 and set a three month statutory period for reply. Extensions of time pursuant to 37 CFR 1.136(a) were not available. Accordingly, this application became abandoned on January 24, 2003. A Notice of Abandonment was mailed on March 3, 2003.

Applicant contends the failure to pay the issue fee by the due date was unavoidable because the Examiner failed to acknowledge two timely submitted IDS' and the Patent Office failed to respond to a status Inquiry submitted on December 13, 2002.

PETITION TO REVIVE UNDER 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Commissioner</u> that the <u>entire</u> 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 <u>unavoidable</u>, 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.

The instant petition lacks items (1) and (3).

---

[1] In a nonprovisional 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.

As to item (1) although petitioner submitted $1280.00 towards the issue fee, the current issue fee pursuant to 37 CFR 1.18 (a) is $1300.00 thus petitioner is short $20.00. In addition, the Notice of Allowability required formal corrected drawings. A review of the Office record shows that corrected drawings have not been received.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 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). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

As to item (3), petitioner's arguments have been considered but the fail to establish unavoidable delay within the meaning of 37 CFR 1.137(a). The Commissioner has no authority to extend the time for paying the issue fee. Intentional failure to pay the issue fee within the 3 months permitted by 35 U.S.C. 151 does not amount to unavoidable or unintentional delay in making payment. See MPEP 1306. As petitioner indicated in the petition, "Applicant was faced with two choices: petition to withdraw the application under 37 CFR §1.131 or have the application go abandoned until the IDS issue [could] be resolved". Accordingly, petitioner was aware of what the consequences were in failing to pay the issue fee and opted to allow the application to go abandoned.

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 facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
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
AMB 07-03

Paper No. 24
COPY MAILED
JUL 0 9 2003
OFFICE OF PETITIONS

Brian W. Bockhop
ARNALL GOLDEN GREGORY LLP
1201 WEST PEACHTREE STREET
ATLANTA, GA 30309-3450

In re Application of
Heinrich, et. al.
Application No. 09/329,557
Filed: June 10, 1999
Attorney Docket No.: TDA-23

PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned January 24, 2003 for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due, and for failure to timely submit corrected formal drawings, as required by the Notice of Allowability. The Notices were mailed October 23, 2002 and set a three month statutory period of time for reply. Notice of Abandonment was mailed March 3, 2003. A petition under 37 CFR 1.137(a) was filed March 17, 2003 and dismissed June 2, 2003. The instant petition under 37 CFR 1.137(b) was not matched with the application file prior to rendering of decision under 37 CFR 1.137(a).

With the instant petition, petitioner has submitted a Request for Continued Examination ("RCE") and submission in the form of an Information Disclosure Statement under 37 CFR 1.114.

The application is being forwarded to Technology Center 2600 for consideration of the submission under 37 CFR 1.114.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 25

COPY MAILED

MAR 1 7 2003

Director's Office
Office of Patent Publication

JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of :
Carlos Cordon-Cardo, et al. :
Application No. 09/329,917 :
Filed: June 10, 1999 :
Attorney Docket No. 55293-A/JPW/AJM/HA :

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. § 1.181 To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark (USPTO) on February 28, 2003.

The application was held abandoned for failure to timely file formal drawings as required by the Notice of Allowability, mailed July 23, 2002, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on December 9, 2002.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

Petitioner states that "In the July 23, 2002 Notice, the Examiner required applicants to submit new formal drawings including the drawing correction specified in the July 22, 2002 Notice Of Draftsperson's Patent Drawing Review." Petitioner states that in response, applicants timely filed a Communication Forwarding Formal Drawings, concurrently with payment of the issue fee.

The USPTO acknowledges receipt of the Communication Forwarding Formal Drawings with twelve sheets of drawings attached therewith on October 29, 2002, via certificate of mailing, signed and dated October 23, 2002. 37 CFR § 1.8 However, the applicant did not respond the Examiner's Amendment (copy enclosed), which accompanied the Notice of Allowability, mailed July 23, 2002. In particular items 1. and 3.

Therefore, the application was properly abandonment and will not be withdrawn at this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, further petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or (a) 1203 of the Official Gazette 63, October 21, 1997.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must be accompanied by the following:

  (1) The required reply to the outstanding Office action or notice, unless previously filed;
  (2) The petition fee set forth in § 1.17(l);
  (3) A showing to the satisfaction of the Commissioner 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 unavoidable: and
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

  With respect to an application filed before June 8, 1995, any petition under § 1.137(a) or (b) that is filed more than six months after the abandonment date must —according to § 1.137(d)—be accompanied by a terminal disclaimer with disclaimer fee.

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be accompanied by the following:

  (1) The required reply 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 Commissioner may require additional information where there is a question whether the delay was unintentional;
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

The application is being forwarded to the Office of Petitions for a decision on the petition under 37 CFR 1.313 (c) (2) to withdraw the application from issue.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, DC 20231
By facsimile:	703-308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Rm. 3C23 2201 South Park Place Arlington, VA

Telephone inquires concerning this matter may be directed to the Office of Petitions at 703-305-9282.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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. 26

JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10036

COPY MAILED

JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Carlos Cordon-Cardo et al
Application No. 09/329,917
Filed: June 10, 1999
Attorney Docket No. 55293-A/JPW/AJM/HA

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **dismissed** as inappropriate at this time in view of the abandoned status of this application.

As advised in the decision mailed March 17, 2003, petitioner may wish to seek revival of this application by way of a petition under 37 CFR 1.137.

Any questions concerning this decision may be directed to the undersigned at (730) 305-8680.

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: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Karen Cressy for
Frances Hicks
Petitions Examiner
Office of Petitions
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

Paper No. 34

JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

MAR 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Carlos Cordon-Cardo et al :
Application No. 09/329,917 :
Filed: June 10, 1999 :
Attorney Docket No. 55293-A/JPW/AJM/HA :

This is a decision on the petition, filed November 12, 2003, 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 October 29, 2002 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 Wan Laymon at (703) 306-5685.

The application is being forwarded to Technology Center AU 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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

OFFICE

Paper No. 28

JOHN P. WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

NOV 1 8 2003

Director's Office
Office of Patent Publication

In re Application of
Carlos Cordon-Cardo, et al. :
Application No. 09/329,917 : **DECISION ON PETITION**
Filed: June 10, 1999 :
Attorney Docket No. 55293-A/JPW/AJM/MVM :

This is a decision on the Request For Reconsideration Of March 17, 2003 Decision On Petition Pursuant To 37 C.F.R. § 1.137(e) And Contingent Petition For Withdrawal From Issue Under 37 C.F.R § 1.313(c) (2) (hereafter Request/Petition For Withdrawal). Petitioner has submitted a copy of the returned post card receipt (MPEP 503), which acknowledges receipt of the Request/Petition For Withdrawal on May 14, 2003, as evidenced by the "Office Date" stamp receipt thereon.

The petition is **GRANTED.**

The Decision On Petition, mailed by the undersigned on March 17, 2003, dismissed the Petition Under 37 C.F.R. § 1.181 To Withdraw Holding Of Abandoned, received in the USPTO on February 28, 2003, due to the applicant's failure to respond to the Examiners Amendment mailed July 23, 2002.

Petitioner has demonstrated that the Amendment After Notice Of Allowance Pursuant To 37 C.F.R.§ 1.312 (Amendment) was mailed via certificate of mailing on October 23, 2002, and is in compliance with 37 CFR 1.8(b) in that (1) the USPTO was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon has been submitted, and (3) included a statement which attests to the previous timely mailing.

Petitioner has submitted a copy of the returned postcard, which acknowledges receipt of the Amendment on October 29, 2002, as evidenced by the "Office Date" stamp thereon.

In view of the applicant's compliance with 37 CFR 1.8, the holding of abandonment is hereby withdrawn. Accordingly, the Amendment will be accepted as having been timely filed via certificate of mailing on October 23, 2002.

The applicant will be forwarded to Examiner, Jehanne Sitten, Art Unit 1634, Technology Center 1600 to be considered.

Thereafter, the application should be forwarded to the appropriate office for further processing of the Petition Under 37 CFR 1.313(c)(2) and Request for Continued Examination, received in the Office of Petitions on February 28, 2003.

The Office acknowledges receipt of the Communication Forwarding Formal Drawings with twelve (12) sheets of new, corrected formal drawings on October 29, 2002.

Telephone inquires relating to this matter may be directed to the Examiner and/or the Office of Petitions.

Thomas Hawkins

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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. 9

OCT 2 1 2005

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of: Min-Shen Hsu et al. Serial No.: 09/330,034 Filed: January 24, 2002 Title: SUPPORTING APPARATUS	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on October 26, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is **DISMISSED**.

This application was held abandoned for failure to timely file a reply to the non-final Office action of February 4, 2000. A Notice of Abandonment was mailed on November 3, 2000.

Petitioner states that, on September 10, 2004, he contacted the USPTO/OIPE due to the failure to receive a Filing Receipt for the application and was informed that the application had become abandoned. Petitioner declared that he did not receive any communication from the USPTO "except for a Notice of Recordation and Assignment Document mailed on 08/24/1999 (Appendix 1)." The Appendix 1 referred to in the petition appears to be a copy of the log of the contents of the instant application with an attorney docket number PMX-P0074-USA. There are 16 entries in the log and only six of them contain wordings in English. It is asserted that a check on the PAIR system failed to provide any information on the application. Accordingly, as of the filing of the petition, petitioner could not ascertain when and why the application was held abandoned.

A review of the application file indicates no irregularity in the mailing of the non-final Office action and the Notice of Abandonment, and in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the correspondence address of record. This presumption may be overcome by a showing that the Office action was not received at the correspondence address of record at the time the Office action was mailed. Consequently, petitioner must establish that the non-final Office action was not received at the correspondence address provided when the application papers were originally filed.

The showing of record does not establish that the petitioner did not receive the Office action at the petitioner's correspondence address at the time the Office action was mailed. The non-final Office action was not mailed to the petitioner's current address. Rather, it was mailed to 3F. No. 50, Lane 46, Min Shen Rd, Taipei Hsien, Taiwan - the correspondence address of record at that time. After the mailing of the Office action and of the Notice of Abandonment, a Change of Address was submitted on December 26, 2000, to the address of 5F, No. 389, Fu-Ho Rd., Yungho City, Taipei Hsien, 234 Taiwan, R.O.C. The correspondence address was changed again on July 11, 2002, to NAIPO, P.O. Box 506, Merrifield, VA 22116. On March 1, 2005, the same correspondence address was designated using customer number 27765. While the petition asserts non-receipt, it fails to indicate the exact correspondence address where it is asserted that the Office action was not received. This is necessary because the evidence of record indicates that petitioner may have moved from the original address of record at the time the Office action was mailed without promptly informing the USPTO. Furthermore, the one-page copy of the log record identifies what appears to be the docket number as "PMX-P007-USA," this docket number was not used on papers transmitted to the USPTO until the filing of an IDS on April 12, 2002. The papers filed with the USPTO prior to April 12, 2002, identify the docket number as "PMX074." Since the copy of the log contains mostly information not written in English, an explanation of the entries and their significance in forming the evidence showing of non-receipt is required along with an explanation whether the two docket numbers indicated above have been used interchangeably and whether the Office action was not matched with the petitioner's file record due to the difference in the two docket number used.

Petitioner must establish that the Office action was not received at the correspondence address of record at the time the Office action was mailed, namely, the address provided in the originally filed Declaration and Power of Attorney and that, at the time of the mailing of the Office action, petitioner received the mail at that address. The petition should also indicate when petitioner's address was changed to 5F, No. 389, Fu-Ho Rd., Yungho City, Taipei Hsien, 234 Taiwan, R.O.C. Furthermore, petitioner must provide a copy of the docket record(s) where the Office action would have been logged had it been received at the address of record at the time the Office action was mailed, explanation of the log and how entries are made is required, especially if the information and entries were not in English.

Since the petitioner has not made the requisite showing, the holding of abandonment is deemed proper. The petition to withdraw the holding of abandonment must be dismissed.

Any request for reconsideration of this decision must be submitted within two months of the date of this decision in order to be accepted as being timely filed.

Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137. Inquiries regarding filing a petition to revive should be directed to the Office of Petitions.

Copies of the Office action and the Notice of Abandonment are enclosed for petitioner's record.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

Enclosures: - Copy of non-final Office action of February 4, 2000
- Copy of Notice of Abandonment of Novemb9er 3, 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/330,034	06/11/99	MIN-CHEN H	PMX-074

MM22/0204

WINSTON HSU
3F NO 50
LANE 46 MIN SHENG RD
TAIPEI HSIEN
TAIWAN

AIR MAIL

EXAMINER
VU,H

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 02/04/00

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

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/330,034	Applicant(s) Min-Chen et al
	Examiner Hien Vu	Group Art Unit 2833

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1 - 10 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☑ Notice of Reference(s) Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other _____

Office Action Summary

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because failing to provide an adequate written description of the invention.

Page 4, lines 23-25, the phrase "supporting...lifespan" is unclear as to how the supporting apparatus 10 with the steel tube and wire ropes can be bent at 180 degrees and to be fixed at any position. Also lines 31-32 of page 4 and lines 1-3 of page 5, the phrase "the supporting...lifespan" is unclear as to how the device can be maintained at the bent or rotated position since the material of the tubve is steel. Applicant should clarify those in the amendment.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 1, the phrase "for supporting... car" is unclear as to what is meant by "for supporting an electric device" and it is unclear what is "comprising"; lines 6-10, the phrases "a flexible...separately" and "a plurality...separately" are confusing and unclear; lines 16-20, the recitations of "wherein...position" are unclear since such features are not adequately described in the specification or shown in the drawings. Claim 4 features is confusing and unclear. Claim 6, line 2, "one ends" should be --one of said ends--; line 4, "together" should be --to said rigid plastic head piece--. Claim 7, lines 6, "ends" should be --end--.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-6, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan.

5. Insofar as the claims can be understood due to the indefiniteness, Fan is applied as follows; Fig. 1 shows a plug (26, 34) a steel tube 28, a plurality of flexible wires 36 and a cover 49. Any differences from Fan would have been an obvious matter of design choice.

6. Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Feldman, Wharton and Van der Laar are cited for disclosure of plug connectors.

8. Any inquiry concerning this communication should be directed to Hien Vu at telephone number (703) 308-2009.

Vu/dc
January 28, 2000

Hien Vu
Primary Examiner

Notice of References Cited	Application No. 09/330,034	Applicant(s) Min-Chen et al	
	Examiner Hien Vu	Group Art Unit 2833	Page ___ of ___

U.S. PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS
	A	5,860,829	1/1999	Fan	439	534
	B	4,325,599	4/1982	Feldman	439	669
	C	5,131,869	7/1992	Wharton	439	669
	D	5,090,921	2/1992	Van der Laar	439	668
	E					
	F					
	G					
	H					
	I					
	J					
	K					
	L					
	M					

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
	N						
	O						
	P						
	Q						
	R						
	S						
	T						

NON-PATENT DOCUMENTS

*		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	U		
	V		
	W		
	X		

* A copy of this reference is not being funished with this Office action.
(See Manual of Patent Examining Procedure, Section 707.05(a).)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

09/330,034

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/330,034	06/11/99	MIN-CHEN	DMX-074

MMC2/1103

WINSTON HSU
3F NO 50
LANE 46 MIN SHENG RD
TAIPEI HSIEN
TAIWAN

AIR MAIL

EXAMINER
VU

ART UNIT	PAPER NUMBER
2333	

13/03/00

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☑ Applicant's failure to timely file a proper response to the Office letter mailed on 2/4/00.

☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of ____ month(s)) which expired on _____.

☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

☑ No response has been received.

☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.

☐ The submitted issue fee of $_____ is insufficient. The issue fee required by 37 CFR 1.18 is $_____.

☐ The issue fee has not been received.

☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

☐ The proposed new formal drawings filed _____ are not acceptable.

☐ No proposed new formal drawings have been received.

☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below:

Hien Vu
Primary Examiner

FORM PTO-1432 (REV. 10-95)

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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

COPY MAILED

JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Min-Chen et al.	:	
Application No. 09/330,034	:	ON PETITION
Filed: June 11, 1999	:	
Attorney Docket No. PMXP0074USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2005, 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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the 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.[1]

Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

[1] 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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/1/06

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/330034 Patent No.: 7040923

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

HV 8/17/06

☒ **Approved** — **All** changes apply.

☐ **Approved In Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Sheila Bradley
SPE

2833
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. 6338521
Issue Date: January 15,2002
Application No. 09330143
Filed: June 11,1999
Attorney Docket No. 18952

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 1,2010 . 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)
6,338,521	2002-01-15	09/330,143	1999-06-11	1810-0042

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

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	/Michael D. Beck/	Date (YYYY-MM-DD)	2010-02-01
Name	Michael D. Beck	Registration Number	32722

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

Karl D. Kovach
Stratos International, Inc.
7444 West Wilson Avenue
Chicago, IL 60706

COPY MAILED
JUL 07 2006
OFFICE OF PETITIONS

In re Application of	:	
Patrick B. Gilliland, et. al.	:	
Application No. 09/330,290	:	ON PETITION
Filed: June 11, 1999	:	
Attorney Docket No. 905OE008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 5, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on April 25, 2005. A Notice of Abandonment was mailed November 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Publications to be processed into a patent.

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

In re Patent No. 6200571
Issue Date: March 13,2001
Application No. 09330423
Filed: May 28,1999
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 1,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 1,2009 .
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)
6200571	2001-03-13	09330423	1999-05-28	

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

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	/Sharif L. Omar/	Date (YYYY-MM-DD)	2009-05-01
Name	Sharif L. Omar	Registration Number	44272

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

Paper No. 6

EDWIN J. GALE
KIRBY EADES GALE BAKER
STATION D
P O BOX 3432
OTTAWA K1P 6N9 CANADA

COPY MAILED

MAR 16 2004

OFFICE OF PETITIONS

In re Application of
Daniel R. Polonenko et al
Application No. 09/330,593
Filed: June 11, 1999
Attorney Docket No. 4615-A

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed March 10, 2004, 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 9, 2003 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 the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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
www.uspto.gov

Paper No. 30

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED

NOV 08 2004

OFFICE OF PETITIONS

In re Application of :
Claudia C. Stewart :
Application No. 09/330,629 :
Filed: June 11, 1999 :
Attorney Docket No. JG-RP-4796 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2004, 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 mailed September 29, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) under 37 CFR 114 or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2).

Since the amendment submitted with the present petition 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. See the attached Advisory Action.

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.

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
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By Fax: (703) 872-9306
Attn: Office of Petitions

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

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 B. Murphy
O'MELVENY & MYERS LLP
Suite 100
114 Pacifica
Irvin, CA 92618

COPY MAILED

SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Stuart B. Berman	:	
Application No. 09/330,755	:	ON PETITION
Filed: June 11, 1999	:	
Attorney Docket No. 223/279	:	

This is a decision on the petition to withdraw the holding of abandonment filed July 5, 2005.

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

This application was held abandoned on May 25, 2005, after it was believed that no response was received after the decision on appeal as rendered by the Board of Patent Appeals and Interferences mailed June 24, 2005. A Notice of Abandonment was mailed on June 24, 2005.

The instant petition maintains that the Request for Continued Examination (RCE) was timely filed on May 25, 2005, after the Board of Patent Appeals and Interferences decision. The RCE as filed om May 24, 2005, is noted in the Image File Wrapper for the subject application.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 2600, GAU 2616 for further processing.

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

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

O"MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT LA-1118
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

COPY MAILED
NOV 24 2008

In re Application of	:	
Stuart B. BERMAN	:	
Application No. 09/330,755	:	DECISION ON PETITION
Filed: June 11, 1999	:	
Attorney Docket No. 895,080-008	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, 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 28, 2007. 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). 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 29, 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 of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 28, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2416 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.

Michelle R. Eason
Paralegal Specialist
Office of Petition

Cc: **JENNIFER M. PASCUA**
O"MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
SUITE 1700
NEWPORT BEACH, CA 92660-6429

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED Paper No. 10

JUN 04 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ZENITH ELECTRONICS CORPORATION
2000 MILLBROOK DRIVE
LINCOLNSHIRE IL 60069

In re Application of:
Bretl et al.
Application No. 09/330,769
Filed: June 11, 1999
For: MPEG ON SCREEN DISPLAY CODER FOR DTV INTERFACES

DECISION ON PETITION

This is a decision on the petition filed January 13, 2003 to withdraw the holding of abandonment under 37 CFR § 1.181.

The application is abandoned for failure to timely file a proper reply to the non-final Office action mailed May 15, 2002. A Notice of Abandonment was mailed December 30, 2002.

Petitioner alleges that the non-final Office action was not received.

A review of the record indicates that the non-final Office action was mistakenly mailed to the wrong correspondence address. Thus, there was an irregularity in mailing the Restriction on the part of the Patent and Trademark Office.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to TC 2600 technical support staff for re-mailing of the non-final Office action. The time period for response will be set to run from the date of the new mailing.

Allen MacDonald

Allen R. MacDonald, Director
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

COPY MAILED
MAR 30 2007
OFFICE OF PETITIONS

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

ZENITH ELECTRONICS
CORPORATION
2000 MILLBROOK DRIVE
LINCOLNSHIRE, IL 60069

In re Application of

Bretl, et al.

Application No. 09/330,769

Filed: June 11, 1999

Attorney Docket No. 7081

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 5, 2007.

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

This application was held abandoned on November 11, 2006, after it was believed that no response was received to the non-final Office action mailed August 10, 2006. The action allowed a shortened statutory period for reply of three 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, 2007, indicating that a reply to Office was not received.

The instant petition maintains that a response to the Office action was mailed on December 15, 2006. A copy of the response containing a certificate of mailing dated December 15, 2006, accompanied the petition. The same person who signed the instant petition evidencing his personal knowledge that the response was actually mailed on December 15, 2006, signs the certificate of mailing.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. There is no fee for the instant petition. Deposit account 16-2201 will be refunded $130.00, in due course.

The application file is being forwarded Technology Center 2600, GAU 2621, for further processing including the consideration of the copy of the response mailed December 15, 2006, which will be noted as having been timely received.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 9

SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022

MAIL

OCT - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
John S. Yates Jr. et al.
Application No.: 09/330,852
Filed: June 11, 1999
For:PROFILING RANGES OF EXECUTION OF A COMPUTER PROGRAM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw from Representation filed August 29, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agnet.

The singer of the petition, Joel E. Lutzker is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the change of address filed April 24, 2003.

SCHULTE ROTH & ZABEL
919 Third Avenue
New York, NY 10022

For James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 11

COPY MAILED

DEC 21 2000

OFFICE OF PETITIONS
A/C PATENTS

Mark K. Johnson
PO Box 510644
New Berlin, WI 53131-0644

In re Application of
Jon A. Wolff et al.
Application No. 09/330,909
Filed: June 11, 1999
Attorney Docket No. MIRUS.011.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2000, 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 non-final Office action mailed December 9, 1999, 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 above-identified application became abandoned on March 10, 2000.

The application file is being forwarded to Technology Center 1600, Art Unit 1632.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
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

COPY MAILED

SEP 22 2004

OFFICE OF PETITIONS

MARK K. JOHNSON
P O BOX 510644
NEW BERLIN, WI 53131-0644

In re Application of :
Wolff, et al. :
Application No. 09/330,909 : ON PETITION
Filed: June 11, 1999 :
Attorney Docket No. **MIRUS.011.01** :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C § 120 for the benefit of a prior filed application.

The petition is **DISMISSED AS MOOT**.

The instant application was filed on June 11, 1999. A petition for acceptance of a late claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. See 65 FR 57024 (September 20, 2000). Accordingly, the petition is dismissed as involving a moot issue.

Petitioner is advised that the fee for the instant petition is $1,300.00. See 37 CFR 1.17(t). It is noted that the amount of $130.00 was remitted, presumably, towards the satisfaction of the fee for the instant petition. However, no fee is due because the petition is being dismissed as moot. The amount of $130.00 will, therefore, be refunded to petitioner, in due course.

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Bon Mill for

Charles A. Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

Paper No. 7

AUG 2 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ERIKO SHIMIZU
21 29 TSUNASHIMANISHI 5 CHOME
KOUHOKU KU
KANAGAWA 22300-53 JP JAPAN

In re Application of:
SHIMIZU, ERIKO
Application No. 09/331,008
Filed: July 8, 1999
For: **ELECTRONIC ZOOM IMAGE INPUT METHOD**

DECISION
ON PETITION

This is a decision on the petition filed June 3, 2003 to reset the period for reply under MPEP § 710.06.

A non-final Office action was mailed to the address of record on March 13, 2003.

Petitioner asserts that part of the non-final Office action (part 2 of 2) was received on May 21, 2003, less than one month from the due date for the Applicant to respond.

MPEP 710.06 states in part the following:

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Petitioner has supplied evidence complying with the above requirements.

Accordingly, the petition is **GRANTED**.

The three month shortened statutory period for reply is being reset to begin as of the May 21, 2003 receipt date of the non-final Office action.

The file is being forwarded to Central Files for Art Unit 2615 to await Applicant's response to the non-final Office action.

Kenneth A. Wieder
Special Program Examiner
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

TESSERA
LERNER DAVID et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED
DEC 11 2009
OFFICE OF PETITIONS

In re Patent No. 6,873,358	:	
Issue Date: March 29, 2005	:	
Application No. 09/331,008	:	DECISION ON PETITION
Filed: July 8, 1999	:	

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed April 29, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued March 29, 2005. Accordingly, the first maintenance fee could have been paid during the period from March 29, 2008 through September 29, 2008 without surcharge, or with a late payment surcharge during the period from September 30, 2008 through March 29, 2009. No maintenance fee having been received, the patent expired on March 30, 2009.

Since the instant petition was filed 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 in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The $1,640 petition surcharge and the $980 maintenance fee have been charged to Deposit Account No. 12-1095, as authorized.

Telephone inquiries specific to this decision may 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

Paper No. 14

Stephen A. Bent
FOLEY & LARDNER
Washington Harbour
3000 K Street NW Suite 500
Washington, DC 20007-5109

COPY MAILED

DEC 09 2004

OFFICE OF PETITIONS

In re Application of
Donald G. Munroe, et al.
Application No. 09/331,127
Filed: October 19, 1999
Attorney Docket No. 016777-0344

ON PETITION

This is a decision on the petition, filed September 22, 2004, 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 a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed August 7, 2000, which set a period for reply of one-month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On March 2, 2001, a Notice of Abandonment was mailed.

The petition is found to comply with the requirements of the 37 CFR 1.137(b). Accordingly, the application is being returned Technology Center Art Unit 1646 for consideration of the response filed September 22, 2004.

The petition also requests that Exhibits C and D be expunged from the records of the above-identified application and returned to petitioner herein.

As Exhibits C and D were not relied upon as a basis for deciding the petition under the unintentional provisions of 37 CFR 1.137(b), it is deemed appropriate here to return these exhibits to petitioner. Accordingly, Exhibits C and D are enclosed.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Exhibits C and D

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. 6242617
Issue Date: June 5,2001
Application No. 09331491
Filed: July 29,1999
Attorney Docket No. 65342-002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 3,2009 .
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)
6242617	2001-06-05	09/331,491	1999-07-29	199.0

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

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	/Maria Eliseeva/	Date (YYYY-MM-DD)	2009-08-03
Name	Maria Eliseeva	Registration Number	43328

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.

20 OCT 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

William Lee
Lee, Mann, Smith, McWilliams
Sweeney & Ohlson
P.O. Box 2786
Chicago, Illinois 60690-0034

In re Application of Ole Mathiassen Application No.: 09/331,501 PCT No.: PCT/Dk97/00564 Int. Filing Date: 11 December 1997 Priority Date: 14 December 1996 Attorney's Docket No.: 196-1187 For: ELECTRIC MOTOR	DECISION ON PAPERS FILED UNDER RENEWED REQUEST 37 CFR 1.42

This is a decision on the "second renewed request under 37 CFR 1.42 and 1.44" filed 31 March 2000.

BACKGROUND

In a decision by this Office dated 07 April 2000, the renewed petition was dismissed. The reason stated that it was unclear from this court document whether both signatures were needed as executors for the estate of Ole Mathiassen or whether a signature from either executor would be sufficient as a legal representative of the estate.

On 16 May 2000, petitioner filed this second renewed petition.

DISCUSSION

Petitioner has submitted a translation of the Power of Attorney document. The Probate Court, the Court of Sonderborg, document indicates that the administrators for the estate of Ole Mathiassen were Inger Elisabeth Mathiassen and Ib Mathiassen. However, from the translation of the Power of Attorney, it is clear that Inger Elisabeth Mathiassen has given a power of Attorney to Ib Mathiassen to take action on behalf of Inger Elisabeth Mathiassen concerning the estate of Ole Mathiassen.

Accordingly, Ib Mathiassen has the proper authority to sign as the legal representative of the estate without the additional signature of Inger Elisabeth Mathiassen.

CONCLUSION

For the above reasons, the request under 37 CFR 1.42 is accepted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for preparation and mailing of the Notification of Acceptance of Application under 35 USC 371 (form PCT/DO/EO/903) indicating a date of **27 September 1999** under 35 USC 371 and 102(e).

Rafael Bacares
Legal Examiner
PCT Legal Office

Telephone: (703) 308-3659
Facsimile: (703) 308-6459

Leonard Smith
Legal Examiner
PCT Legal Office

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

MAR 15 2000

William Lee
Lee, Mann, Smith, McWilliams
Sweeney & Ohlson
P.O. Box 2786
Chicago, Illinois 60690-0034

In re Application of	:	
Ole Mathiassen	:	DECISION ON
Application No.: 09/331,501	:	
PCT No.: PCT/DK97/00564	:	PAPERS FILED
Int. Filing Date: 11 December 1997	:	
Priority Date: 14 December 1996	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 196-1187	:	
For: ELECTRIC MOTOR	:	AND 1.44

This is a decision on the papers filed 27 September 1999.

BACKGROUND

On 14 June 1999, applicant 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). Applicant, however, did not satisfy the requirement set both by 35 U.S.C. 371(c)(4).

On 02 August 1999, the United States Designated/Elected Office 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 1.66 or 37 CFR 1.68 must be filed. The notification set a one-month time limit in which to respond.

To satisfy the requirements of 35 U.S.C. 371(c)(4) that an oath or declaration of the inventor be submitted, applicant submitted on 27 September 1999 a declaration signed by, Ib Mathiassen, an executor of Ole Mathiassen (the inventor, now deceased). The surcharge fee required under 37 CFR 1.492(e) and a certificate of the clerk of the court (The Court of Sonderborg, Probate court certificate concerning the administration of a deceased person's estate) were also submitted.

DISCUSSION

In addition, to the above, applicants' representative submitted a supplemental letter on 27 September 1999 that was accompanied by, inter alia, a notarized certificate of the Court of Sonderborg, Denmark, and a translation, evidencing the death of the inventor, and proving the authority of Ib Mathiassen and Inger Elisabeth Mathiassen as heirs.

The Court of Sonderborg, Probate court certificate concerning the administration of a deceased person's estate states that the administration of the estate of Ole Mathiassen was taken over by the below heirs on May 7, 1999:

1. Ib Mathiassen, and
2. Inger Elisabeth Mathiassen

The court certificate states that Ole Mathiassen died on 01 March 1999. The documents submitted, however, are insufficient to establish the proof of authority under 37 CFR 1.44. Applicant appears to have submitted a copy of a Certificate of the Court of Sonderborg, Denmark. There is no statement stating that the Certificate is a true copy.

Further, applicant's declaration executed by Ib Mathiassen, as "Executor" of the estate of the deceased inventor is not accepted under 37 CFR 1.42 since it appears that he is one of two legal representatives (executors) for the estate of Ole Mathiassen, and only Ib Mathiassen has signed the declaration. The declaration filed 27 September 1999 does not satisfy the requirements under 37 CFR 1.497(a) and (b); thus, the requirements under 35 USC 371© are not satisfied.

In addition, a two page document titled SKIFTEFULDMAGT was submitted but no English translation was provided to determine the relevance of this document with respect to the above international application. An English translation is requested.

Accordingly, applicant has not satisfied the requirements under 37 CFR 1.42 and the Notification of Missing Requirements mailed on 02 August 1999 is not withdrawn.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 and the proof of authority under 37 CFR 1.44 are NOT ACCEPTED. The Notification of Missing Requirements mailed on 02 August 1999 is NOT VACATED.

Applicant is hereby afforded TWO (2) Months from the mail date of this decision to satisfy all the requirements under 37 CFR 1.42 and 1.44. Any reconsideration request should include a cover letter entitled "Renewed request Under 37 CFR 1.42 and 1.44." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Rafael Bacares
Legal Examiner
PCT Legal Office

Leonard E Smith
Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

APR 7 2000

William Lee
Lee, Mann, Smith, McWilliams
Sweeney & Ohlson
P.O. Box 2786
Chicago, Illinois 60690-0034

In re Application of
Ole Mathiassen
Application No.: 09/331,501
PCT No.: PCT/Dk97/00564
Int. Filing Date: 11 December 1997
Priority Date: 14 December 1996
Attorney's Docket No.: 196-1187
For: ELECTRIC MOTOR

DECISION ON PAPERS FILED UNDER RENEWED REQUEST 37 CFR 1.42 AND 1.44

This is a decision on the "first renewed request under 37 CFR 1.42 and 1.44" filed 31 March 2000.

BACKGROUND

On 27 September 1999,applicants' representative submitted a declaration signed by, Ib Mathiassen, an executor of Ole Mathiassen (the inventor, now deceased) in order to satisfy the requirement under 35 U.S.C. 371. Applicant representative also provided the surcharge fee required under 37 CFR 1.492(e) and a certificate of the clerk of the court.

In addition, to the above, applicants' representative submitted a supplemental letter on 27 September 1999 that was accompanied by, inter alia, a notarized certificate of the Court of Sonderborg, Denmark, and a translation, evidencing the death of the inventor, and proving the authority of Ib Mathiassen and Inger Elisabeth Mathiassen as heirs.

The request for status under 37 CFR 1.42 and the proof of authority under 37 CFR 1.44 were not accepted as conveyed in the decision of 15 March 2000.

Applicant filed this renewed request so that the Patent and Trademark Office reconsider the requirement that the execution be by both Ib Mathiassen and Inger Elisabeth Mathiassen in their capacities as legal representatives of estate. Applicant's representative alleges that as "long as Ib Mathiassen has proper authority, then only the signature by Ib Mathiassen is all that is needed."

DISCUSSION

Papers submitted on 27 September 1999 by applicant 's representative to the PTO by "The Court of Sonderborg" indicates that the probate court granted the administration of the estate of Ole Mathiassen (now deceased) to the heirs, Ib Mathiassen and Inger Elisabeth Mathiassen on 07 May 1999. It is unclear from this court document whether both signatures are needed as executors for the estate of Ole Mathiassen or that whethter a signature from either executor would be sufficient as a legal representative of the estate.

Further, an additional document, SKIFTEFULDMAGT, submitted to the PTO on 27 September 1999 appears (since no translation has been provided) to state that both Inger Elisabeth Mathiassen and Ib Mathiassen are both legal representatives of Ole Mathiassen's estate. As above, it unclear whether one signature would suffice as legal representative of the estate when two persons are named as executors under Denmark's law.

Accordingly, until this is clarified, that is, that Ib Mathiassen has proper authority to sign as the legal representative of the estate without the additional signature of Inger Elisabeth Mathiassen, the signatures of both legal representatives, Ib Mathiassen and Inger Elisabeth Mathiassen, are needed in order to satisfy the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request under 37 CFR 1.42 and 1.44 are not accepted.

Applicant is afforded TWO (2) Months from the mail date of this decision to satisfy all the requirements under 37 CFR 1.42. Any reconsideration request should include a cover letter entitled "Renewed request Under 37 CFR 1.42 and 1.44." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Rafael Bacares
Legal Examiner
PCT Legal Office

Richard Cole
Legal Examiner
PCT Legal Office

Telephone: (703) 308-3659
Facsimile: (703) 308-6459

FEB 2 1 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Shahan Islam
ROSENMAN & COLIN, LLP
575 Madison Ave.
New York, N.Y. 10022-2582

In re Application of
ESCH, Uwe *et al*
U.S. Application No.: 09/331,705
PCT No.: PCT/EP97/05792
Int. Filing Date: 21 October 1997
Priority Date: 19 December 1996
Attorney's Docket No.: 2698/Meinke/PCT
For: HYDRAULIC CIRCUIT FOR A HYDRAULIC EXCAVATOR

DECISION

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" ("Pet.") filed 09 November 2000.

BACKGROUND

On 21 October 1997, applicants filed international application PCT/EP97/05792 claiming priority to a German patent filed 19 December 1996. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office ("PTO") on 25 June 1998.

On 25 March 1998, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, *i.e.*, 19 June 1999.

On 18 June 1999, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an English translation, a small entity statement, authorization to charge the basic national fee and any additional fees to Deposit Account No. 06-0923, and an executed declaration.

On 28 July 1999, 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) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) to applicants indicating that the declaration submitted was not in

compliance with 37 CFR 1.497 because it did not identify the citizenship of each inventor. A one-month time period for response was set.

On 13 August 1999, applicants purportedly submitted a "Response to Notification of Missing Requirements."

On 18 February 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 within the time period set.

On 09 November 2000, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the response purportedly mailed 13 August 1999, a copy of a page of a declaration and authorization to charge all required fees to Deposit Account No. 50-1290.

DISCUSSION

A review of the above-captioned application reveals that the citizenship of the second inventor listed on the declaration submitted 18 July 1999, Gottfried Driesschner, was not listed in German, or otherwise. Accordingly, the declaration is not in compliance with 37 CFR 1.497.

Withdraw Holding of Abandonment

Counsel points out in the instant petition that a "Response to Notice of Missing Requirements Under 35 U.S.C. § 371 had in fact, been timely filed." Pet. ¶ 1. Therefore, the instant petition will also be treated as a request to withdraw the holding of abandonment.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicants have not provided a copy of the date-stamped filing receipt for the documents purportedly submitted 13 August 1999.

Accordingly, applicants have not provided *prima facie* evidence that a document titled "Response to Notice of Missing Requirements Under 35 U.S.C. § 371" was filed 13 August 1999.

Petition to Revive

Applicants alternatively requests to revive the unintentionally abandoned application. A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicants state that "the entire delay in filing the necessary reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). The petition fee and surcharge fee for furnishing the declaration late pursuant to 37 CFR 1.492(e) have been charged to Deposit Account No. 50-1290 as authorized. A terminal disclaimer is not required in this application.

However, applicants have not submitted a proper reply. The above-captioned application was abandoned for failing to provide a declaration in compliance with 37 CFR 1.497. Applicants still have not furnished an acceptable declaration. The declaration submitted with the instant petition is not a complete declaration. It is only a partial declaration and does not meet all of the requirements of 37 CFR 1.497.

Accordingly, all requirements under 37 CFR 1.137(b) have not been satisfied.

DECISION

In view of the discussion mentioned above, applicants' request to withdraw holding of abandonment and petition to revive pursuant to 37 CFR 1.137(b) are both **DISMISSED** without prejudice.

The application remains **ABANDONED**.

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. A proper response must include a declaration in compliance 37 CFR 1.497. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Attorney
PCT Legal Office

Tel.: (703) 308-6457

06 AUG 2004

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

KATTAN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2528

In re Application of
ESCH, Uwe *et al*
U.S. Application No.: 09/331,705
PCT No.: PCT/EP97/05792
Int. Filing Date: 21 October 1997
Priority Date: 19 December 1996
Docket No.: 2698/MEINKE (053735-87549)
For: HYDRAULIC CIRCUIT FOR A HYDRAULIC EXCAVATOR

DECISION ON RENEWED PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b)" ("Pet.") filed on 29 June 2004.

BACKGROUND

On 21 February 2001, a decision dismissing applicants' petition to revive under 37 CFR 1.137(b) and petition to withdraw the holding of abandonment was mailed. Applicants failed to provide a complete declaration as required to satisfy 37 CFR 1.137(b)(1). Applicants were given two months to respond with extensions of time available.

On 29 June 2004, applicants filed the instant petition which was accompanied by, *inter alia*, a "Response to Notification of Missing Requirements Under 35 U.S.C. 371," a "Change of Correspondence Information," a "Sub-Power of Attorney," and a copy of page 3 of a German language declaration.

DISCUSSION

Delay in Responding to the Decision Mailed 21 February 2001

The decision mailed 21 February 2001 provided two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a). However, applicants failed to respond until filing the instant petition on 29 June 2004.

Section 711.03(c) of the MPEP, section H. *Request For Reconsideration*, discusses this situation and states, in part:

> Where an applicant files a renewed petition, request for reconsideration, or other petition seeking review of a prior decision on a petition pursuant to 37 CFR 1.137 outside the time period specified in 37 CFR 1.137(e),

the Office may require, inter alia, a specific showing as to how the entire delay was "unavoidable" (37 CFR 1.137(a)) or "unintentional" (37 CFR 1.137(b)).

In the renewed petition, applicants claim that the former attorney had left the employment of the law firm and that the above-referenced "file did not include a copy of the decision on the petition. The applicant's current attorneys contacted the PCT branch of the USPTO and obtained a copy of the decision on the petition filed November 9, 2000. The decision was faxed to applicant's current attorneys on June 17, 2004." Pet. at ¶ 2. Applicants also declare that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional."

The explanation and statement are sufficient to show that the delay in responding to the decision mailed 21 February 2001 was unintentional.

Change of Correspondence Address

Applicants submitted a "Change of Correspondence Information" with the instant petition. All correspondence will now be mailed to:

KATTAN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2528

Renewed Petition to Revive Under 37 CFR 1.137(b)

Applicants included a document titled "Response to Notification of Missing Requirements Under 35 U.S.C. 371," with the instant petition claiming that the 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) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) mailed 28 July 1999 "were issued in error as the declaration filed with the application noted the citizenship of each inventor as being from Germany." Applicants included a copy of page 3 of the originally filed German language declaration which shows the citizenship of both inventors, Uwe Esch and Gotfried Drieschner, under a box titled Staatsangehörigkeit.

A review of the above-captioned application file shows that the bottom of page 3 of the declaration filed 18 June 1999 submitted to the USPTO via facsimile does <u>not</u> contain the citizenship information for the second inventor. It may have been cut off by the facsimile machine.

Regardless, applicants are responsible with submitting a complete declaration in

compliance with 37 CFR 1.497(a) and (b) to the USPTO. The declaration filed on 18 June 1999 was not in compliance since the citizenship information was missing. Therefore, the 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) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) mailed 28 July 1999 were not issued in error. Applicants' subsequent failure to provide an adequate and/or timely response led to the abandonment of this application.

In the response filed 29 June 2004, applicants still have not provided a declaration in compliance with 37 CFR 1.497(a) and (b). The third page of a declaration submitted with the instant petition is the same page of the declaration submitted on 09 November 2000. As indicated in the 21 February 2001 decision, applicants must provide a complete declaration to satisfy the requirements of 37 CFR 1.137(b)(1). A partial declaration is not sufficient.

CONCLUSION

Since a proper reply has not yet been received, applicants' petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

If reconsideration on the merits of either 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 deposited with the United States Postal Service should be addressed to the 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
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

04 NOV 2004

#9

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

KATTAN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2528

In re Application of
ESCH, Uwe *et al*
U.S. Application No.: 09/331,705
PCT No.: PCT/EP97/05792
Int. Filing Date: 21 October 1997
Priority Date: 19 December 1996
Docket No.: 2698/MEINKE (053735-87549)
For: HYDRAULIC CIRCUIT FOR A HYDRAULIC EXCAVATOR

DECISION

Applicant's "Request for Entry and Consideration of Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" filed via facsimile on 25 October 2004 is hereby **GRANTED** as follows:

Petition Originally Filed 13 August 2004

A review of the above-captioned application reveals that the "Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" purportedly filed 13 August 2004 was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents submitted 13 August 2004. The postcard receipt records that a "Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" was received in the USPTO. The filing receipt is stamped "DT02 Rec'd PCT/PTO 13 AUG 2004" across its face. The U.S. application number, and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the instant petition was originally received by the USPTO on 13 August 2004.

Renewed Petition to Revive Under 37 CFR 1.137(b)

In the response originally filed 13 August 2004, applicant provided the proper reply in the form of a complete declaration in compliance with 37 CFR 1.497(a) and (b).

Applicants previously completed the other requirements of 37 CFR 1.137(b) with the petition filed 09 November 2000.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 October 1997, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 October 2004.

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address:Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

13 OCT 2000

Ken K. Patel
THE PROCTER & GAMBLE COMPANY
5299 Spring Grove Avenue
Cincinnati, Ohio 45217-1087

In re Application of Jiping WANG, ET AL. Application No.: 09/331,818 PCT No.: PCT/US97/23771 Int. Filing Date: 23 December 1997 Priority Date: 26 December 1996 Attorney Docket No.: 6439 For: LAUNDRY DETERGENT COMPOSITIONS WITH CELLULOSIC POLYMERS TO PROVIDE APPEARANCE AND INTEGRITY BENEFITS TO FABRICS LAUNDERED THEREWITH	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the "PETITION TO REVIVE UNDER 37 CFR §1.137(b)" filed 11 August 2000 in the above-captioned application.

BACKGROUND

The present application became abandoned as of midnight on 26 August 1999 for failure to timely respond to the Office Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) issued 26 July 1999.

On 11 August 2000, applicants filed the present petition to revive the application under 37 CFR 1.137(b). A response in the form of a declaration of the inventors was also submitted.

DISCUSSION

The MPEP at section 711.03(c) indicates that a petition under 37 CFR 1.137(b)

requires:

(A) the required reply, unless previously filed;

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

(C) 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(c).

Items (B), (C) and (D) have been satisfied. The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted. Applicants' statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3) at the time of filing this petition. The terminal disclaimer as required under 37 CFR 1.137(c) is not needed since the application was filed after 08 June 1995.

With regards to item (A), the declaration of the inventors filed with the petition is defective because it contains the signature of a fifth co-inventor not listed in the international publication, namely Jennifer Ann Leupin. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(2) and the petition to revive cannot be accepted at this time because all of the requirements of 37 CFR 1.137(b) for revival have not been satisfied.

Applicants are hereby notified that since the declaration of the inventors was submitted after 30 months from the priority date of 26 December 1996 a $130.00 surcharge is needed.

DECISION

In view of the discussion mentioned above, the Petition to Revive the present application pursuant to 37 CFR 1.137(b) is **DISMISSED** without prejudice. International application PCT/US97/23771 remains abandoned as to the national stage in the United States.

Applicants are hereby given **TWO (02) MONTHS** from the mail date of this communication to provide an oath or declaration in compliance with 37 CFR 1.497 along with a $130.00 surcharge since the declaration was obviously submitted after 30 months from the priority date claimed of 26 December 1996.

EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER 37 CFR 1.136(a).

Please address further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and direct the contents of the letter to the attention of the PCT Legal Office.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

JUL 2 4 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Marianne Dressman
The Procter & Gamble Company
Ivorydale Technical Center
5299 Spring Grove Avenue
Cincinnati, OH 45217

In re Application of WANG et al	:	
U.S. Application No.: 09/331,818	:	
Int. Application No.: PCT/US97/23771	:	
Int. Filing Date: 23 December 1997	:	DECISION
Priority Date: 26 December 1996	:	
Attorney Docket No.: 6439	:	
For: LAUNDRY DETERGENT COMPOSITIONS WITH CELLULOSIC POLYMERS TO PROVIDE APPEARANCE AND INTEGRITY BENEFITS TO FABRICS LAUNDERED THEREWITH	:	

This is in response to applicants' "Response to Dismissal for Petition to Revive" filed 08 November 2000.

BACKGROUND

On 23 December 1997, applicants filed international application PCT/US97/23771, which claimed priority of an earlier United States application filed 26 December 1996. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 June 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 June 1999.

On 25 June 1999, applicants filed national stage papers with the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the requisite basic national fee.

On 26 July 1999, 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 must be submitted. Form PCT/DO/EO/905 set a one month period for response.

On 27 July 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that international application PCT/US97/23771 is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements mailed 26 July 1999.

On 11 August 2000, applicants filed a petition to revive the application under 37 CFR 1.137(b) along with an executed declaration.

On 13 October 2000, the PCT Legal Office of the USPTO dismissed the 11 August 2000 petition on grounds that the declaration lists a fifth joint inventor who was not listed in the international application.

On 08 November 2000, applicants filed the present response. The response states that it is accompanied by declarations in compliance with 37 CFR 1.497.

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.

Applicants have previously satisfied items (2), (3), and (4) above.

With regard to item (1), the declarations filed 08 November 2000 are in compliance with 37 CFR 1.497.

CONCLUSION

Having satisfied all the requirements for a petition under 37 CFR 1.137(b), the present petition is GRANTED.

This application has an international filing date of 23 December 1997 and a date under 35 U.S.C. 371 of 08 November 2000.

This application is being forwarded to the DO/EO/US for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address:Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

FEB 17 2000

Dennis G. LaPointe
MASON & ASSOCIATES, P.A.
Mangrove Bay, Suite 500
17757 U.S. Highway 19 North
Clearwater, Florida 33765

In re Application of Hiroshi SUZUKI, et al. Serial No.: 09/331,829 PCT No.: PCT/JP97/04889 Int. Filing Date: 26 December 1997 Priority Date: 27 December 1996 For: CURATIVES FOR EPOXY RESIN, CURING ACCELERATOR, AND EPOXY RESIN COMPOSITION	DECISION ON PETITION UNDER 37 CFR 1.42 AND 1.44

This is a decision on the papers filed 23 June and 20 July 1999.

On 26 December 1997, applicants filed international application PCT/JP97/04889, which claimed priority of an earlier Japanese application filed 27 December 1996. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 09 July 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 April 1998. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 27 June 1999. Applicants paid the basic national fee of $970.00 on 23 June 1999.

In order to satisfy the requirement of 35 U.S.C. 371(c) and 37 CFR 1.495 that an oath or declaration of the inventors be submitted, applicants submitted on 23 June 1999 a declaration under 37 CFR 1.497 executed by co-inventors Hiroshi SUZUKI and Satoru ABE, and by Midori AOKI in her capacity as legal representative of deceased joint inventor Izuo AOKI.

Then on 20 July 1999 applicants submitted a certified copy of the original family

registry of deceased joint inventor Izuo AOKI and translation thereof reflecting that Izuo AOKI is survived by his wife, Midori AOKI and his minor son, Keisuke AOKI.

Although applicants' counsel invokes Articles 824, 887 and 890 of the current Japanese Civil Law to declare that Mrs. Midori AOKI and Keisuke AOKI are the sole heirs of deceased joint inventor Izuo AOKI and that Mrs. Midori AOKI has the legal right to represent the minor child Keisuke AOKI, no copies of such relevant articles along with their translation have been filed. The declaration by counsel cannot be constituted as "a legal memorandum prepared and signed by an attorney at law familiar with the law of the jurisdiction involved" as required in MPEP 409.01(a).

It should also be noted that the certified copy of the original family registry of deceased joint inventor Izuo AOKI does not include an apostille affixed to it. See MPEP section 409.01(b)

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED. However, further proof of authority of the legal representatives in compliance with 37 CFR 1.44 MUST be submitted before the grant of a patent.

It is the responsibility of the examiner to ensure that sufficient proof of authority has been submitted in accordance with 37 CFR 1.44. If the proof of authority is ultimately found to be insufficient, the application must be returned to the PCT Legal Office.

The application is being returned to the United States Designated/Elected Office for further processing. The declaration is acceptable under 37 CFR 1.42.

Richard Cole
PCT Legal Examiner
PCT Legal Office

NNH/RC:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

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. 6442225
Issue Date: August 27,2002
Application No. 09332066
Filed: June 14,1999
Attorney Docket No. EM/HUANG/469

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 12,2007 ,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 June 12,2007 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6,442,225	2002-08-27	09332066	1999-06-14	251806-1140

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

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 R. McClure/	Date (YYYY-MM-DD)	2007-06-12
Name	Daniel R. McClure	Registration Number	38962

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 record s.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

COPY MAILED

AUG 18 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

WELLS, ST. JOHN, ROBERTS,
GREGORY & MATKIN, P.S.
601 WEST FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

In re Application of
Schuegraf and Thakur
Application No. 09/332,271
Filed: June 11, 1999
Attorney Docket No. MI22-532
For: Methods for Forming Wordlines, Transistor Gates, and Conductive Interconnects, and Wordline, Transistor Gate, and Conductive Interconnect Structures

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 12, 2000.

The petition is **dismissed**.

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 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. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 11, 1999, without an executed oath or declaration. Accordingly, on July 2, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on January 12, 2000 (certificate of mailing dated Monday, January 3, 2000), applicant filed the present petition, the petition fee, the surcharge, a declaration, three declarations of facts, a copy of the Assignment, and a request for a four (4) month extension of time and fee.

In her declaration of facts, Karen Brasefield, a legal assistant, states that on May 17, 1999, she mailed "papers pertaining to the application" to Mr. Schuegraf, the non-signing inventor, at his address in Fountain Hills, Arizona, but the papers were not signed or returned. Ms. Brasefield further states that on July 19, 1999, "the signature papers" were mailed to the inventor at his address in Fountain Hills, Arizona via Express Mail/Return

Receipt Requested. The return receipt was signed on July 21, 1999, and returned to applicant with a new address. Ms. Brasefield does not indicate who signed the return receipt. A copy of the return receipt does not accompany the present petition.

In his declaration of facts, David G. Latwesen, a shareholder of the law firm, indicates that he spoke to Mr. Schuegraf on September 22, 1999, by telephone and asked him if he would be willing to execute outstanding papers for several applications. Mr. Schuegraf refused to sign any papers. A copy of the statement, made by Mr. Latwesen immediately after the telephone conversation, is included with the petition.

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 items (1), (2) and (4) as set forth above.

As to item (1), Ms. Brasefield states that she mailed "papers pertaining to the application" and "signature papers" to the inventor. However, it is unclear whether applicant mailed a complete copy of the application papers to Mr. Schuegraf for his review. Moreover, Ms. Brasefield did not indicate whether she sent a copy of the application papers to the new address stated on the return receipt. Unless the Mr. Schuegraf was presented with a copy of the application papers (specification, claims and drawings), Mr. Schuegraf could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicant should show that a copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

On July 21, 1999, a return receipt was signed and sent to applicant with a new address. When applicant became aware of the new address, applicant should have sent a complete copy of the application papers to the inventor's current address to ensure receipt of such. It is unclear whether applicant mailed a copy of the application papers to the inventor's current address. Moreover, applicant stated that the return receipt was signed but did not indicate if the inventor signed it. Therefore, without a copy of the signed return receipt, the Office is unable to determine whether the inventor was presented with a copy of the application papers in accordance with 37 CFR 1.47. Accordingly, applicant should send a complete copy of the application papers, including the specification, claims and drawings to Mr. Schuegraf at his **last known address**, with a request that he sign the declaration for the patent application.

As to item (2), the non-signing inventor's last known address as stated in the present petition differs from the address as indicated in the Declaration. Applicant must provide an explanation as to why these addresses differ. If the address on the declaration is incorrect, applicant must submit a **new** oath or declaration, which sets forth the non-signing inventor's correct residence and post office address.

As to item (4), a statement of the inventor's last known address is required. Applicant states that the inventor's last known address is Aliso Viejo, California. However, applicant mailed papers pertaining to the application to a different address in Fountain Hills, Arizona.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Christina T. Tartera at (703) 308-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 8

WELLS, ST. JOHN, ROBERTS,
GREGORY & MATKIN, P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

COPY MAILED

NOV 28 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Schuegraf and Thakur
Application No. 09/332,271
Filed: June 11, 1999
Attorney Docket No. MI22-532
For: Methods for Forming
Wordlines, Transistor Gates, and
Conductive Interconnects, and
Wordline, Transistor Gate, and
Conductive Interconnect Structures

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of petition under 37 CFR 1.47(a), filed September 29, 2000.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This file is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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

JAMES BUCH
ENGATE INCORPORATED
1302 E FOREST AVENUE
WHEATON IL 60187

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
James D. Bennett et al.
Application No. 09/332,317
Filed: June 14, 1999
Attorney Docket No. P93-00-DD

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 28, 2005 for failure to timely reply to the final Office Action mailed April 27, 2005. A response was filed May 27, 2005, but by Advisory Action of July 12, 2005, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed November 4, 2005.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

Additionally, there is no indication that petitioner herein was ever empowered to

---

[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 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 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)).

prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation 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.

This matter is being referred to Technology Center 3621 for processing of the RCE.

Telephone inquiries related 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

cc:
Ronald H. Spuhler
McAndrews, Held and Malloy, Ltd.
500 West Madison Street - Suite 3400
Chicago, IL 60661

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. 19

ANTHONY C. MURABITO
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET, 3RD FLOOR
SAN JOSE, CA 95113

COPY MAILED

APR 1 5 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Guillermo J. Rozas :
Application No. 09/332,338 :
Filed: June 14, 1999 :
Attorney Docket No. TRANS11

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 the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2154.

Irvin Dingle
Petitions Examiner
Office of Petitions
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

Paper No. 12

Edward J. Radlo
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

RECEIVED
FEB 10 2004
Technology Center 2100

In re Application of:	)	
Eng-Whatt Toh, Peng-Toh Sim	)	
Application No. 09/332,358	)	**DECISION ON REQUEST FOR**
Filed: June 10, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: SIMPLIFIED ADDRESSING FOR PRIVATE COMMUNICATIONS	)	

This is a decision on the Request To Withdraw from Representation filed January 20, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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 effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed January 20, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Cary T. Conrad, President
MESSAGE SECURE CORPORATION
24 Westech Drive
Tyngsboro, MA 01879

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

COPY MAILED

MAR 1 8 2002

OFFICE OF PETITIONS

JEFFREY D. SHEWCHUK
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
Attorney Docket No. S828.312-0002

DECISION DISMISSING PETITION

This is a decision on the petition filed on January 21, 2000[1] under 37 CFR 1.47(a), requesting that 5 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventors who allegedly refuse to join in this application; and alternatively under 37 CFR 1.47(b),[2] requesting that Société Française du Radiotéléphone be allowed to make the application on behalf of and as agent for the allegedly non-signing joint-inventors.

The petition under 37 CFR 1.47(a) is **DISMISSED.**
The alternative petition under 37 CFR 1.47(b) is **DISMISSED as being inappropriate.**

Background

There are 8 joint-inventors for the claimed invention in this application: Arnaud Capitant ("Capitant"), Christophe François ("François"), Sophie Frey ("Frey"), Abdallah Hitti ("Hitti"), Olivier Jean-Marie ("Jean-Marie"), Philippe Lucas ("Lucas"), Philippe Mercier ("Mercier"), and Jean-Pierre Wary ("Wary"). The application as filed on June 14, 1999 did not include any oath or declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. A Notice of Missing Parts was mailed on July 16, 1999 ("7/16/99 Notice") stating, *inter alia*, that the oath or declaration was missing. Applicants were given an extendable, non-statutory, 2-month period within which to submit the oath or declaration and other missing items.[3] The instant petition was filed in response to the 7/16/00 Notice and encloses a request for a 4-month extension of time for filing these items.[4]

---

1 Certificate of Mailing date 1/18/00. The application had been forwarded to the technology center in early 2000 for examination, and this petition was inadvertently not entered in the PTO system until recently. The Office sincerely apologizes for any inconvenience caused by the delay.

2 Petition, page 1, last 3 lines.

3 MPEP 710.02(d) (Aug. 2001) (The 2-month period for reply to a Notice of Missing Parts is not identified in the Notice as a statutory period subject to 35 U.S.C. 133. Thus, a maximum of 5 months may be obtained under 37 CFR 1.136(a), extending the due date for the missing items to 2/16/00.).

4 A 4-month extension of time would only extend the due date for filing the missing items to 1/17/00 (Monday), one day before the 1/18/00 Certificate of Mailing date indicated on the petition. Thus, a 5th month is needed for timely filing the petition and the accompanying documents.

Petition under 37 CFR 1.47(a)

The instant petition, which includes a declaration signed by François, Hitti, Lucas, Mercier and Wary, requests that these joint-inventors be allowed to file this application on behalf of themselves and the remaining joint-inventors who allegedly refuse to join in this application, i.e., Capitant, Frey and Jean-Marie.[5]

François, Hitti, Lucas, Mercier and Wary may file this application on behalf of themselves as well as Capitant, Frey and Jean-Marie, provided that a ***bona fide* attempt** has been made to present to Capitant, Frey and Jean-Marie for signature a copy of the **entire** application, including the specification, claims, drawings, and declaration; and that Capitant, Frey and Jean-Marie refuse to join in this application.[6] The oath or declaration in such an application must be accompanied by a petition under 37 CFR 1.47(a) which includes, *inter alia*, the **last known address** of each of Capitant/Frey/Jean-Marie,[7] and **a statement of facts, by those who presented the application papers/concluded that Capitant, Frey and Jean-Marie refused to join in/to whom the refusals to join in were made**, concerning the circumstances of the presentation of the application and the subsequent refusal.[8]

The instant petition contains 3 declarations by a Frederic Forster ("Forster"), describing how certain documents had been presented to Capitant, Frey, and Jean-Marie for signature and were never returned. Each of the Forster declarations in essence states the last known address of Capitant/Frey/Jean-Marie, and that:

-Forster mailed Capitant/Frey/Jean-Marie a declaration and an assignment for signature on September 7, 1999;[9]

---

5 Petition, page 1, lines 1-2.

6 See also MPEP section 409.03(d) (Aug. 2001), REFUSAL TO JOIN (A refusal by an inventor to sign an oath/declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join in the application unless it is clear that the inventor understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956) (It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath/declaration is directed.).

7 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001) (An application filed under 37 CFR 1.47 must state the last known address of the non-signing inventor . . . at which the inventor customarily receives mail, . . . [o]rdinarily . . . the last known residence).

8 See MPEP section 409.03(d) (Aug. 2001) (When the 37 CFR 1.47 applicant concludes that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made).

9 9/7/99 letter by Forster, referencing "4779US/PG-CC/R928.106."

-Forster mailed Capitant/Frey/Jean-Marie a letter on December 6, 1999, requesting that the previously mailed declaration and assignment be signed and returned;[10]

-Capitant/Frey/Jean-Marie has refused to sign,[11] and has never returned the declaration and assignment.[12]

However, there is no evidence, based on the Forster declarations, that a copy of the **entire application, including the specification, claims, drawings,** was presented to Capitant/Frey/Jean-Marie along with the September 7, 1999 letter. Consequently, the Office is unable to determine whether the Forster declarations constitute the "statements of facts" required for granting the petition under 37 CFR 1.47(a).[13] The petition under 37 CFR 1.47(a) is thus dismissed.

Alternative petition under 37 CFR 1.47(b)

Also submitted with the instant petition is a Submission Under 37 CFR 3.73(b) ("3.73(b) Submission") by Société Française du Radiotéléphone ("Société"), allegedly the assignee of rights to this application,[14] signed by Forster, Head of Legal Affair for Société and apparently authorized to act on behalf of Société.[15] With this 3.73(b) Submission, the petition requests that Société be allowed, under 37 CFR 1.47(b), to make the application on behalf of and as agent for Capitant/Frey/Jean-Marie.

Unfortunately, a petition under 37 CFR 1.47(b) is permitted only if **all** of the inventors named in an application refuse to execute the application, or, cannot be found or reached after diligent effort, none of which applies to the scenario in this application, in that, 5 out of 8 joint-inventors have signed the declaration in the application. The alternative petition under 37 CFR 1.47(b) is thus dismissed as being inappropriate. No petition fee under 37 CFR 1.47(b) is owed.

---

[10] 12/6/99 letter by Forster, referencing "4779US . . . ."

[11] Forster Declaration, page 1, lines 4-5.

[12] Forster Declaration, page 2, lines 2-3, 5-6.

[13] See *supra* note 6.

[14] The Office notes that all parties having any portion of the ownership in the patent property must act **together** as a composite entity in patent matters before the PTO; see MPEP section 301 (Aug. 2001). The "assignment" executed by François, Hitti, Lucas, Mercier and Wary in 1999 was recorded in the PTO on 8/17/00, at Reel 011059, Frames 0158-0174. However, Applicants are reminded that, the recording of this "assignment" is not a determination by the PTO of its validity or its effect on the title to this application or the patent ultimately issued therefrom. When necessary, the PTO will determine what effect this "assignment" has, including whether a party has the authority to take an action in a matter pending before the PTO. See MPEP section 317.03 (Aug. 2001).

[15] See 3.73(b) Submission, page 2.

Conclusion

To prevent abandonment of this application,[16] a request for reconsideration of this decision (renewed petition under 37 CFR 1.47(a)) must be submitted within **TWO (2) MONTHS** from the mailing date of this decision, unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained. To be grantable, the renewed petition must include appropriate **statement(s) of facts**, stating that the **entire** application papers, including the specification, claims, drawings, and oath or declaration, were presented to each of Capitant/Frey/Jean-Marie at his/her **last known address**; and of the **facts** relied upon to conclude that Capitant/Frey/Jean-Marie each has refused to join in this application. The statement(s) of facts must be signed by **those who presented the application/made the stated contacts/concluded that each of Capitant/Frey/Jean-Marie has refused to join in/to whom the refusal to join in was made**.

Finally, the Office acknowledges receipt with the instant petition of a Power of Attorney and a certified priority document for claiming priority based on 2 French applications filed in 1998. The Power of Attorney has been entered and made of record.

Also received with the petition are: a $1,660 check for paying the $130 surcharge for late filing of the declaration, the $130 petition fee, and the $1,360 for a 4-month extension of time,[17] totaling $1,620;[18] and a $726 check for paying the $690 basic filing fee and the $36 extra claims fee, totaling $726.[19] In addition, the $130 surcharge for late filing of the basic filing fee has been charged to Deposit Account No. 11-0982 as authorized in the "Response to Notice to File Missing Parts of Application - Filing Date Granted Under 37 CFR 1.53(f) and 1.16(e)" submitted with the instant petition.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

---

[16] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) **to avoid abandonment**.).

[17] See *supra* note 4 (The fee for a 5-month extension of time in 1/00 was $1,850. The deficiency of $490 has been charged to Deposit Account No. 11-0982 as authorized in the "Response to Notice to File Missing Parts of Application - Filing Date Granted Under 37 CFR 1.53(f) and 1.16(e)" submitted with the petition.).

[18] The overpayment of $40 has been credited to the same deposit account as authorized in the instant petition.

[19] The basic filing fee currently in effect is $760, and was $690 in 1/00 when the instant petition was filed. The difference of $70 had been erroneously charged to Deposit Account No. 11-0982 and has been reversed.

By fax: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

JEFFREY D. SHEWCHUK
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
Attorney Docket No. S828.312-0002

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This is a decision on the "Request for Reconsideration of Decision Dismissing Petition (Renewed Petition under 37 CFR 1.47(a))," filed on May 31, 2002 (Certificate of Mailing date May 15, 2002), that 5 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventors who allegedly refuse to join in this application.

The renewed petition is **GRANTED.**

In response to a July 16, 1999 Notice to File Missing Parts of Application, a declaration signed by 5 of the 8 joint-inventers for the invention claimed in this application, accompanied a petition under 37 CFR 1.47(a) and an alternative petition under 37 CFR 1.47(b), was filed on January 21, 2000. The petition under 37 CFR 1.47(a) requests that the signing inventors be allowed to filed the application on behalf of themselves and Arnaud Capitant ("Capitant"), Sophie Frey ("Frey") and Olivier Jean-Marie ("Jean-Marie") who allegedly refused to join in this application. The §1.47(a) petition was dismissed on March 18, 2002 for lacking sufficient showing that a copy of the entire application (specification including claims; drawings) had been sent to each of Capitant, Frey and Jean-Marie for review prior to the alleged refusals by these individuals to join in the application. The §1.47(b) petition was dismissed as inappropriate in the same decision because §1.47(b) is only applicable when none of the inventors signs the declaration.

The instant renewed petition supplements the January 21, 2000 petition by supplying copies of 3 declarations by a Herve Gosson ("Gosson") ("Gosson Declarations") concerning Capitant, Frey and Jean-Marie, respectively. These declarations and the accompanying exhibits[1] show that a copy of the application (specification including claims; drawings) was mailed by Gosson to each of these individuals on April 10, 2002,[2] and that they all refused to join in this application by not returning signed documents as requested.[3] The petition is thus granted and the "Declaration for

---

1 Copies of the 4/10/02 transmittal letters from Gosson and the mailing labels.

2 Gosson Declaration, 2nd to last paragraph.

3 Gosson Declaration, 2nd to last paragraph, last sentence. Although the Gosson Declarations are dated 5/3/02, the Office assumes that as of 5/15/02 when the instant renewed petition was mailed, counsel's best knowledge was that Gosson had not heard from any of the 3 non-signing inventors indicating contrary intentions. **If this assumption is incorrect, counsel must notify the Office upon receipt of this Decision.**

Utility Patent Application (37 CFR 1.63)" signed only by 5 joint-inventors and submitted on January 21, 2000 ("1/21/00 Declaration") is hereby accepted. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to each of the 3 non-signing inventors at their last known addresses provided in the petition:

Arnaud Capitant 1 Allée de la Bréde 45650 Saint Jean Le Blanc France	Sophie Frey 55 Rue de Paris 78100 Saint Germain en Laye France	Olivier Jean-Marie 4 Résidence Martin 78490 Bazoches France

Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, the Office agrees with the "Request for Refund (37 CFR 1.47(a))," filed concurrently with the instant renewed petition, requesting refund of the $490 for a fifth month extension-of-time for responding to the July 16, 1999 Notice of Missing Parts, and a $130 surcharge for late filing of the basic filing fee, both charged by the Office to counsel's deposit account as indicated in the March 18, 2002 decision.[4] These fees are hereby credited to Deposit Account No. 11-0982.

The application is being returned to the Office of Initial Patent Examination for further processing with respect to the 1/21/00 Declaration, and for issuance of a Filing Receipt if one has not yet been issued. Thereafter, the application will be forwarded to Technology Center 2700 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[4] As reminded by counsel, 1/17/00 (Monday) was also Martin Luther King's Birthday, a Federal holiday, rendering the obtained 4-month extension of time sufficient with respect to the 1/18/00 Certificate of Mailing. Also, since the declaration (accompanied by a §1.47 petition) and the application basic filing fee were submitted simultaneously, only 1 surcharge of $130 should have incurred.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Arnaud Capitant
1 Allée de la Bréde
45650 Saint Jean Le Blanc
France

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

LETTER

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
For: PROCESS FOR MAKING REMOTE PAYMENTS FOR THE PURCHASE OF GOODS AND/OR A SERVICE THROUGH A MOBILE RADIOTELEPHONE, AND CORRESPONDING SYSTEM AND MOBILE RADIOTELEPHONE

Dear Mr. Capitant,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jeffrey D. Shewchuk, Esq.
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sophie Frey
55 Rue de Paris
78100 Saint Germain en Laye
France

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
For: PROCESS FOR MAKING REMOTE PAYMENTS FOR THE PURCHASE OF GOODS AND/OR A SERVICE THROUGH A MOBILE RADIOTELEPHONE, AND CORRESPONDING SYSTEM AND MOBILE RADIOTELEPHONE

LETTER

Dear Ms. Frey,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jeffrey D. Shewchuk, Esq.
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Olivier Jean-Marie
4 Résidence Martin
78490 Bazoches
France

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

LETTER

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
For: PROCESS FOR MAKING REMOTE PAYMENTS FOR THE PURCHASE OF GOODS AND/OR A SERVICE THROUGH A MOBILE RADIOTELEPHONE, AND CORRESPONDING SYSTEM AND MOBILE RADIOTELEPHONE

Dear Mr. Jean-Marie,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jeffrey D. Shewchuk, Esq.
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

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

May 26, 2007

Patent No. :6,976,011
Inventor(s) :Amaud Capitant et al.
Issued :December 13, 2005
Title : PROCESS FOR MAKING REMOTE PAYMENTS FOR THE PURCHASE...
Docket NO. :2828.312--0002

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.

Review of the application file reveals that correspondence to support entry of reference data as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 which reflects the references requested is required for further consideration. If omitted references were submitted by applicant, a copy of the post card receipt obtained from this office should be included.

In view of the foregoing, applicants request is hereby denied. Any inquiries concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Angela C. Green

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703308-9390 OR (703) 308- 9380 Ext. 123

Alan M. Koenck, Kinney & Lange, P.A.
312 South Third Street
Minneapolis MN 55415-1002

CBN/arg

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

MICHAEL J. URE
10518 PHIL PLACE
CUPERTINO, CA 95014

COPY MAILED

JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Michael J. Ure :
Application No. 09/332,545 :
Filed: June 14, 1999 :
Attorney Docket No. ED6/14/99US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, 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.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] 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

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional 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.

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 lacks item(s) (1).

The required fee of $250 for the Notice of Appeal filed on November 17, 2003, have not been submitted.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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

MICHAEL J. URE
10518 PHIL PLACE
CUPERTINO, CA 95014

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Ure	:	
Application No. 09/332,545	:	DECISION GRANTING PETITION
Filed: June 14, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ED6/14/99US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 7, 2005, 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 the appeal fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2642.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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

COPY MAILED
JAN 26 2007
OFFICE OF PETITIONS

MICHAEL J URE
10518 PHIL PLACE
CUPERTINO CA 95014

In re Application of	:	
Michael J. Ure	:	
Application No. 09/332,545	:	ON PETITION
Filed: June 14, 1999	:	
Attorney Docket No. ED6/14/99US	:	

This is a decision on the petition, filed January 26, 2007, 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 14, 2006 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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
www.uspto.gov

In re Patent No. 6168214
Issue Date: January 2,2001
Application No. 09332612
Filed: June 14,1999
Attorney Docket No. 226-13

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 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 June 30,2009 .
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)
6168214	2001-01-02	09332612	1999-06-14	2005-066

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

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	/Ourmazd S. Ojan/	Date (YYYY-MM-DD)	2009-06-30
Name	Ourmazd S. Ojan	Registration Number	38065

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

Paper No. 17

Charles R. Haymond
217 NW, 22nd Avenue
Camas, WA 98607

COPY MAILED

FEB 11 2004

OFFICE OF PETITIONS

In re Application of	:	
John A. Zebala	:	
Application No. 09/332,815	:	ON PETITION
Filed: September 17, 1999	:	
Attorney Docket No. 880088.402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed March 3, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 4, 2003.

The application file is being forwarded to Technology Center AU 1771 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 15, 2002

Karl R. Hermanns
Seed Intellectual Property Law Group
701 Fifth Ave., suite 6300
Seattle, Washington 98104-7092

In re application of:
John A. Zebala DECISION ON PETITION
Serial No.: 09/332,815
Filed: June 14, 1999

For: POROUS COATINGS BEARING LIGAND ARRAYS AND USE THEREOF

This is a decision on the petition received August 9, 200l, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed July 13, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned August 14, 1999. A notice of abandonment was mailed on August 18, 2000.

On August 9, 2001, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Part on September 17, 1999.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Application on September 17, 1999.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 1773.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 16

Lisa A. Haile
Gray Cary Ware & Freidenrich LLP
4365 Executive Drive, Suite 1600
San Diego, CA 92121

COPY MAILED

APR 0 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Short :
Application No. 09/332,835 :
Filed: June 14, 1999 :
Attorney Docket No. DIVER1460-10 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 31, 2001, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 19, 2000, 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 above-identified application was deemed abandoned on March 20, 2001. A Notice of Abandonment was mailed on July 3, 2001.

Petitioner contends the Office action was never received. A review of the record indicates the Office action was mailed to the prior address of record despite the revocation of attorney (which included a change of address) filed on May 26,

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 C.F.R. § 1.181, the petitioner's request to have the petition considered under 37 C.F.R. §1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 C.F.R. §1.181. Therefore, the petition fee of $55 will be credited to petitioner's deposit account.

The file is being forwarded to Technology Center 1600 for consideration of the amendment and IDS filed with the petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
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

WARD AND OLIVA
708 THIRD AVENUE
NEW YORK, NY 10017

COPY MAILED
DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of	:
Teresita Vergara Imperial	:
Application No. 09/332,863	: DECISION ON PETITION
Filed: June 15, 1999	: UNDER 37 CFR 1.137(b)
Attorney Docket No. REV-99-10	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006, 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 above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 16, 2004, which set a shortened statutory period for reply of three (3) months. A reply, along with a three month extension of time under the provisions of 37 CFR 1.136(a), was received. As the reply did not *prima facie* place the application in condition for allowance, as set forth in the Advisory Action mailed July 6, 2005, this application became abandoned on June 17, 2005. A Notice of Abandonment was mailed on January 12, 2006.

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).

The instant petition fails to satisfy item (1) above. In this regard, 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). Petitioner previously submitted, on January 25, 2006, a request for continued examination under 37 CFR 1.114. A Notice of Appeal was filed with the present petition to revive. However, it is unnecessary to submit both an RCE under 37 CFR 1.114 and a Notice of Appeal, since either is a proper rely to a final Office action. Accordingly, petitioner must state whether he wishes to proceed with a request for continued examination under 37 CFR 1.114 or by way of a Notice of Appeal and request that the non-elected reply be withdrawn.

Petitioner should note that extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due. Office finance records indicate that the extension of time fee submitted after the expiration of the time period set in the final Office action of December 24, 2004 has been refunded to petitioner's deposit account.

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
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 the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
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

WARD AND OLIVA
708 THIRD AVENUE
NEW YORK, NY 10017

COPY MAILED

FEB 23 2007

OFFICE OF PETITIONS

In re Application of	:
Teresita Vergara Imperial	:
Application No. 09/332,863	: DECISION ON PETITION
Filed: June 15, 1999	: UNDER 37 CFR 1.137(b)
Attorney Docket No. REV-99-10	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 16, 2004, which set a shortened statutory period for reply of three (3) months. A reply, along with a three month extension of time under the provisions of 37 CFR 1.136(a), was received. As the reply did not *prima facie* place the application in condition for allowance, as set forth in the Advisory Action mailed July 6, 2005, this application became abandoned on June 17, 2005. A Notice of Abandonment was mailed on January 12, 2006.

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 decision mailed December 7, 2006 stated that the filing of both a Notice of Appeal and a request for continued examination under 37 CFR 1.114 was unnecessary since either was a proper rely to a final Office action. In view thereof, petitioner was required to state whether he wished to proceed with

the request for continued examination under 37 CFR 1.114 or by way of a Notice of Appeal.

The renewed petition states that applicant "wishes to proceed with the request for continued examination under 37 CFR 1.114, filed on January 17, 2006."

In view of the above, 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 a request for continued examination, fee of $395, and submission as required by 37 CFR 1.114, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to final Office action of December 16, 2004 is accepted as having been unintentionally delayed.

As the filing of the Notice of Appeal was unnecessary, the $250 fee submitted therefor is unnecessary. Accordingly, this fee will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1751 for processing the RCE filed on January 25, 2006 and for consideration, in the normal course of business, of the submission under 37 CFR 1.114, filed May 16, 2006.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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)
6745251	2004-06-01	09332998	1999-06-15	q54789

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

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	/Howard L. Bernstein/	Date (YYYY-MM-DD)	2008-08-25
Name	Howard L. Bernstein	Registration Number	25665

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 record s.

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. 6745251
Issue Date: June 1,2004
Application No. 09332998
Filed: June 15,1999
Attorney Docket No. Q54789

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 25,2008 ,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 25,2008 . 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
www.uspto.gov

In re Patent No. 6382058
Issue Date: May 7,2002
Application No. 09333017
Filed: June 15,1999
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 3,2007 ,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 October 3,2007 . 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 an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6382058	2002-05-07	09/333,017	1999-06-15	

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

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	/Greg Owoc/	Date (YYYY-MM-DD)	2007-10-07
Name	Greg Owoc		

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 record s.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070318

DATE : March 18, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 6,507,613

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 - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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 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 following action has been taken to the "Request for Certificate of Correction under Rules 322 and 323" received November 7, 2006:
The Certificate of Correction to change "decrease" to read as---increase---, in column 13, line 24, column 14, line 44, column 15, line 32 and column 16, line 53, constitutes "new matter" which changes scope of the claims and requires further consideration; and
The Certificate of Correction to change " Z i+1" to read as--- Z2i+1, in column 14, line 36 and column 16, line 45 constitutes "new matter" which changes scope of the claims and requires further consideration; and
As to "the Certificate of Correction to change "an" to read as--- an---, is confusing whether the paragraph (") should be included or is meant that the word "an" to be in a new paragraph.
Please see attachment for missing special characters and subscripts

JAY K. PATEL
SUPERVISORY PATENT EXAMINER

The following action has been taken to the "Request for Certificate of Correction under Rules 322 and 323" received November 7, 2006:

The Certificate of Correction to change "decrease" to read as---increase---, in column 13, line 24, column 14, line 44, column 15, line 32 and column 16, line 53, constitutes "new matter" which changes scope of the claims and requires further consideration; and

The Certificate of Correction to change " Z_{i+1}" to read as--- Z_{2i+1}, in column 14, line 36 and column 16, line 45 constitutes "new matter" which changes scope of the claims and requires further consideration; and

As to "the Certificate of Correction to change "an" to read as---¶ an---, is confusing whether the paragraph (¶") should be included or is meant that the word "an" to be in a new paragraph.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

WELSH AND KATZ LTD
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

COPY MAILED

FEB 19 2002

OFFICE OF PETITIONS

In re Reissue Application of :
ELSÄSSER, VON DER HEIDE, MÖLLER :
Reissue Application No. 09/333,400 :
Filed: June 18, 1999 :
Original Patent No. 5,173,814 :
Issue Date: December 12, 1992 :
For: DISK STORAGE DEVICE HAVING AN :
UNDERCUT HUB MEMBER :

ON PETITION

This is a decision on the petition under 37 CFR 1.47 filed February 4, 2002, under 37 CFR 1.47(a), which is being treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR §§ 1.67 and 1.172 which would require that the supplemental reissue declaration required by the office action of June 21, 2001 have been executed by all the named inventors.[1]

The petition is **granted**.

The original patent named Ellsässer, von der Heide, and Cap as inventors. In the reissue declaration under 37 CFR 1.172 present on filing this reissue, Cap asserted he was not an inventor of the current claims, and the reissue also sought to add Rolf Müller as a joint inventor together with Ellsässer and von der Heide; all four signed the original decalration. It is noted that 37 CFR 1.48, by its terms, does not apply to adding or deleting an inventor in a reissue application. The petition under 37 CFR 1.47 was accepted as establishing that von der Heide would not join. Thus, as filed, the named inventors were and remain: Ellsässer,

---

[1] Rule 47 only applies where, in the first instance, the signature of an originally named, or to be added, inventor can not be obtained. As and Muller (but not von der Heide) executed the original declaration and thus made the application, and the petition under 37 CFR 1.47 was granted 37 CFR 1.47 no longer applies to the issue. See 37 CFR 1.47; MPEP 201.03. Rather, the remedy lies under 37 CFR 1.183 when a required supplemental declaration is not executed in whole or in part by a previously signing inventor(s). See MPEP 603.

von der Heide, and Műller, as Cap has, via reissue, deleted his name from the joint inventors, and Műller has been added.

Petitioner now asserts that Elsässer refuses to execute the necessary supplemental reissue declaration, and, as such, seeks acceptance of the currently proffered supplemental reissue declarations executed by Cap and Műller and now, von der Heide, on behalf of non-signer Ellsässer (Rule 47 status having been accorded with respect to the initially missing signature of von der Heide, the presence or lack of his signature on any further declarations need not further be explained).

As noted in In re Hayes, 53 USPQ2d 1222 (Comm'r Pats. 1999) the remedy for acceptance of the supplemental reissue declaration lies via a waiver under 37 CFR 1.183 of 37 CFR 1.172, and does not lie under 37 CFR 1.47. In this instance, the showing of unavailability is accepted with respect to Ellsässer. Since Cap is no longer a named inventor in this reissue his signature is immaterial, but is not seen to render the supplemental declarations defective. This waiver with respect to Ellsässer's signature also applies to any supplemental declarations that may be forthcoming in this application. Even though von der Heide has now joined by signing one of the two supplemental declrations, this case retains its Rule 47 status. See MPEP 409.03(j).

This applicaiton is being returned to Technology Center AU 2165

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Assistant Commissioner
for Patent Examination Policy