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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Mashinsky, et al. :
Application No. 09/368,828 :
Filed: August 5, 1999 :
Attorney Docket No. 9118-037 :
For: ASSIGNING TELECOMMUNICATIONS
SERVICES TO MATCHABLE CLASSES

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the November 28, 2003 Notice of Allowance and Fee(s) Due. Accordingly, this application became technically abandoned on February 29, 2004.[1] The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a reply in the form of the issue fee and the PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the November 28, 2003 Notice of Allowance and Fee(s) Due, and the petition fee.[2]

The petition is **granted**.

The change of address on the PTOL-85 cannot be entered because only an attorney of record may change the correspondence address of record. Office records do not list Alfred W. Forebrich as an

---

[1] Petitioners could have responded timely on March 1, 2004, as it was the first business day after the weekend.

[2] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that the person signing the petition has no knowledge that the delay was in fact unintentional, he should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If he discovers that the delay was intentional, he must so notify the Office.

attorney of record. A courtesy copy of this decision is being mailed to the address listed on the PTOL-85. However, any future correspondence regarding this application will be mailed to the address of record.

This application is being forwarded to Publishing Division for further processing.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: ARBINET-THEEXCHANGE, INC.
120 ALBANY STREET
TOWER II, 4TH FLOOR
NEW BRUNSWICK, NJ 08901

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.
09/368,866	08/05/99	LINAS-BRUNET M	13/068

HM42/0707

ROBERT P RAYMOND
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD,PO BOX 368
RIDGEFIELD CT 06877

EXAMINER
OSWECKI,J

ART UNIT	PAPER NUMBER
1613	5

DATE MAILED: 07/07/00

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

Commissioner of Patents and Trademarks

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

ROBERT P. RAYMOND
BOEHRINGER INGELHEM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD, CT 06877

Serial No.: 09/368,866 :
Filed: August 5, 1999 :
For: HEPTATIS C INHIBITOR TRI-PEPTIDES:

This is a decision on the Petition, filed June 7, 2000, to Delete Joint Inventor under 37 CFR 1.48(a).

In view of the Petition filed to correct inventorship on June 7, 2000, this application has been corrected in compliance with 37 CFR 1.48(a). The Inventorship of this application has been changed by Deleting the following inventors.

Bruno Simoneau

The Petition is **GRANTED**.

The application is being forwarded to Pre-examination for correction of the file.

Joseph K. McKane

Joseph McKane
Supervisory Patent Examiner
Technology Center 1600
Art Unit 1626

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 11/5/03

Paper No.: _____

TO : Supervisor, Art Unit 1613

SUBJECT : Certificate of Correction Request in Patent No.: 6323180

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 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:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 1600~~
Supervisor

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6058630
Issue Date: May 9,2000
Application No. 09368944
Filed: August 5,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed July 10,2008 ,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 July 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)
6058630	2000-05-09	09368944	1999-08-05	

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	/ROBERT M. SKOLNIK/	Date (YYYY-MM-DD)	2008-07-10
Name	ROBERT M. SKOLNIK	Registration Number	24688

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

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MAIL

Paper No. 16

NOV 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Gregory J. Koerner
Simon & Koerner LLP
10052 Pasadena Avenue, Suite B
Cupertino CA 95014

In re Application of
Lex S. Olorenshaw, et al.
Application No. 09/369,031
Filed: August 4, 1999
For: **SYSTEM AND METHOD FOR SPEECH RECOGNITION USING AN ENHANCED PHONE SET**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed July 26, 2004, which is treated as a pursuant to 37 C.F.R. § 1.181. No fee is required.

This application became abandoned for failure to timely reply to a non-final Office action mailed on December 17, 2003. A notice of abandonment was mailed June 30, 2004.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of a response on March 19, 2004. Petitioner has also submitted a copy of the response.

The date stamped on the post card receipt is subsequent to the due date for response to the three month shortened statutory time period for response set forth in the Office action mailed December 17, 2003. However, the copy of the response provided with the petition, includes a certificate of mailing certifying deposit on March 16, 2004 in accordance with 37 CFR 1.8(a). Accordingly, the copy of the response is accepted as having been timely filed. Moreover, it would appear as though the check submitted by the applicant, according to the Office's revenue accounting management software, was received March 19, 2004 and processed on March 22, 2004.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for entry of the copy of the response. From there, the file 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
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Paper No. 060204

Bruce L. Adams
ADAMS & WILKS
50 Broadway, 31st Floor
New York, NY 10004

JUN 17 2004

In re Application of:	:	
IINO *et al.*	:	DECISION ON PETITION
Serial No.: 09/369,090	:	TO WITHDRAW HOLDING
Filed: August 05, 1999	:	OF ABANDONMENT
Attorney Docket No.: **S004-3747**	:	

This is a decision on the petition filed on December 12, 2003, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

A final Office action was mailed on June 13, 2002. An amendment after final was filed on September 20, 2002. An Advisory action was mailed on October 08, 2002. On October 21, 2002, another Advisory action and an Examiner Interview Summary were mailed. A Notice of Appeal and a Request for an Extension of Time were filed on November 13, 2002. The application was held abandoned for failure to timely file a response to the Office action mailed on October 21, 2002. A Notice of Abandonment was mailed on October 27, 2003.

Petitioner asserts that on January 06, 2003, a response including a Brief on Appeal was filed. To support this assertion, petitioner has submitted a copy of the Brief, and a copy of a return postcard receipt, which acknowledges receipt in the USPTO of a Brief on Appeal on January 13, 2003.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on January 13, 2003, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "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 response was timely received in the PTO but lost somewhere after receipt thereof.

For the above stated reason, 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 copy of the Brief on Appeal submitted with the petition on December 12, 2003, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the Brief.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/13/07

Paper No.: _____

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7012620

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.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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 /Phu K. Nguyen/

Kee Tung
SPE

2628
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. 4

JEFFREY J HOHENSHELL
OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST PAUL , MN 55133-3427

COPY MAILED

JAN 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of:
HEHENBERGER, RODNEY K., *et al.*
Application No. 09/369,410
Filed: 08/03/1999
Attorney Docket No. 54982US1A002

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.10(d) or, in the alternative, 37 C.F.R. §1.10(c) or, in the alternative, under 37 C.F.R. §1.182 or 37 C.F.R. §1.183 for correction of the filing date and issuance of a corrected filing receipt, filed on August 3, 1999.

THE RULE

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail."

(a)...

(b)...

(c) 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.

(d) 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 U.S.P.S., 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 the "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.

...

ANALYSIS

A petition under either rule 10(c) or rule 10(d) requires that the petition be "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."[1] This application was filed either on August 3, 1999, or August 5, 1999, depending on whose evidence you reference. This petition was filed on September 6, 2000, which is roughly a year and one month after the date of the filing of the application. While there is admittedly little guidance as to what the meaning of the term "promptly" is, extending the term to cover the span of time that Petitioner took in this case to file a petition would stretch the concept too far. In the absence of any proof as to when Petitioner first became aware of the alleged discrepancy between the accorded filing date and the actual filing date, the office must presume that Petitioner became aware of the discrepancy at least as early as the date that the filing receipt was issued (August 26, 1999). A delay of a year is not prompt enough, and therefore *the petitions under rules 10(c) and (d) must be* ***dismissed*** for failure to comply with that requirement.

Both rule 10 arguments are dismissable on other grounds as well.

As for the argument under rule 10(d), it is noted that none of the evidence provided satisfies the requirement of rule 10(d)(3). While the evidence is persuasive, the office must hold Petitioner for satisfying the requirements of the rules. Rule 10(d)(3) clearly requires support from corroborating evidence either from the USPS or that was created within one day after the day of deposit on the requested date. None of Petitioner's corroborating evidence provided could be said to be of that nature.

As for the petition under rule 10(c), requirement (3) of that rule requires that a copy of the Express Mail label be included with the petition so that the office can determine that there

[1] *See*, 37 C.F.R. §1.10(c)(1) and (d)(1).

is indeed a discrepancy between the date accorded and the date of deposit. While Petitioner has included a copy of said Express Mail label, the date on the label corresponds with the date accorded. Therefore, this evidence does not aid Petitioner's rule 10(c) petition because it appears to validate the currently accorded filing date of August 3, 1999.

As for Petitioner's argument under rule 1.182, the relief requested must be ***dismissed*** because this is clearly not a question that is not specifically provided for. Rule 10 clearly addresses this issue, and Petitioner's inability to make a successful rule 10 argument at this time does not render this a question not specifically provided for.

As for Petitioner's claim for relief under rule 1.183, a favorable ruling would be premature at this point. Petitioner still has the option of curing the defect in satisfying rule 10(c)(1) or 10(d)(1) by showing that he wasn't aware of the filing date issue until more recently than has been presumed in this decision. Petitioner also needs to provide evidence that would cure the other problems noted in the decisions on the rule 10 arguments. Until a successful argument under rule 10 has been precluded absolutely, a decision to suspend the rules in the interest of justice would be premature. Therefore, that argument is ***dismissed*** as well.

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. *37 C.F.R. §1.137(d).* The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)".

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 Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 10

JEFFREY J HOHENSHELL
OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST PAUL , MN 55133-3427

COPY MAILED

JAN 25 2002

OFFICE OF PETITIONS

In re Application of:
HEHENBERGER, RODNEY K., *et al.*
Application No. 09/369,410
Filed: 08/03/1999
Attorney Docket No. 54982US1A002

DECISION ON PETITION

This is a decision on the renewed petition under 37 C.F.R. §1.10(d) or, in the alternative, 37 C.F.R. §1.10(c) or, in the alternative, under 37 C.F.R. §1.182 or 37 C.F.R. §1.183 for correction of the filing date and issuance of a corrected filing receipt, filed on August 3, 1999. The decision that Petitioner seeks reconsideration of was mailed on January 29, 2001.

THE RULE

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail."

(a)...

(b)...

(c) 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.

(d) 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 the "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.

ANALYSIS

Petitioner alleges that the application was deposited in Express Mail service on August 5, 1999, rather than on the date currently accorded to this application (August 3, 1999).

Relief under 37 C.F.R. §1.10(c)

Petitioner requests relief under rule 10(c) based upon the theory that the USPTO misread the handwritten "date in" on the Express Mail receipt to indicate an August 3, 1999 deposit date rather than an August 5, 1999 deposit date. To support this theory, Petitioner asks the office to note several circumstantial issues that Petitioner believes to support his theory. Specifically, Petitioner alleges that this application was one of five mailed on August 5, 1999, and that:

- all five were handled by the same postal worker, as indicated by the similar handwriting on the receipts and the same initials placed on the receipts;
- all five were processed within five minutes of each other;
- the customer portion of each label indicates an August 5, 1999 deposit;

- all label numbers are generally in ascending order; with the number corresponding with this application being in the middle of the grouping;

all other receipts clearly indicate an August 5, 1999 deposit.

However, this is not persuasive. The original Express Mail label is in the application file. The date entered is clearly legible and clearly indicates a "date in" of August 3, 1999. Further avoiding any ambiguity, the label is clearly and legibly stamped with the notation:

"EXPRESS MAIL

AUG 03 1999

USPS DATE OF DEPOSIT"

Thus, the date of deposit is twice clearly and legibly indicated on the Express Mail label as August 3, 1999 and relief under rule 10(c) would clearly not be appropriate.

Relief under 37 C.F.R. §1.10(d)

Notwithstanding Petitioner's argument about what evidence constitutes USPS evidence within the meaning of rule 10(d), the evidence provided is, by Petitioner's own characterization, circumstantial. No matter how persuasive that evidence may seem, the Commissioner finds it unlikely that the postal acceptance clerk correctly wrote the date for the first three applications in the series of applications at issue, illegibly wrote the date of deposit on the label for the application at issue so that it arguably reads August 3, 1999, set the date on his date of deposit stamp to August 3, 1999, stamped the label as having been deposited on August 3, 1999, and then proceeded to re-set the date in stamp forward to August 5, 1999 for the remaining applications and writing August 5, 1999 on those.

In sum, Petitioner's "USPS" evidence does not overcome the clear entries of the date in on the Express Mail label associated with this application.

Relief under 37 C.F.R. §1.182

Petitioner seems to believe that if he is unable to meet the requirements for a grantable petition under rule 10, then the situation falls into the category of being one that is not provided for in the rules and that thus, rule 182 relief is appropriate.

That is a remarkable position. If the Commissioner were to accept that line of reasoning, there would be no circumstance under which any petition could be dismissed. Inability satisfy the requirements of a rule would automatically turn the situation into one not provided for under the rules.

Contrary to Petitioner's assertion, the situation at hand *is* provided for in the rules. Specifically, where the requirements of rule 10 have not been met, the rules provide that a dismissal of the petition is appropriate.

Accordingly, relief under 37 C.F.R. §1.182 is inappropriate under these circumstances.

Relief under 37 C.F.R. §1.183

Petitioner asserts that the existence of a "clear" error mandates a waiver of the rules in the interests of justice if no other rule provides the appropriate relief. However, no clear error has been presented. Rather, there is an Express Mail label that clearly indicates a date in of August 3, 1999. This indication is clearly made twice. Petitioner has circumstantial evidence to contradict these entries, but it is not so compelling as to contradict the indications on the Express Mail label.

Accordingly, no extraordinary situation has been presented, and relief under 37 C.F.R. §1.183 is inappropriate at this time.

In view of the above, *this petition requesting relief under 37 C.F.R. §§1.10, 1.182, & 1.183 is* ***dismissed***.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10".

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 Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant 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. 20

WRIGHT HENSON SOMERS SEBELIUS
CLARK & BAKER LLP
100 E 9TH STREET
PO BOX 3555
TOPEKA, KS 66601-3555

COPY MAILED
JUL 2 0 2005
OFFICE OF PETITIONS

In re Application of	:	
Turak et al.	:	
Application No. 09/369,508	:	ON PETITION
Filed: August 6, 1999	:	
Title: Combination Swimming, Walking, Running, Massage, Therapeutic, And Recreational Device	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 26, 2004, 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** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit formal drawings and the issue fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed January 23, 2002. Accordingly, the above-identified application became abandoned on April 24, 2002. A Notice of Abandonment was mailed on June 10, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

[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.

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.[2] The instant petition lacks items (1) and (2).

In regard to item (1), petitioner submitted a Continued Prosecution Application (CPA) with the instant petition. Effective July 14, 2003, the Continued Prosecution Application (CPA) process was eliminated in utility and plant applications. A CPA received after the above date is now being treated as a Request for Continued Examination (RCE). As an RCE, the request lacks the submission required by 37 CFR 1.114. As set forth in 37 CFR 1.114, the submission may be a previously filed amendment(s) after final rejection. A submission may also include an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. Petitioner also stated that a check for $475.00 was enclosed. However, a review of USPTO financial records indicates that the check was never received. Accordingly, $395.00 is required for the RCE fee.

Further, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. Petitioner should submit the issue fee, which is now $700.00.

In regard to item (2), there does not appear to be a petition fee submitted with the instant petition. Accordingly, the $750.00 petition fee is also required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] See MPEP 711.03(c)(III)(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

Paper No. 24

WRIGHT HENSON SOMERS SEBELIUS
CLARK & BAKER LLP
100 E 9TH STREET
PO BOX 3555
TOPEKA, KS 66601-3555

COPY MAILED

AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of Turak et al. Application No. 09/369,508 Filed: August 6, 1999 Title: COMBINATION SWIMMING, WALKING, RUNNING, MASSAGE, THERAPEUTIC, AND RECREATIONAL DEVICE	DECISION ON PETITION

This is a decision on the RENEWED PETITION UNDER § 1.137(b) filed July 25, 2005, to revive the above-identified application. This decision also responds to the "REQUEST NOT TO ACT ON RCE," filed July 26, 2005.

The petition to revive under § 1.137(b) is **GRANTED**. However, the request not to act on the request for continued examination (RCE) is denied.

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance, mailed January 23, 2002. No extensions of time are permitted for transmitting issue fees. Applicants also failed to submit new formal drawings as required by the Notice of Allowability mailed January 23, 2002. This Notice set a three-month nonextendable period for reply. Accordingly, the above-identified application became abandoned on April 24, 2002. A courtesy Notice of Abandonment was mailed on June 10, 2002.

The initial petition to revive under § 1.137(b) was received in the Office on February 26, 2004. The petition included a showing, pursuant to 37 CFR § 1.8(b), that it was originally mailed on July 31, 2002. Accompanying the petition was a declaration of facts in support of the petition and a request for continued prosecution application (CPA). By decision mailed July 25, 2005, the petition was dismissed for failure to submit the required reply[1]. In addition, it was noted that the petition (a copy of which was being reviewed) did not appear to include the petition fee[2].

On instant renewed petition, petitioner submitted the petition fee, issue fee, a request for continued examination (RCE) and fee, as well as, formal drawings. Petitioner has now met all requirements for a grantable petition under § 1.137(b).

As to the request not to act on the RCE, the RCE has been made of record and is proper. Accordingly, the request cannot be rescinded and the fee cannot be refunded. See § 1.26(a).

The application file is being returned to the examiner for consideration of the RCE, including submission under § 1.114 (the drawings) filed July 25, 2005. Petitioner is reminded that upon issuance of any new Notice of Allowance (after RCE), petitioner may request that payment of the issue fee paid to revive the application be applied (Such crediting is not automatic). A timely response to any new Notice of Allowance is required to avoid abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[1] It is noted that the CPA submitted on initial petition was improper as a CPA was previously filed on August 13, 2001 (after May 29, 2000). No CPA may be filed in a utility application with a filing date after May 29, 2000.

[2] It is noted that payment of the petition fee is ordinarily a prerequisite to consideration of a petition under 1.137 on the merits.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 16, 2007

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/369508 Patent No.: 7,086,994 B2

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**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

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: _____

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons — SPE

3764 — 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. 25

Elsa Keller
Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

COPY MAILED

SEP 30 2002

OFFICE OF PETITIONS

In re Application of	:	
John Hossack, et al.	:	
Application No. 09/369,510	:	ON PETITION
Filed: August 6, 1999	:	
Attorney Docket No. 1998P82218 US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2002, to revive the above-identified application which is being treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

A non-final Office action was mailed on November 27, 2001 setting a three (3) month shortened statutory period within which to submit a reply. Petitioner submitted a reply to the Office via certificate of mailing on February 14, 2002. Upon review of the application file, it is noted that the reply was placed in the application file but not made of record. In view thereof, the reply was timely filed and this application was improperly held abandoned. Accordingly, no petition fee has been charged to petitioner's deposit account.

The Office wishes to apologize for the delay in processing the reply. Any inconvenience to petitioner is regretted.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2600

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

In re Patent No. 6216447
Issue Date: April 17,2001
Application No. 09369633
Filed: August 6,1999
Attorney Docket No. NHL-AH-11

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

This is a decision on the electronic petition, filed September 22,2009 ,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 22,2009 . 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)
6,216,447	2001-04-17	09/369,633	1999-08-06	60227.1

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	/Thomas R. Hipkins/	Date (YYYY-MM-DD)	2009-09-22
Name	Thomas R. Hipkins	Registration Number	31162

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 16

JONES DAY
222 East 41st Street
New York, NY 10017

COPY MAILED
MAR 2 9 2004
OFFICE OF PETITIONS

In re Application of :
Tommy Petrogiannis :
Application No. 09/369,734 : ON PETITION
Filed: August 6, 1999 :
Attorney Docket No. 9740-006 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed July 16, 2003, which set a period for reply of three months. A three (3) month extensions of time under the provisions of 37 CFR 1.136 was obtained on January 16, 2003. Accordingly, the application became abandoned on January 17, 2003. A Notice of Improper RCE was issued February 5, 2004.

The $385 fee submitted with the Continued Prosecution Application (CPA) filed January 16, 2004, treated as an RCE, will be refunded.

The application file is being forwarded to Technology Center AU 2132 for processing the Request for Continued Examination (RCE) under 37 CFR 1.114 filed with the instant petition.

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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 25

Fish & Richardson, PC
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

COPY MAILED

JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Ikuo Matsui et al. :
Application No. 09/369,735 : ON PETITION
Filed: August 6, 1999 :
Attorney Docket No. 11059/002001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 in reply to the non-final Office action mailed May 7, 2002, which set a period for reply of (1) one-month 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 8, 2002.

The application file is being forwarded to Technology Center AU 1652 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

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. 7

In re Application of
David Timperley
Application No. 09/369,804
Filed: August 6, 1999
Attorney Docket No. 2745FBR

: DECISION ON PETITION

This is a decision on the petition filed on March 7, 2002 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 18, 2001. No fee is required for the petition.

The petition is granted.

Although filed more than two months after mailing of the Notice of Abandonment, this petition is considered to be timely filed because the Notice of Abandonment was not addressed to the correspondence address of record. Petitioner has established this by submitting a copy of a previously filed revocation and power of attorney which included a new correspondence address.

Petitioner alleges that the application was not in fact abandoned because a reply to the Office letter in question had been filed on May 23, 2001, and that the reply was timely filed by reason of a concurrently filed petition for extension of time and the fee for the extension. These allegations are supported by copies of these papers, and by a copy of a postcard receipt for these papers which shows that they were in fact received in the Office on May 23, 2001. It is clear from this evidence that the 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 for the following actions:

1. Charge deposit account 50-1290 in the amount of $110.00 for a one month extension of time.
2. Entry of the revocation and power of attorney attached to the petition.
3. Entry of the new correspondence address shown in the revocation and power of attorney into the PALM ExPo system.
4. Entry of the amendment filed May 23, 2001 which is attached to the petition.

Thereafter, the application will be returned to the examiner for action on the amendment filed on May 23, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Shahan Islam, Esq.
Rosenman & Colin LLP
575 Madison Avenue
New York, NY 10022-2585

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 30 #30

Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

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NOV 2 0 2002

OFFICE OF PETITIONS

In re Application of :
Kensil :
Application No. 09/369,941 :
Filed: August 6, 1999 :
Attorney Docket No. 8449-156-999 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed March 14, 2002. Extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on September 16, 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 1632 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOY ANN G SERAUSKAS
MCDERMOTT WILL & EMERY
227 WEST MONROE STREET
SUITE 4400
CHICAGO IL 60606

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SEP 1 5 2009

OFFICE OF PETITIONS

In re Patent No. 7,316,833 :
Issue Date: January 8, 2008 :
Application No. 09/369,980 :
Filed: July 30, 1999 :
Attorney Docket No. 24180-044002 :

ON PETITION

This is a decision on the petition filed June 10, 2009, 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**.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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 may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (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.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Banner & Witcoff, Ltd 1100 13th Street N.W/ Suite 1200, Washington, DC 20005-4051

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

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Paper No.19

JACK A. KANZ
502 SO. COTTONWOOD DRIVE
RICHARDSON, TX 75080

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OFFICE OF PETITIONS

In re Application of :
Archie A. Olivier, et al. :
Application No. 09/370,133 :
Filed: August 5, 1999 :
Attorney Docket No. 02667.46348 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 June 5, 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 September 6, 2001.

The application file is being forwarded to Technology Center 3600, Art Unit 3611 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
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Paper No. 8

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FEB 27 2003

OFFICE OF PETITIONS

Bristol Myers Squibb Company
100 Headquarters Park Drive
Skillman, NJ 08558

In re Application of	:	
Malcolm I. Falconer	:	
Application No. 09/370,305	:	ON PETITION
Filed: August 9, 1999	:	
Attorney Docket No. C-314	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 Restriction Requirement mailed October 30, 2001, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 1, 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 3700, Art Unit 3761.

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

Sherry Brinkley
Petitions Examiner

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MEDLEN & CARROLL, LLP
101 HOWARD STREET, SUITE 350
SAN FRANCISCO, CA 94105

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MAR 04 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dan W. Denney	:	
Application No. 09/370,453	:	
Filed: August 9, 1999	:	
Attorney Docket No. GENITOPE-038	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2005, 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 2, 2004, 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 3, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 9, 2005.

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

This is being forwarded to Technology Center AU 1642 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

Paper No. 8

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, New York 10510

MAILED

JAN 13 2004

Technology Center 2100

In re Application of: Michael A. Epstein	)	**DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT**
Application No. 09/370,488	)	
Filed: August 9, 1999	)	
For: KEY EXCHANGE VIA A PORTABLE REMOTE CONTROL DEVICE	)	

This is a decision on the petition filed, December 22, 2003, under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. (See MPEP § 711.03(c)).

The petition is **GRANTED**.

The Application was abandoned for failure to file a timely response to the Office action mailed on May 7, 2003. A Notice of Abandonment was mailed December 2, 2003.

37 C.F.R. § 1.8(b) states:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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.

In support of the petition, Petitioner provides a copy of the originally submitted amendment and

response (5 pages) bearing a certificate of transmission by facsimile signed by Robert M. McDermott dated August 3, 2003, and a copy of an auto-reply response to the facsimile transmission from the U.S. Patent and Trademark Office acknowledging that 5 pages were received (including the cover sheet) on August 3, 2003. The auto-reply obviates the need for the personal knowledge statement of transmission as it provides proof of actual receipt.

Petitioner has established that a timely response was filed on August 3, 2003 within the 3-month shortened statutory period of response and that no extension of time fees were required for the response.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED.**

The application file is being forwarded to the technical support staff for entry of the response. From there, the application file will be forwarded to the examiner for consideration of the response.

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

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OCT 01 2008

THE LAW OFFICE OF DONNA L. ANGOTTI
140 BROADWAY
SUITE 4600
NEW YORK, NY 10005

In re Application of	:	
ERLANGER, Michael D.	:	
Application No. 09/370,619	:	DECISION ON PETITION
Filed: August 07, 1999	:	TO WITHDRAW
Attorney Docket No. **1902/005**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 04, 2008.

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

A review of the file record indicates that the power of attorney to The Law Office of Donna L. Angotti has been revoked by the assignee of the patent application on September 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6744541
Issue Date: June 1,2004
Application No. 09370678
Filed: August 9,1999
Attorney Docket No. B-3694-61722

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

This is a decision on the electronic petition, filed September 30,2008 ,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 30,2008 . 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)
6,744,541	2004-06-01	09/370,678	1999-08-09	30119/01101

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. Marcin/	Date (YYYY-MM-DD)	2008-09-30
Name	Michael J. Marcin	Registration Number	48198

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

DATE : 6/2/05

Paper No.: 30

TO SPE OF : ART UNIT 2635

SUBJECT : Request for Certificate of Correction on Patent No.: 6825776 B2

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

Virginia Tolbert
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:

CLAIMS SCOPE OR MEANING HAS NOT CHANGED DUE TO CORRECTIONS

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2635
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 9

HELFGOTT & KARAS PC
EMPIRE STATE BUILDING 60TH FLOOR
NEW YORK, NY 10118-0110

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Rosenberg, Zev	:	
Application No. 09/370,736	:	ON PETITION
Filed: August 9, 1999	:	
Attorney Docket No. ZDRPT01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed June 27, 2000. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 28, 2000. A Notice of Abandonment was mailed January 24, 2001.

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]

Petitioner has met the requirements to revive the above-identified application pursuant to 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. 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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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 $490.00 extension of time fee submitted with the petition on

---

[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).

October 7, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 3600 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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: THOMAS CHAMPAGNE
12 ½ WALL STREET, SUITE 1
ASHEVILLE, NC 28801

UNITED STATES PATENT AND TRADEMARK OFFICE
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UNITED STATES PATENT AND TRADEMARK OFFICE
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DEC 11 2000

Technology Center 2100

Paper No. 13

Carl Schaukowitch
11700 Bishops Content Road
Mitchellville, MC 20721

In re Application of:	)	
Seretti et al.	)	
Application No. 09/370,935	)	
Filed: August 9, 1999	)	**DECISION ON REQUEST FOR**
For: Vehicular Data Exchange System and	)	**WITHDRAWAL AS ATTORNEY**
Method Therefor	)	

This is a decision on the petition filed Oct. 18, 2000 (Paper No. 11) requesting (1) to change the correspondence address, and (2) to withdraw as attorney.

A request to change the correspondence address may not be signed by an attorney or agent not of record. M.P.E.P. § 405. Here, the attorney signing the petition was of record at the time the petition was filed, so the request is **GRANTED**. Future correspondence will be directed to William T. Rifkin at the address provided in the petition.

A request to withdraw as attorney is effective on the date of the decision on the request and not on the date the request was filed. M.P.E.P. § 402.06. The attorney's request complies with the applicable requirements, so that request is **GRANTED** and now effective.

Note that, although the petition effectively changes the correspondence address, Mr. Rifkin is not presently the attorney of record. If applicants desire that Mr. Rifkin become the attorney of record, they will have to file the appropriate appointment papers.

Joseph L. Felber

Joseph L. Felber
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: William T. Rifkin, Esq.
Piper Marbury Rudnick & Wolfe LLP
203 North LaSalle St., Suite 1800
Chicago, IL 60601-1293

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)
6,170,087	2001-01-09	09/370,986	1999-08-10	

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	/Garry A. Brannon/	Date (YYYY-MM-DD)	2009-07-27
Name	Garry A. Brannon		

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. 6170087
Issue Date: January 9,2001
Application No. 09370986
Filed: August 10,1999
Attorney Docket No. 7972.06

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

This is a decision on the electronic petition, filed July 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 July 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.

UNITED STATES 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. 6519578
Issue Date: February 11,2003
Application No. 09371145
Filed: August 9,1999
Attorney Docket No. 066258.0108

:

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

:

This is a decision on the electronic petition, filed November 30,2007 ,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 30,2007. 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)
6519578	2003-02-11	09371145	1999-08-09	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/W. Robert Kellegrew, Jr./	Date (YYYY-MM-DD)	2007-11-29
Name	W. Robert Kellegrew, Jr.		
Enter Reel and Frame Number		Remove	
Reel Number	018338	Frame Number	0436
Click ADD for additional Reel Number and Frame Number		Add	

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
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Paper No. 12

ARNOLD & PORTER
555 12TH STREET, N.W.
WASHINGTON, DC 20004

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MAY 0 1 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Cheikh : DECISION
Application No. 09/371,146 : DISMISSING
Filed: August 9, 1999 : PETITION
For: Annotated Plant Genes :

This is a decision on the petition filed January 8, 2001 under 37 CFR 1.183 requesting waiver of the sequence rules, and acceptance of two CD-R copies of the sequence listing in lieu of a paper copy.

The petition is dismissed as moot.

Since the rules effective November 8, 2000, provide for the submission of either an original (see 37 CFR 1.821(c)), or replacement, copy of a sequence listing in either CD-R format or paper, there is not seen to be any requirement of the rules that needs waiver for applicant to now submit the sequence listing in CD-R. See 65 *Fed. Reg.* 54604, 54620-21 (Sept. 8, 2000). Petitioner does not state the CD-R submission of the sequence listing is an amendment of the paper copy of the sequence listing previously of record; rather, it appears that petitioner is merely resubmitting the same listing in electronic format. In view of the fact that this specification numbers in excess of 19,000 pages, petitioner may also wish to consider re-submission of any tables of record written on paper, in CD-R format as well. See 37 CFR §§ 1.823(a)(2); 37 CFR 1.52(e)(1)(iii). No petition would be required.

This application is being forwarded to Technology Center AU 1631.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior 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

Date Mailed: September 6, 2007

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

Applicant: Cheikh et al.
Appl. No.: 09/371,146
Filing Date: August 9, 1999
Title: ANNOTATED PLANT GENES
Attorney Docket No.: 04983.0182.U

This is a decision on the request for voluntary publication of a patent application under 37 CFR 1.221(a), filed on July 26, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for voluntary publication does not comply with the electronic filing system requirements, the publication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for voluntary publication does not comply with the electronic filing system requirements, thus voluntary publication will not take place.

Any request for voluntary publication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/07/2007 KKING1
07/27/2007 INTEFSW 00000909 502387 09371146
01 FC:1504 300.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 23 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

In re Application of:
KATZ, RONALD A.
Application Serial No.: 09/371,212
Filed: August 10, 1999
For: **SPECIALLY FORMATTED OPTICAL DISK AND METHOD OF PLAYBACK**

DECISION
ON PETITION

This is a decision on the petition to make special, filed on April 3, 2010 under MPEP § 707.02.

Petitioner requests that the application be considered special.

MPEP § 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP §§ 707.02 and 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy. A petition to effect such status is not necessary. Any request for interview should be initiated via the Examiner.

Accordingly, the petition is **DISMISSED AS MOOT.**

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
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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of	:
Subutai Ahmad et al	: DECISION ON PETITION
Application No. 09/371,462	: UNDER 37 CFR 1.137(b)
Filed: August 1, 1999	:
Attorney Docket No. ELECP014	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **granted**.

The petition satisfies the requirements for a grantable petition in that the reply in the form of a request for continued examination, fee of $790, and submission pursuant to the provisions of 37 CFR 1.114; the petition fee of $1,500; and the required statement of unintentional delay have been submitted. Accordingly, the reply to the final Office action of May 10, 2004 is accepted as having been unintentionally delayed.

Despite the fact that this application became abandoned for failure to timely reply to the final Office action of May 10, 2004, and prior to the granting of the petition to revive, a new non-final Office action was mailed in this case on April 6, 2005.[1] The Examiner had no procedural authority with respect to this abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the examiner, i.e., the mailing of a new non-final Office action, has been ratified. In view thereof, it is unnecessary to either vacate or remail the Office action of April 6, 2005.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3621 to await a reply to the non-final Office action mailed April 6, 2005. Failure to timely reply will again result in the abandonment of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] While Office computer database records indicate that a petition to revive was granted on April 4, 2005, this is an erroneous entry by USPTO personnel, since no decision on the petition had in fact been rendered on that date.

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

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FEB 2 0 2003

OFFICE OF PETITIONS

Wagner Murabito & Hao
Two North Market Street, Third Floor
San Jose, CA 95113

In re Application of
Glen H. Lowe et al.
Application No. 09/371,463
Filed: August 10, 1999
Attorney Docket No. 3COM-2496.IP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2002, 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 May 29, 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 February 28, 2002 did not close prosecution, the filing of an RCE was improper. Accordingly, the RCE filed on February 4, 2003 will not be processed. In view thereof, the $750 RCE fee will be refunded to petitioner's deposit account. The response required for a grantable petition 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, DC 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, 3rd Floor
San Jose, CA 95113

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MAY 0 5 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Glen H. Lowe et al. :
Application No. 09/371,463 :
Filed: August 10, 1999 :
Attorney Docket No. 3COM-2496.IP :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

It is noted that the $750 fee for a Request for Continued Examination pursuant to 37 CFR 1.114 was submitted with the petition on April 28, 2003. Petitioner is again reminded, as stated in the decision mailed February 20, 2003; the filing of an RCE is improper when prosecution in an application is 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. Therefore, the $750 fee submitted with the petition on April 28, 2003 will be credited to petitioner's deposit account.

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

The application file is being forwarded to Files Repository.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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)
6629096	2003-09-30	09371711	1999-08-09	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/W. Robert Kellegrew, Jr./	Date (YYYY-MM-DD)	2007-11-30
Name	Teresa Carvalho		
Enter Reel and Frame Number		Remove	
Reel Number	018338	Frame Number	0436
Click ADD for additional Reel Number and Frame Number		Add	

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.

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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.

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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. 6629096
Issue Date: September 30,2003
Application No. 09371711
Filed: August 9,1999
Attorney Docket No. 066258.0106

:

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

:

This is a decision on the electronic petition, filed November 30,2007 ,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 30,2007. 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

In re Patent No. 6519590
Issue Date: February 11,2003
Application No. 09371712
Filed: August 9,1999
Attorney Docket No. 066258.0107

:

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

:

This is a decision on the electronic petition, filed November 30,2007 ,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 30,2007. 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

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays 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)
6519590	2003-02-11	09371712	1999-08-09	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/W. Robert Kellegrew, Jr./	Date (YYYY-MM-DD)	2007-11-29
Name	W. Robert Kellegrew, Jr.		
Enter Reel and Frame Number		Remove	
Reel Number	018338	Frame Number	0436
Click ADD for additional Reel Number and Frame Number		Add	

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.**

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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)).

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PTO/SB/66 (03-09)
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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)

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. 6,160,373 Application Number 09/371,731

Issue Date 2000-12-12 Filing Date 1999-08-10

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 1.89(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 main 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, Virginia 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, Virginia 22313-1450**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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 ½ yr fee	(1551)	☑ $ 490	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $ _____

☑ 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. 13-2725

PTO/SB/66 (03-09)
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7. OVERPAYMENT

As to any overpayment made please

☑ Credit to Deposit Account No. 13-2725 .

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

Dave Ekstrom
Signature(s) of Petitioner(s)

July 29 - 2009
Date

Dave Ekstrom
Typed or printed name(s)

Registration Number, if applicable

218-444-7364 (Home) 218-556-6745 (cell)
Telephone Number

723 Scott Av. SE Bemidji MN 56601
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)

☐

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Docket Number (Optional)

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Patent No. 6,160,373 Application Number 09/371,731

Issue Date 2000-12-12 Filing Date 1999-08-10

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Also complete the following information, if applicable

The above – identified patent

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original filing date _____

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_____ Date

James P. Dunn
Signature

James P. Dunn
Typed or Printed Name of Person Signing Certificate

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2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640

5. MANNER OF PAYMENT

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☐ Please charge Deposit Account No. _____ the sum of $ _____

☑ 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. 13-2725

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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OR

☐ Send refund check

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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

James P. Dunn — Signature(s) of Petitioner(s)

9/25/09 — Date

James P. Dunn — Typed or printed name(s)

Registration Number, if applicable

508-560-9421 — Telephone Number

21 Davis Rd. — Address

Millbury, MA. 01527 — 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

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☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 6 2009

JONES DAY
222 East 41st Street
New York, NY 10017

In Re: Patent Term Extension
Application for
U.S. Patent No. 6,395,716

APPLICATION NOT ELECTED

The application for patent term extension for U.S. Patent No. 6,395,716, claims of which cover a method of using the human drug product TYZEKA® (telbivudine), is dismissed.

In the April 17, 2009 Election of Application for Extension of Patent Term Under 35 U.S.C. § 156 and Pursuant to 37 C.F.R. § 1.785(b), applicant elected "the Patent Term Extension in U.S. Patent No. 6,569,837," claims of which also cover a method of using the human drug product TYZEKA® (telbivudine). Thus, the application for patent term extension for U.S. Patent No. 6,569,837 will be extended based upon the regulatory review period of TYZEKA® (telbivudine). Since only one patent may be extended based upon the regulatory review period of a product, the application for patent term extension for 6,395,716 is dismissed.

A single request for reconsideration of this dismissal of the application for patent term extension may be made if filed within one month of the date of this notice. Extensions of time under 37 CFR § 1.136(a) are not applicable to this time period.

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

By mail: Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450.

By FAX: (571) 273-7728

Telephone inquiries related to this determination should be directed to Raul Tamayo at (571) 272-7728.

Mary C. Till
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

cc: Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

RE: TYZEKA® (telbivudine)
FDA Docket No.: FDA-2007-E-0335

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. 26

TAROLLI SUNDHEIM COVELL
TUMMINO & SZABO LLP
1111 LEADER BLDG
526 SUPERIOR AVENUE
CLEVELAND OH 44114-1400

COPY MAILED

JAN 27 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Douglas P. Campbell et al :
Application No. 09/371,776 :
Filed: August 10, 1999 :
Attorney Docket No. TRW(VSSIM)42 :

This is a decision on the petition, filed January 23, 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 January 23, 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) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3616 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.**

UNITED STATES 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

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVEVLAND OH 44114

COPY MAILED

JUN 23 2003

OFFICE OF PETITIONS

In re Application of
Douglas P. Campbell, et al.
Application No. 09/371,776
Filed: August 10, 1999
Attorney Docket No. TRW(VSSIM)4295

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed on June 19, 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 May 13, 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3616 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
WASHINGTON, D.C. 20231
www.uspto.gov

Mailed

MAR 2 3 2001

Technology Center 2100

Paper No. 7

Arnold M. de Guzman
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306

In re Application of:	)	
Konstantine I. Ioucha et al.	)	
Application No. 09/371,972	)	**DECISION ON REQUEST FOR**
Filed: August 10, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR	)	
RASTERIZING PRIMITUVES	)	
USING DIRECT INTERPOLATION	)	

This is a decision on the Request To Withdraw from Representation filed February 15, 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.

There is no statement that Greg T. Sueoka is ***authorized*** to sign on behalf of the other listed attorney. 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 Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer

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
Washington, D.C. 20231
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Paper No. 10

MAIL

JUN - 4 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREG T. SUEOKA
FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306

In re Application of:)
KONSTANTINE I. IOURCHA, et al.)
Application No.: 09/371,971
Filed: August, 10 1999)
For: SYSTEM AND METHOD FOR RASTERIZING PRIMATIVES USING DIRECT INTERPOLATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Attorney filed April 5, 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**.

The following attorney(s) are withdrawn from the record: Greg T. Sueoka, Arnold de Guzman.

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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Susan Yee, Esq.
Carr & Ferrell, LLP
2225 E. Bayshore Road, Suite 200
Palo Alto, CA 94303

UNITED STATES 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. 6264275
Issue Date: July 24,2001
Application No. 09371999
Filed: August 11,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed March 22,2010 ,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 March 22,2010 . 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)
6,264,275	2001-07-24	09/371,999	1999-08-11	200-109

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. Rodman Steele, Jr. /	Date (YYYY-MM-DD)	2010-03-22
Name	J. Rodman Steele, Jr.	Registration Number	25931

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Paper No. 50

In re Application of
FUKUDA ET AL.
Appl No.: 09/372,009
Filed: August 11, 1999
For: METHOD OF LONGITUDINALLY SEALING TUBULAR BAG-MAKING MATERIAL
Attorney Docket Number: 8005.165US0

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed September 6, 2005 to review the holding of abandonment, mailed August 17, 2005 for failure to timely pay the issue fee due January 26, 2005. The petition is considered pursuant to 37 CFR 1.181. No fee is required.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated January 10, 2005. Furthermore, the original response is in the file.

In view of the above, the Notice of Abandonment mailed August 17, 2005 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status. The application will then be forwarded to the Office of Publications as there are no outstanding requirements.

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
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Paper No. 28

MILLEN WHITE ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD., STE. 1400
ARLINGTON, VA 22201

COPY MAILED

JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Peter Schubert et al :
Application No. 09/372,036 :
Filed: August 11, 1999 :
Attorney Docket No. MERCK1694D2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 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 to the final Office action mailed May 31, 2002, which set a shortened statutory period for reply of three (3) months. Two months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 31, 2002.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 19, 2003.

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 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
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JJGJR.: 06-06

Paper No: __

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of :
Okajima : DECISION
Application No.: 09/372,166 :
Filing Date: 11 August, 1999 :
Attorney Docket No. 100021-09029 :

This is a decision on the petition filed on 27 January, 2006, to withdraw the holding of abandonment and considered 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 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. §1.181."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and Petitioner's only alternative will be to file a 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:

- a non-final Office action was mailed on 18 July, 2001, to Petitioner at Petitioner's office address at Metropolitan Square, Fifteenth Street NW, Washington, DC, and Petitioner apparently ignored that addressing–and the provisions of the Rules of Practice in the form of 37 C.F.R. §1.4–in his reply on 18 October, 2001, in that while the reply carried Petitioner's new address on Connecticut Avenue NW, Washington, DC, Petitioner did not include with his reply a Notice of Change of Address;

- thereafter, Petitioner failed to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed (to Petitioner's office address at Metropolitan Square, Fifteenth Street NW, Washington, DC) on 2 November, 2001, with reply due under a non-extendable deadline on or before Monday, 4 February, 2002;

- the instant application went abandoned after midnight 4 February, 2002;

- the Office mailed the Notice of Abandonment on 26 April, 2002;

- on July 23, 2002, Petitioner filed a Notice of Change of Address;

- on 18 November, 2004, Petitioner filed an information disclosure statement (IDS);

- on 13 January, 2005, Petitioner filed another Notice of Change of Address and a Status Request;

- on 21 July, 2005, Petitioner filed another Notice of Change of Address and a Status Request;

- on 17 January, 2006, Petitioner filed another Notice of Change of Address;

- on 27 January, Petitioner filed another IDS and the instant petition, averring in the latter that:

  –his office moved locations (pursuant to a merger) on 6 March, 2000;

  –there was an exchange between his staff and staff of the Office in May 2001 as to a listing of cases–of which the instant matter was one–for which address changes were to be processed, however, what Petitioner does not acknowledge is that immediately

thereafter the Office requested that Petitioner's office clarify the listing for which changes needed to be made and there is no indication either that his office did so, or that the instant case was among those for which the information was clarified, and in what timetable those events took place;

–Petitioner continues that he, as indicated above, filed more than one Notice of Change of Address, more than one IDS and more than one Status Request–these all occurring between 23 July, 2002, and 27 January, 2006, however, Petitioner does not acknowledge that he waited nearly three years after abandonment to commence any inquiry as to status and nearly four years to file the instant petition;

- by his own admission, Petitioner waited more than a year (March 200 to May 2001) to Notice the Office as to Change of Address and was on notice from the Office (on 18 July, 2001) almost four months before the mailing of the Notice of Allowance/Allowability and Fees Due that the address data regarding this and many other applications was not resolved with the Office due to incomplete information provided by Petitioner's office;

- moreover, while Petitioner avers that he Noticed the Office as to the new address to be associated with his Customer Number, there is no indication that, as of the 2 November, 2001, mailing of the Notice of Allowance/Allowability and Fees Due, Petitioner's Customer Number was associated with the instant application;

- out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and 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]

---

[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.

Moreover, Petitioner apparently has ignored the requirement that the petition herein be filed within two months of the action complained of. (See: 37 C.F.R. §1.181.).

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

---

(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]

[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.

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]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> 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

---

[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.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> 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). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

As of this writing Petitioner appears not to have satisfied and not to be able to satisfy the showing or the timeliness requirements described above.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[9]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, 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 was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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[9] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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

JJGJR.: 06-06

Paper No: __

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OFFICE OF PETITIONS

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
Okajima	:	DECISION
Application No.: 09/372,166	:	
Filing Date: 11 August, 1999	:	
Attorney Docket No. 100021-09029	:	

This is a decision on the petition filed on 24 July, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay–the petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 having previously been dismissed.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- a non-final Office action was mailed on 18 July, 2001, to Petitioner at Petitioner's office address at Metropolitan Square, Fifteenth Street NW, Washington, DC, and Petitioner

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

apparently ignored that addressing–and the provisions of the Rules of Practice in the form of 37 C.F.R. §1.4–in his reply on 18 October, 2001, in that while the reply carried Petitioner's new address on Connecticut Avenue NW, Washington, DC, Petitioner did not include with his reply a Notice of Change of Address;

- thereafter, Petitioner failed to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed (to Petitioner's office address at Metropolitan Square, Fifteenth Street NW, Washington, DC) on 2 November, 2001, with reply due under a non-extendable deadline on or before Monday, 4 February, 2002;

- the instant application went abandoned after midnight 4 February, 2002;

- the Office mailed the Notice of Abandonment on 26 April, 2002;

- on July 23, 2002, Petitioner filed a Notice of Change of Address;

- on 18 November, 2004, Petitioner filed an information disclosure statement (IDS);

- on 13 January, 2005, Petitioner filed another Notice of Change of Address and a Status Request;

- on 21 July, 2005, Petitioner filed another Notice of Change of Address and a Status Request;

- on 17 January, 2006, Petitioner filed another Notice of Change of Address;

- on 27 January, Petitioner filed another IDS and the instant petition, averring in the latter that:

  –his office moved locations (pursuant to a merger) on 6 March, 2000;

  –there was an exchange between his staff and staff of the Office in May 2001 as to a listing of cases–of which the instant matter was one–for which address changes were to be processed, however, what Petitioner does not acknowledge is that immediately thereafter the Office requested that Petitioner's office clarify the listing for which changes needed to be made and there is no indication either that his office did so, or that the instant case was among those for which the information was clarified, and in what timetable those events took place;

–Petitioner continues that he, as indicated above, filed more than one Notice of Change of Address, more than one IDS and more than one Status Request–these all occurring between 23 July, 2002, and 27 January, 2006, however, Petitioner does not acknowledge that he waited nearly three years after abandonment to commence any inquiry as to status and nearly four years to file the instant petition;

- by his own admission, Petitioner waited more than a year (March 200 to May 2001) to Notice the Office as to Change of Address and was on notice from the Office (on 18 July, 2001) almost four months before the mailing of the Notice of Allowance/Allowability and Fees Due that the address data regarding this and many other applications was not resolved with the Office due to incomplete information provided by Petitioner's office;

- moreover, while Petitioner avers that he Noticed the Office as to the new address to be associated with his Customer Number, there is no indication that, as of the 2 November, 2001, mailing of the Notice of Allowance/Allowability and Fees Due, Petitioner's Customer Number was associated with the instant application;

- and for the foregoing reasons, the original petition to withdraw the holding of abandonment was dismissed on 27 June, 2006;

- on 24 July, 2006, Petitioner filed the instant petition with fee, the reply in the form of the Issue Fee, and made the statement of unintentional delay in an effort to overcome the prior deficiencies.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and 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.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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.

Thus, if Petitioner's appreciation as to the conditions under which this application went abandoned were such as to be other than those of unintentional delay, Petitioner hereby is reminded of his duty of candor to the Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. 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

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(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]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] 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).[6] And the Petitioner must be diligent in attending to the matter.[7] 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.[8]))

Allegations as to
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.

It appears that Petitioner now has satisfied "statement/showing" requirement under the regulation–nonetheless, Petitioners always are reminded of their duty of candor to the Office.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 2800 for further processing in due course.

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[4] 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.

[5] 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).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] 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.

[8] 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.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Cornelis A.M.Jaspers :
Application No. 09/372,459 : DECISION ON PETITION
Filed: August 11, 1999 :
Attorney Docket No. PHN-17-061 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 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.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of March 17, 2006 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). This application became abandoned on May 18, 2006. *See* MPEP 1214.06.

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 (4).

A terminal disclaimer (and fee) is required for a utility or plant application filed on or **after June 8, 1995, but before May 29, 2000,** where the application became abandoned (1) **during appeal,** (2) during interference, or (3) while under a secrecy order. The reason being that utility and plant applications issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreements Act (URAA)). See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of abandonment. The requirement for a terminal disclaimer for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

The terminal disclaimer and fee must be accompanied by a renewed petition under 37 CFR 1.137(b) (no additional petition fee is required) and addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

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.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of :
Cornelis A.M.Jaspers :
Application No. 09/372,459 : DECISION ON PETITION
Filed: August 11, 1999 :
Attorney Docket No. PHN-17-061 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of March 17, 2006 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). This application became abandoned on May 18, 2006. *See* MPEP 1214.06.

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 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, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the reply to the Board decision of March 17, 2006 is accepted as being unintentionally delayed.

The terminal disclaimer filed on October 9, 2007 is accepted and has been made of record in this file.

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

This application is being referred to Technology Center AU 2622 for appropriate action in the normal course of business on the reply received December 13, 2006.

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. 6286626
Issue Date: September 11,2001
Application No. 09372542
Filed: August 11,1999
Attorney Docket No. 23485-1

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

This is a decision on the electronic petition, filed October 26,2009 ,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 October 26,2009 . 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)
6286626	2001-09-11	09372542	1999-08-11	DGC-1

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	/Steven C. Schnedler, Reg. No. 27591/	Date (YYYY-MM-DD)	2009-10-26
Name	Steven C. Schnedler	Registration Number	27591

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.

6

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/372,646	08/12/1999	MARC A. JURGOVAN	914-1372DIV1	1694

6449 7590 03/14/2002

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER
BECKER, DREW E

ART UNIT	PAPER NUMBER
1761	17

DATE MAILED: 03/14/2002

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

RECEIVED/DOCKETING
ROTHWELL FIGG ERNST & MANBECK
MAR 20 2002
RW
914-1372 DIV 1

PTO-90C (Rev. 07-01)

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

In re Application of	:
Marc A. Jurgovan et al.	: DECISION ON
Application No. 09/372,646	: PETITION
Filing date: 08/12/99	:

This is in response to the petition to restart or reset the period of reply to the Office action, mailed on 10/19/01.

The petition is granted.

The period for reply to the prior Office action is reset to run from 01/18/02, the date that applicant received the delayed correspondence.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 308-3959.

Milton I. Cano
Supervisory Patent Examiner
Art Unit 1761/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. 6264274
Issue Date: July 24,2001
Application No. 09372695
Filed: August 11,1999
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed September 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 September 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)
6,264,274	2001-07-24	09/372,695	1999-08-11	200-108

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. Rodman Steele, Jr. /	Date (YYYY-MM-DD)	2009-09-30
Name	J. Rodman Steele, Jr.	Registration Number	25931

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.**

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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.

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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.

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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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MAY 27 2005
OFFICE OF PETITIONS

In re Application of	:	
Donald G. Russell	:	
Application No. 09/372,835	:	DECISION ON PETITION
Filed: August 12, 1999	:	
Attorney Docket No. 97343.00005	:	

This is a decision on the petition filed April 18, 2005, requesting that the above-identified application be accorded a filing date of August 12, 1999. This decision on petition also serves to clarify the record.

On August 12, 1999, applicant deposited the above-identified application, which included 12 pages of specification, 5 pages of claims, 1 page of abstract, an Associate Power of Attorney, a 3 page application transmittal, and a check in the amount of $419.00. On September 3, 1999, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Application - Filing Date Granted," (Notice to File Missing Parts), requiring the submission of an executed oath or declaration and a $65.00 surcharge for its late filing. The Office notes that the specification included references to Figures 1, 2, 3, 4(a), 4(b), 5, 6, and 7; however, applicant did not submit any drawings on filing the application.

On January 31, 2000, applicant filed a executed declaration and power of attorney, a request for a three-month extension of time, and a check in the amount of $435.00. On March 2, 2000, the Office issued a filing receipt, indicating the filing date for the above-identified application as August 12, 1999. Thereafter, in Office actions dated May 9, 2000, November 21, 2000, and August 29, 2001, the Examiner stated, "drawings are required." Applicant did not submit any drawings in response to the Office actions. In the present petition, applicant explains that he understood this to mean

that formal drawings were required, not that drawings were never filed in the application.

On August 19, 2004, the Board of Patent Appeals and Interference forwarded the case to the Office of Petitions for review and to make a determination with regard to the appropriate filing date for the application because it appeared applicant did not file any drawings in the application.

On April 18, 2005, applicant filed the present petition, 6 sheets of drawings, including Figures 1, 2, 3, 4(a), 4(b), 5, 6, and 7, an amendment requesting entry of the drawing figures, and an authorization to charge any necessary fees. Applicant admits that the application was deposited without drawings. Applicant asserts that the application is entitled to the filing date of April 12, 1999, notwithstanding the omission of drawings, because drawings are not necessary for the understanding of the invention under 35 U.S.C. § 113, first sentence. Applicant further states that the invention claimed is fully described in the specification as filed.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has

been accorded a filing date but is lacking some of the figures of drawings described in the specification.

In view of the above, the Office erred in failing to notify applicant that Figures 1, 2, 3, 4(a), 4(b), 5, 6, and 7 appeared to have been omitted on filing the application on August 12, 1999. Nevertheless, the application is entitled to a filing date of August 12, 1999, with zero "0" sheets of drawings as part of the original disclosure.

Accordingly, the petition is **granted**.

No petition fee is necessary. The $400.00 petition fee will be credited to Deposit Account No. 50-1402.

The matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of August 12, 1999, indicating in the Office records that zero "0" sheets of drawings were present on filing, and for the mailing of a corrected filing receipt.

Thereafter, the matter should be referred to Technology Center Art Unit 2882 for the examiner to review the amendment filed on April 18, 2005, requesting entry of the drawing figures submitted on that date.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 16

KENNETH I KOHN
KOHN & ASSOCIATES
30500 NORTHWESTERN HWY
SUITE 410
FARMINGTON HILLS MI 48338

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
Canning, et al.
Application No. 09/372,917
Filed: August 12, 1999
Attorney Docket No. PC10178A

DECISION ON PETITION

This is a decision on the petition filed on January 4, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application. The Office apologizes for the delay in rendering a decision.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed February 14, 2001, which set a shortened statutory period for reply of three months. Petitioner filed an amendment on June 18, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No proper reply to the final Office action having been received, the above-identified application became abandoned on May 15, 2001. A Notice of Abandonment was mailed on November 6, 2001.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The Associate Power of Attorney filed on August 26, 2002 has been entered and made of record. Pursuant to MPEP 403.01, future correspondence will be directed to the associate attorney at the above address of record until future instructions are received to the contrary.[1]

Pursuant to 37 CFR 1.136, an extension of time must be filed **prior** to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $920 extension of time fee submitted with the petition on January 4, 2001 was subsequent to the maximum period obtainable for reply (August 14, 2001), this fee has been refunded to Deposit Account No. 16-1445.

---

[1] "Where the attorneys bear relation of principal attorney and associate attorney, the correspondence will be had with the associate attorney unless the principal attorney directs otherwise." MPEP 403.01.

In addition, the fee for the Notice of Appeal in the amount of $320 has also been refunded to Deposit Account No. 16-1445.

The application is being forwarded to Technology Center 1600 for consideration of the amendment filed January 4, 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

#9
DW

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TC 3600

MARC LORELLI CIMS 483 02 19
DAIMLERCHRYSLER INTELLECTAL CAPITAL CORP
CHRYSLER TECHNOLOGY CENTER
800 CHRYSLER DRIVE EAST
AUBURN HILLS MI 48326-2757

In re Application of	:	
Larry W. Bell et al.	:	DECISION ON PETITION
Application No. 09/373,038	:	TO WITHDRAW THE
Filed: August 12, 1999	:	HOLDING OF ABANDONMENT
For: SLED SYSTEM FOR MOUNTING PARKING BRAKE AND SHIFT ASSEMBLIES		

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 24, 2002. The delay in deciding this petition is regrettable

The petition is **DISMISSED.**

A review of the file record reveals that a non-final Office action was mailed to applicant on February 13, 2001. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on September 21, 2001.

Petitioner states that the Office action was never received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) 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

(3) 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 docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of May 13, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Although the petition satisfied all of the requirements above relative to the mailing date of February 2, 2001 specified in the Notice of Abandonment, regrettably this date was incorrect and should have been February 13, 2001. Thus, the petition fails to meet the above requirements based on a mailing date of February 13, 2001. The Office sincerely apologizes for this oversight.

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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/mjz: 5/28/04

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OFFICE OF THE DIRECTOR
TC 3600

Marc Lorelli Cimis 483 02 19
Daimlerchrysler Intellectal Capital Corp
Chrysler Technology Center
800 Chrysler Drive East
Auburn Hills, MI 483262757

In re Application of
Larry W. Bell et al.
Application No. 09/373,038
Filed: August 12, 1999
For: SLED SYSTEM FOR MOUNTING PARKING BRAKE AND SHIFT ASSEMBLIES

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 16, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a non-final Office action was mailed to applicant on February 13, 2001. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on September 21, 2001.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) 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

(3) 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 docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of May 13, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed January 24, 2002 failed to meet requirements above based on a mailing date of February 13, 2001.

Applicant's renewed petition provides a copy of the docket record showing all actions due by practitioner's office at and around the due date of May 13, 2001. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Notice of Allowability and Notice of Allowance and Issue Fees Due of September 24, 2001 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 8/31/04

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United States Patent and Trademark Office
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MAY 10 2005

Marc Lorelli Cimis 483 02 19
Daimlerchrysler Intellectal Capital Corp
Chrysler Technology Center
800 Chrysler Drive East
Auburn Hills, MI 483262757

In re Application of	:	SUPPLEMENTAL
Larry W. Bell et al.	:	DECISION ON PETITION
Application No. 09/373,038	:	TO WITHDRAW THE
Filed: August 12, 1999	:	HOLDING OF ABANDONMENT
For: SLED SYSTEM FOR MOUNTING PARKING BRAKE AND SHIFT ASSEMBLIES		

This is a supplemental decision on the applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 16, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a non-final Office action was mailed to applicant on February 13, 2001. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on September 21, 2001.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) 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

(3) 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 docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of May 13, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed January 24, 2002 failed to meet requirements above based on a mailing date of February 13, 2001.

Applicant's renewed petition provides a copy of the docket record showing all actions due by practitioner's office at and around the due date of May 13, 2001. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Final Rejection of February 13, 2001 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 5/10/05

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)
6,304,788	2001-10-16	09/373,136	1999-08-12	007870.P005

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	/eric s hyman/	Date (YYYY-MM-DD)	2009-12-17
Name	Eric S. Hyman	Registration Number	30139

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. 6304788
Issue Date: October 16,2001
Application No. 09373136
Filed: August 12,1999
Attorney Docket No. 002479.P006

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

This is a decision on the electronic petition, filed December 17,2009 ,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 December 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.

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

SAMUELS GAUTHIER AND STEVENS LLP
ATTN: WILLIAM E. HILTON
225 FRANKLIN STREET, SUITE 3300
BOSTON, MA 02110

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APR 05 2002

OFFICE OF PETITIONS

In re Application of :
Yan P. Bielek et al. :
Application No. 09/373,294 :
Filed: August 12, 1999 :
Attorney Docket No. IM71/0814

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 14, 2001, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 15, 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.

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

The application file is being forwarded to Publishing Division to be processed into a patent.

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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MAR 3 1 2008

In re Application of	:	
ARATHOON, William R. et al.	:	
Application No. 09/373,403	:	DECISION ON PETITION
Filed: August 12, 1999	:	TO WITHDRAW
Attorney Docket No. **39766-0215-C1.US**	:	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 03, 2008.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on February 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MORRISON & FOERSTER LLP**
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

UNITED STATES 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. 6195032
Issue Date: February 27,2001
Application No. 09373472
Filed: August 12,1999
Attorney Docket No. CT-29

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

This is a decision on the electronic petition, filed May 12,2009 ,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 12,2009 . 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)
6,195,032	2001-02-27	09/373,472	1999-08-12	21676-05268

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	/John T. McNelis/	Date (YYYY-MM-DD)	2009-05-08
Name	John T. McNelis	Registration Number	37186

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
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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Nakatsu et al	:	
Application No. 09/373,544	:	ON PETITION
Filed: August 13, 1999	:	
Attorney Docket No. 829-522	:	

This is a decision on the petition, filed January 25, 2005, 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 the undersigned at (521) 272-3208.

The application is being forwarded to Technology Center AU 2811.

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

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DEC 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Kelly et al.	:	
Application No. 09/373,576	:	ON PETITION
Filing or 371(c) Date 08/13/1999	:	
Attorney Docket Number: 8344-001-27	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 16, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed May 9, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 10, 2006. A Notice of Abandonment was mailed October 2, 2006.

Applicant has submitted the issue and corrected drawings with the instant petition.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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

Paper No. 5

OBLON SPIVAK MCCLELLAND MAIER & NUESTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON , VA 22202

Mailed

MAR 3 1 2000

Director's Office
Group 2700

In re Application of:	:
Daniel D. Granger, et al.	:
Application No.: 09/373,625	: DECISION ON PETITION TO
Filed: August 13, 1999	: MAKE SPECIAL
For: IN-VEHICLE PROMOTIONS SYSTEM	:

This is a decision on the petition under M.P.E.P. § 708.02 (VIII) to make the above-identified application special, filed February 25, 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
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OFFICE OF PETITIONS

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

In re Application of :
Granger, et al. : DECISION ON APPLICATION
Application No. 09/373,625 : FOR PATENT TERM ADJUSTMENT
Filed: August 13, 1999 :
Atty. Dkt. No.: PIP-15-GRANUSCP :

This is a decision on the "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 16, 2007. This matter is being properly treated under 37 CFR 1.705(b) as an application for 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 correct determination of PTA at the time of the mailing of the Notice of Allowance is 322 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 18, 2007, indicated a patent term adjustment (PTA) to date of 12 days. The instant application for PTA was timely filed November 16, 2007. Applicants argue that the application is entitled to an overall adjustment of 583 days.

Applicants do not contest the adjustments to date of 127 days.

Applicants do not contest the reductions to date of 115 days.

Applicants, however, argue that the application is entitled to an additional adjustment of 446 days in connection with the mailing of the Notice of Allowance on October 18, 2007.

A review of the record reveals that applicants are correct. A reply to the non-final Office action mailed November 29, 2005 was received March 29, 2006. In accordance with 37 CFR 1.702(a)(2), the application is entitled to a further reduction of 446 days. The adjustment began July 30, 2006, the day after the date that is four months after the date that the reply was filed, and ended October 18, 2007, the date that the Notice of Allowance was mailed. *See*, 37 CFR 1.703(a)(2).

However, the adjustment is properly further reduced 29 days in accordance with 37 CFR 1.704(b) in connection with the reply filed March 29, 2006. The reduction began March 1, 2006, the day after the date that is three months after the date that the Office action was mailed, and ended March 29, 2006, the date that the reply to the Office action was filed.

The adjustment is further properly reduced an additional 107 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) filed July 14, 2006. The reduction began March 30, 2006, the day after the date that the initial reply was filed, and ended July 14, 2006, the date that the IDS was filed.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 322 days (adjustments totaling 573 days less reductions totaling 251 days).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

Enclosure: Adjusted PAIR Calculation

Day : Tuesday
Date: 8/12/2008

PALM INTRANET

Time: 18:54:32

PTA Calculations for Application: 09/373625			
Application Filing Date:	08/13/1999	PTO Delay (PTO):	127
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	115
Post-Issue Petitions:	0	Total PTA (days):	322
PTO Delay Adjustment:	310		

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117	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
116	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	446		
106	10/18/2007	MAIL NOTICE OF ALLOWANCE			
105	10/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
104	10/18/2007	MAIL EXAMINER'S AMENDMENT			
103	10/18/2007	MAIL EXAMINER'S AMENDMENT			
101	10/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
100	10/13/2007	EXAMINER'S AMENDMENT COMMUNICATION			
99	10/01/2007	EXAMINER'S AMENDMENT COMMUNICATION			
98	10/01/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
97	10/01/2007	DOCUMENT VERIFICATION			
96	10/01/2007	NOTICE OF ALLOWABILITY			
92	06/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
91	07/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
89.7	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	06/19/2006	REFERENCE CAPTURE ON IDS			
87.7	06/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

87	06/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	11/29/2005	MAIL NON-FINAL REJECTION	28		82
85	10/03/2005	NON-FINAL REJECTION			
84	07/01/2005	MISCELLANEOUS INCOMING LETTER			
83	07/08/2005	DATE FORWARDED TO EXAMINER			
82	07/01/2005	APPEAL BRIEF FILED			
81	07/01/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
80	03/07/2005	NOTICE OF APPEAL FILED			
79	03/02/2005	CORRESPONDENCE ADDRESS CHANGE			
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73	09/13/2004	DATE FORWARDED TO EXAMINER			
72	07/16/2004	RESPONSE AFTER NON-FINAL ACTION			
71	11/26/2002	MISCELLANEOUS INCOMING LETTER			
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59	07/28/2003	NON-FINAL REJECTION			
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57	05/19/2003	RESPONSE AFTER NON-FINAL ACTION			
56	05/07/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	11/26/2002	REQUEST FOR REFUND			
54	02/19/2003	MAIL NON-FINAL REJECTION			

53	02/10/2003	NON-FINAL REJECTION			
52	01/16/2003	CORRESPONDENCE ADDRESS CHANGE			
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50	01/16/2003	CORRESPONDENCE ADDRESS CHANGE			
49	12/02/2002	DATE FORWARDED TO EXAMINER			
48	11/20/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	12/02/2002	DATE FORWARDED TO EXAMINER			
46	11/20/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)			
45	12/02/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
44	11/20/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	11/20/2002	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	10/01/2002	NOTICE OF APPEAL FILED			
41	09/23/2002	MAIL ADVISORY ACTION (PTOL - 303)			
40	09/20/2002	ADVISORY ACTION (PTOL-303)			
39	08/26/2002	DATE FORWARDED TO EXAMINER			
38	08/19/2002	AMENDMENT AFTER FINAL REJECTION			
37	08/22/2002	DATE FORWARDED TO EXAMINER			
36	08/19/2002	AMENDMENT AFTER FINAL REJECTION			
35	08/12/2002	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	07/01/2002	MAIL FINAL REJECTION (PTOL - 326)			
33	07/01/2002	FINAL REJECTION			
32	04/29/2002	DATE FORWARDED TO EXAMINER			
31	04/22/2002	RESPONSE AFTER NON-FINAL ACTION		32	27
30	04/22/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
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27	12/21/2001	MAIL NON-FINAL REJECTION			
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24	10/06/2001	DATE FORWARDED TO EXAMINER			
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19	09/19/2001	WORKFLOW - REQUEST FOR CPA - BEGIN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 36

HUMAN GENOME SCIENCES, INC
9410 KEY WEST AVENUE
ROCKVILLE, MD 20850

COPY MAILED

OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Luisa Iruela-Arispe et al
Application No. 09/373,658
Filed: August 13, 1999
Attorney Docket No. PF-453P2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 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 December 3, 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 March 4, 2003.

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

The application file is being forwarded to Technology Center AU 1642 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

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BROOKS KUSHMAN P.C. / SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

In re Application of	:	COPY MAILED
Bakke et al.	:	
Application No.: 09/373795	:	JUN 12 2008
Filing or 371(c) Date: 08/13/1999	:	
Attorney Docket Number:	:	OFFICE OF PETITIONS
98-127-NSC	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed March 18, 2008. The petition is properly treated under 37CFR 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 10, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on April 11, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2166 for re-mailing of the Office action and for re-setting the period for reply.

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. None

David S. Resnick
Nixon Peabody LLP
101 Federal Street
Boston MA 02110

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of
Robert H. Austin et al.
Application No. 09/373,822
Patent No. 6,790,671
Filed: August 13, 1999
Issue Date: September 14, 2004
Attorney Docket Number:
C0989/7011.I
Title: OPTICALLY CHARACTERIZING
POLYMERS

DECISION ON PETITION UNDER
37 C.F.R. §3.81(B)

This is a decision on the petition filed July 5, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition pursuant to 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "U.S. Genomics, Boston, MA (US)."

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue

1 See Official Gazette, June 22, 2004.

fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office with a recordation date of April 10, 2000 (Reel/Frame 010748/0007). This was prior to the payment of the Issue Fee on March 24, 2004.

Payment of the required $130 processing fee[2] and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may

2 Petitioner has included payment in the amount of $400. The additional $270 will be refunded to the Deposit Account listed in the petition.

be found at http://www.uspto.gov/web/forms/sb0123.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Nixon Peabody LLP
Suite 900
401 9th Street
Washington D.C. 2004-2128

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

Paper No. 20

David L. Stewart
MCDERMOTT, WILL & EMERY
600 13TH Street, N.W.
Washington, D.C. 20005

(For Patent Owner)

MAILED

JUN 0 8 2001

REEXAM UNIT

In re reissue application of
Nally, et al.
Serial No. 09/374,041
Filed: August 13, 1999
For: U.S. Patent No. 5,598,525

In re Nally, et al.
Reexamination Proceeding
Control No. 90/005,471
Filed: August 13, 1999
For: U.S. Patent No. 5,598,525

DECISION, SUA SPONTE, TO MERGE REEXAMINATION AND REISSUE PROCEEDINGS

The above-identified reissue application and reexamination proceeding are before the Office of Patent Legal Administration for consideration of whether the proceedings should be merged at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,598,525 issued to Nally, et al. on January 28, 1997.

2. A request for reexamination of the `525 patent was filed on August 13, 1999, by patent owner and the resulting reexamination proceeding was assigned Control No. 90/005,471.

3. On the same date, August 13, 1999, patent owner filed a reissue application which was assigned Application No. 09/374,041.

4. Notice of the filing of the reissue application was published in the *Official Gazette* on September 28, 1999.

5. On October 21, 1999, reexamination was ordered in the `5471 proceeding.

6. A non-final Office action was mailed in the `5471 proceeding on July 31, 2000, which set a shortened statutory period for response of one month, due to concurrent litigation that has been stayed.

7. A request for an extension of time was filed in the `5471 proceeding on August 28, 2000, and a two month extension of time was granted in a letter mailed on September 13, 2000.

8. A response to the Office action in the `5471 proceeding was filed on October 31, 2000.

9. A final Office action was mailed in the `5471 proceeding on March 14, 2001, which set a shortened statutory period for response of one month.

10. A request for an extension of time was filed in the `5471 proceeding on April 12, 2001, and a one month extension of time was granted in a letter mailed on April 17, 2001.

11. A response to the final Office action in the `5471 proceeding was filed on May 14, 2001, accompanied by a request for an extension of time for one month.

12. On the same date, May 14, 2001, patent owner filed a Notice of Appeal in the `5471 proceeding.

DISCUSSION REGARDING MERGER

Under 37 C.F.R. § 1.565(d):

> (d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to stay one of the two proceedings....

As evidenced by the above review of facts, the reissue application and the reexamination proceeding are currently pending. Since the Order has been mailed pursuant to § 1.525 in the `5471 reexamination proceeding, a decision under § 1.565(d) is timely.

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately and at the same time for a single patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of all of the proceedings. In making a decision on whether or not to merge the multiple proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

A review of the prosecution history of the `5471 reexamination file shows that an amendment was filed with the original reexamination request. Claims 1, 13, 15-16, 25, 34, 37, 40-41 and 43 have been amended, and new claim 48 has been added in the `5471 reexamination proceeding. Patent owner has filed a response to the most recent Office action, accompanied by a request for an extension of time, and a Notice of Appeal.

A review of the reissue (Application No. 09/374,041) prosecution history shows that the reissue application was published in the *Official Gazette* on September 28, 1999. Two months from the publication of the present reissue have passed, and the application is awaiting a first Office action on the merits by the examiner. In a preliminary amendment, in addition to amending portions of the specification (Cols. 3 and 5-14), as well as amending patent claims 1-2, 5, 7-9, 13, 15-16, 20, 23-26, 28-30, 34-37, 39-41, and 43-45, in the reissue application, applicant

has submitted new claim 48 for consideration, Thus, the specification and claims are not identical in both proceedings. In order to provide efficient and prompt handling of both proceedings, and to prevent inconsistent and possibly conflicting amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the reexamination proceeding be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be conducted in accordance with the decision set forth below.

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-identified reissue and reexamination proceedings are, *sua sponte*, merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in Both Proceedings

The patent owner is required to maintain identical amendments in the reissue application and the reexamination file for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 C.F.R. § 1.565(d). **An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in both cases**, specifically, Application No. 09/374,041, and Control Number 90/005,471. The response to the requirement must be limited to placing the same amendments in both cases, and patent owner must **not** address the issues of any of the proceedings in the housekeeping amendment.

III. Conduct of the Merged Reissue and Reexamination Proceedings

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application, examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding. Each action will be physically entered into both files (which will be maintained as separate files).

Any response by the applicant/patent owner must consist of a single response, with two copies being filed for entry in the two files, with each of the two bearing a signature.

If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Commissioner will proceed to issue a reexamination certificate under § 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner

upon dissolution of the merged proceeding as to the reissue application. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

Applicant/patent owner is advised that the filing of a continued prosecution (CPA) reissue application under 37 C.F.R. § 1.53(d), whereby the current reissue application is considered to be expressly abandoned, will most likely result in the dissolution of the merged proceeding, a stay of the CPA reissue application, and separate, continued prosecution of the reexamination proceeding.

CONCLUSION

1. The above-identified reissue application and reexamination proceeding ARE MERGED into a single consolidated proceeding.

2. The reissue application file and the reexamination file are being forwarded to the Group Director of Technology Center 2600. All further examination should be conducted in accordance with this decision.

3. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE (1) MONTH of this decision**, placing the same amendments in both cases of the present merged proceeding.

4. The examiner should withdraw the finality of the previous Office action in the reexamination proceeding, and issue an Office action for the present merged proceeding of the reissue application and reexamination proceeding pursuant to Part III of this decision, **after** the earlier of the following events have occurred:

   (a) the submission of the housekeeping amendment to place the same amendments in both cases; or

   (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the housekeeping amendment.

5. Telephone inquiries related to this decision should be directed to Lynn M. Kryza at (703) 308-0255.

Robert J. Spar
Director
Office of Patent Legal Administration

June 6, 2001

09374041.060801

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/374,041	08/13/99	Robert M. Nally	

PATENT NUMBER	DATE OF THIS NOTICE	PAPER NUMBER
5,598,525	06/08/01	21

NOTICE OF MERGED REEXAM - REISSUE PROCEEDING

This reissue application has been merged with the reexamination proceeding listed below:

Control No. 90/ 005,471 Filing Date: 08/13/99

Requester (name, address) David L. Stewart
McDermott, Will, and Emery
600 13th Street, N. W.
Washington, DC 20005

The front face of the reissue patent will include the following paragraph:

REEXAMINATION RESULTS

The questions raised in reexamination request No. 90/ 005,471, filed 08/13/99, have been considered and the results thereof are reflected in this reissue patent which constitutes the reexamination certificate required by 35 U.S.C. 307 as provided in 37 CFR 1.570(e).

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JJGJr: 02-06

Paper No: __

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P.O. BOX 3791
ORLANDO FL 32802-3791

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FEB 06 2006

OFFICE OF PETITIONS

In re Re-Issue Application of	:	
Nally, et al.	:	
Application No. 09/374,041	:	DECISION ON PETITION
Filed: 13 August, 1999	:	
Attorney Docket No.: 81001_REX	:	
U.S. Patent No. 5,598,525	:	
In re Re-Examination Application of	:	
Nally, et al.	:	
Application No. 90/005,471	:	
Filed: 13 August, 1999	:	
Attorney Docket No.: 81001_REX	:	
U.S. Patent No. 5,598,525	:	

This is a decision on the petition filed on 17 October, 2005, under 37 C.F.R. §1.183, to waive provisions of 37 C.F.R. §1.125(d) and §1.173(a)(1).

For the reasons set forth below, the petition under 37 C.F.R. §1.183 to waive provisions of 37 C.F.R. §1.125(d) and §1.173(a)(1) is **GRANTED**.

BACKGROUND

The record reflects that:

- in the instant merged applications, one a reissue, the other a reexamination, the Examiner has requested (31 August, 2001) that a clean copy of the specification, which incorporated the Certificate of Correction changes;
- however, the regulations at 37 C.F.R. §1.125(d) bar entry of the substitute specification filed on 17 September 2001 (see: Office action of 11 August, 2005);
- therefore, the Petitioner seeks waiver under 37 C.F.R. §1.183 to waive provisions of 37 C.F.R. §1.125(d) and §1.173(a)(1).

CONCLUSION

Petitioner's request for waiver under 37 C.F.R. §1.183 of the provisions of 37 C.F.R. §1.125(d) and §1.173(a)(1) hereby is **granted**.

This file is released to Technology Center 2600 for further processing 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

Commissioner for Patents
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8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

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FEB 2 3 2009

OFFICE OF PETITIONS

In re Patent No. 6,123,389 :
Issue Date: September 26, 2000 :
Application No. 09/374,077 :
Filed: August 12, 1999 :
Attorney Docket No. 43638-00030 :

ON PETITION

This is a decision in response to a petition filed January 29, 2009, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 27, 2008 for failure to pay the 7 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner should note that the fees required to reinstate this patent on January 29, 2009 are $2,480 for the 7 ½ year maintenance fee and $1,640 for the surcharge. Effective October 2, 2008, certain fees within the United States Patent and Trademark Office were increased, including the Patent Maintenance Fees. Since the petitioner submitted $2,360 for the 7 ½ year maintenance fee and $1,640 for the surcharge, a difference of $120 will be charged to the deposit account as authorized.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. However in accordance with 37 CFR 1.34 (a), the signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose

behalf he/she acts. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the petition; however, all future correspondence regarding this patent will be directed solely to the above noted correspondence address currently of record.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

The patent file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: JEFFREY DRAEGER
INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95052

UNITED STATES 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 C. CURFISS
P.O. BOX 903
HUMBLE TX 77347

COPY MAILED

DEC 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Monroe, David A.	:	
Application No. 09/374,136	:	ON PETITION
Filed: August 10, 1999	:	
Attorney Docket No. 121817.002.020	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 1, 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 RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT C. CURFISS
P.O. BOX 903
HUMBLE TX 77347

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FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Monroe, David A.	:	
Application No. 09/374,136	:	ON PETITION
Filed: August 10, 1999	:	
Attorney Docket No. 121817.002.020	:	

CORRECTED DECISION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 1, 2005, to revive the above-identified application. The decision mailed on December 23, 2005, is hereby vacated.

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** a final agency action within the meaning of 5 U.S.C. § 704.

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 November 12, 2003, and no extensions of time under the provisions of 37 CFR 1.136(b) 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 January 13, 2004. See MPEP 1215.04. A Notice of Abandonment was mailed April 19, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

[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.

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.[2]

The instant petition lacks items (1) and (4).

As to item (1), although petitioner did submit a Request for Continued Examiner (RCE) as a response, it lacks the submission required under 37 CFR 1.114.

As to item (4), a terminal disclaimer (and fee) is also required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned during appeal. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreement Act (URAA)). If such an application is abandoned during appeal, the patentee of a patent issuing from such an application is eligible for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

[2] See MPEP 711.03(c)(III)(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

ROBERT CURFISS
P.O. BOX 3171
HOUSTON TX 77253

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NOV 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Monroe, David A.	:	
Application No. 09/374,136	:	ON PETITION
Filed: August 10, 1999	:	
Attorney Docket No. 121817.002.020	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 18, 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 a Response and Terminal Disclaimer; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 previously filed on December 1, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana C. Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOORE LANDREY
1609 SHOAL CREEK BLVD
SUITE 100
AUSTIN TX 78701

COPY MAILED

APR 1 0 2009

OFFICE OF PETITIONS

In re Application of	:	
George Robert Gregory et al.	:	
Application No. 09/374,136	:	DECISION ON PETITION
Filed: August 10, 1999	:	
Attorney Docket No. 07-0196	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009 and supplemented on March 25, 2009, 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 March 16, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 16, 2008. Accordingly, the date of abandonment of this application is March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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. 22

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Lariviere. Et al.	:	
Application No. 09/374,512	:	ON PETITION
Filed: August 16, 1999	:	
Attorney Docket No. CAN-121	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 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 September 12, 2003. Accordingly, this application became abandoned on December 13, 2003. A Notice of Abandonment was mailed on March 24, 2004.

The file is being forwarded to Technology Center 3700 for review of the amendment filed August 13, 2004.

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

LAHIVE & COCKFIELD LLP

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* Admitted in NY only
** Admitted in MI only
*** Passed the Patent Bar Examination

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JENNIFER K ROSENFIELD
JUDITH STONE-HULSLANDER Ph D.

To: Doshie Day
Company: U.S. Patent and Trademark Office
Location: Washington, D.C.
Phone: (703) 308-3640
Fax: (703) 305-9863

From: Amy Lockhart for

DeAnn F. Smith
Phone: (617) 227-7400
Fax: (617) 742-4214
Case No.: Application Serial No. 09/374,554
Attorney Docket No. MRI-005CP2

Date: August 1, 2000
Sent By:
Pages including this cover page: 18

Ms. Day,

Here is the paperwork that was previously sent to you on July 28, 2000.

The documents transmitted by this facsimile are intended for the use of the individual or the entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, or the employee or agent responsible for delivering this document to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original facsimile to us at the above address via the U S Postal Service. Thank you

Office No. MRI-005CP2

THE "RECEIVED" STAMP OF THE PATENT AND TRADEMARK OFFICE IMPRINTED HEREON ACKNOWLEDGES THE FILING OF:

Description of Paper* and No.: Transmittal Letter (in duplicate); Response to Notice To File Missing Parts of Application (in duplicate); Two Executed Declarations, Petitions and Power of Attorneys; Copy of Form PTO-1533; Two-Month Extension of Time (in duplicate); and this return receipt postcard.

Title: *METHODS AND COMPOSITIONS FOR THE IDENTIFICATION AND ASSESSMENT OF CANCER THERAPIES*
Name of Applicant(s): Andrew W. Shyjan and Christophe Van Huffel

OIPE NOV 05 1999 PATENT & TRADEMARK OFFICE

Intf. or Serial No.: 09/374,554

Atty: DeAnn F. Smith **Date:** November 2, 1999

*with Certificate First Class Mail

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/374,554	08/13/99	SHYLAN	MRI-005

000559
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

0242/0902

NOT ASSIGNED

1643

DATE MAILED: 09/02/99

NOTICE TO FILE MISSING PARTS OF APPLICATION
Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ $65.00 for a small entity in compliance with 37 CFR 1.27, or ☑ $130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☐ ***small entity (statement filed)*** ☑ ***non-small entity is $*** 890.00

☑ 1. The statutory basic filing fee is:
☑ missing.
☐ insufficient.
Applicant must submit $ 760 *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*

☑ 2. The following additional claims fees are due:
$ 360 for 20 total claims over 20.
$ 468 for 6 independent claims over 3.
$ _____ for multiple dependent claim surcharge.
Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☑ 3. The oath or declaration:
☐ is missing or unsigned.
☐ does not cover the newly submitted items.
An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:
_____
An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. **A $50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).**

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application was filed in a language other than English.
Applicant must file a verified English translation of the application, the $130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).

☐ 9 OTHER: _____

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

U.S.GPO: 1999-446-524

FORM PTO-1533 (REV 9/98)

LAHIVE & COCKFIELD LLP

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EUNHOON LEE
ERICK B. BERGLUND, Ph.D

November 2, 1999

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Patent Application Serial No. 09/322,864
Applicants: Andrew W. Shyjan et al.
Filed: August 13, 1999
Title: *METHODS AND COMPOSITIONS FOR THE IDENTIFICATION AND ASSESSMENT OF CANCER THERAPIES*
Attorney Docket No.: MRI-005CP2

Dear Sir:

I enclose herewith for filing in the above-identified application the following:

1. Response to Notice To File Missing Parts of Application;
2. Two Executed Declarations, Petitions and Power of Attorneys;
3. Copy of Form PTO-1533; and
4. Return Postcard

Please charge fees to our Deposit Account No. 12-0080. The undersigned requests any extensions of time necessary to respond. A duplicate of this sheet is enclosed.

I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box Missing Parts, Washington, DC 20231 on:

November 2, 1999
Date

DeAnn F. Smith, Reg. No. 36,683

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

DeAnn F. Smith
Reg. No. 36,683

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Andrew W. Shyjan et al.

Serial No.: 09/374,554

Filed: August 13, 1999

For: METHODS AND COMPOSITIONS FOR THE IDENTIFICATION AND ASSESSMENT OF CANCER THERAPIES

Attorney Docket No.: MRI-005CP

Group Art Unit:

Examiner:

Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Certificate of First Class Mailing (37 CFR 1.8(a))

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 for Patents, Missing parts, Washington, D.C. 20231 on the date set forth below.

November 2, 1999
Date of Signature and of Mail Deposit

By: DeAnn F. Smith
Reg. No. 36,683
Attorney for Applicant

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Dear Sir:

Responsive to the Notice to File Missing Parts of Application dated September 2, 1999, Applicant's attorney submits herewith the executed Declaration, Petition and Power of Attorney for Patent Application for the above-identified patent application. A copy of Form PTO-1532 is also enclosed.

The Commissioner is hereby authorized to charge payment of any fees under 37 C.F.R. 1.16 and 1.17 during the pendency of this application or credit any overpayment to Deposit Account No. 12-0080..

Please charge any underpayments or credit any overpayments associated with this communication to our Deposit Account No. 12-0080. A duplicate of this letter is enclosed.

Date: November 2, 1999

LAHIVE & COCKFIELD, LLP
Attorneys at Law

By

DeAnn F. Smith
Reg. No. 36,683
28 State Street
Boston, MA 02109
(617) 227-7400
(617) 742-4214

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. 25

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3801

FEB 20 2003

In re Application of	:	
Tatsuo Furukawa et al.	:	DECISION ON REQUEST
Application No.: 09/374,580	:	TO ACCEPT PAPERS
Filing Date: August 16, 1999	:	
Attorney Docket No.: 862.3016	:	

This is a decision on the "REQUEST FOR CLARIFICATION OF RECORD REGARDING PRIORITY DOCUMENTS" filed via facsimile transmission on February 3, 2002. It is also being treated as a request to accept the papers filed with the request as satisfying the "certified copy of the foreign application" requirement set forth in 37 C.F.R. § 1.55(a)(2). Also, see 35 U.S.C. 119(b)(3).

The request is **GRANTED**.

As indicated in the request, applicants were notified telephonically by the examiner that the certified copies of the foreign priority documents that were in the above-noted application were not those identified in the Declaration and other papers.

Petitioner asserts that the certified copies of the correct priority documents were submitted with a Claim to Priority filed on November 17, 1999. To support this assertion, petitioner has submitted a copy of the Claim to Priority and a copy of the front page of each of the three certified copies of the correct priority documents. In addition, petitioner has submitted a copy of a stamped return postcard which properly identifies and acknowledges receipt of the Claim for Priority and the three certified copies of priority applications.

A review of the application file record reveals that the noted Claim to Priority and the certified copies of the correct priority documents having been acknowledged as being received in the PTO on November 17, 1999 is not of record in the application file and cannot be located. 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 noted Claim to Priority and the certified copies of the correct priority

documents were timely received but lost after receipt thereof.

For the above stated reason, the request is granted. The copy of the Claim to Priority and the copies of the front pages of the certified copies of the correct priority documents are accepted since the originals were lost. No supplemental Notice of Allowability will be mailed since the Notice of Allowability that was mailed on September 27, 2002 indicated acknowledgement of the claim for priority and receipt of the certified copies of the priority documents. The certified copies of the incorrect priority documents that were in the above-noted application file have been removed and matched with the correct application file.

The above-noted application file is being forwarded to the examiner for consideration of the "RENEWED REQUEST FOR ACKNOWLEDGMENT OF INFORMATION DISCLOSURE STATEMENT AND CONDITIONAL PETITION" filed on October 15, 2002.

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

PAPER NO. 32

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of
Tatsuo Furukawa, et al.
Application No. 09/374,580
Filed: August 15, 1999
Attorney Docket No. 862.3016

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 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 October 15, 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 2854 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 ther on: "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 abandonm nt. 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. 33

Date : August 4, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Tatsuo Furukawa, et al.
Application No. : 09/374,580
Filed : August 16, 1999

The above-identified application has been assigned Patent No. 6,602,004 and an issue date of August 5, 2003.

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 August 5, 2003:

> "All reference to Patent No. 6,602,004 to TATSUO FURUKAWA, ET AL. of JAPAN for PRINTING HEAD, HEAD CARTRIDGE HAVING PRINTING HEAD, PRINTING APPARATUS USING PRINTING HEAD, AND PRINTING HEAD SUBSTRATE appearing in the Official Gazette of August 5, 2003, should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 8/4/03

2 Serial/Patent # 09/374,580

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other			$ 130.00

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 06--1205

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Sherry D. Brinkley TITLE: Petition to Director

SIGNATURE: Sherry D. Brinkley PHONE: 305-9782

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 8/4/03

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)

INSTRUCTIONS FOR USING REQUEST FOR PATENT FEE REFUND FORMS [FORM NUMBER PTO-1577]

Fill out the form completely, and print or type all information.

1. **DATE OF REQUEST**: Enter the date you fill out the form.

2. **SERIAL/PATENT #**: Enter the Serial or Patent Number.

3. Enter a check mark or an X in the box preceding the type of fee to be refunded. If the fee you are refunding is not listed, place a check mark or an X in the box preceding "**Other** _____" and print or type the fee type on the following blank line.

4. **PAPER NUMBER**: Enter the **PAPER NUMBER** of the document for which a refund is requested. [**PAPER NUMBER** refers to the sequential number (on the outside of the official file wrapper) assigned to the document. If the document has no number assigned to it, you may leave this box blank.]

5. **DATE FILED**: Enter the Mailroom Date of the document for which a refund is requested.

6. **AMOUNT**: Enter the dollar amount of the refund.

7. **TOTAL AMOUNT OF REFUND**: Add the dollar amounts in the column labeled **AMOUNT** and enter the total in the box.

8. **TO BE REFUNDED BY:** Enter a check mark or an X in the box preceding **TREASURY CHECK** OR **CREDIT DEPOSIT A/C #** to indicate how the refund is to be made. Requests to credit a Deposit Account must be accompanied by formal authorization to credit the account. Formal authorization to credit a deposit account consists of a copy of the signed statement by the owner of the Deposit Account granting the Commissioner permission to credit their account, **stamped with the FEE ACCOUNTABILITY STAMP with the amount of the refund circled.**

9. **DEPOSIT ACCOUNT NUMBER**: If refund is by credit to a Deposit Account, enter the Deposit Account Number.

10. **REASON**: Enter a check mark or an X in the box preceding the reason the refund is being requested. If there is no fee due, enter the reason on the 3 blank lines provided.

11. **REFUND REQUESTED BY**: Only PTO personnel formally authorized to request refunds should enter their **NAME**, **TITLE**, **PHONE NUMBER**, **OFFICE** and **SIGNATURE** on these blanks. Supervisors shall provide the Office of Finance with an advance list of personnel authorized to sign this form.

COPIES:	**WHITE:**	*Attach to the official file.*
	YELLOW:	*Attach to the official file.*
	PINK:	*Retain for originating office.*

Mail or hand-carry the completed form with attachment(s) to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

UNITED STATES 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

In re Application of:
Tatsuo Furukawa et al.
Serial No.: 09/374,580
Filed: August 16, 1999
Attorney Docket No.: 862.3016

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on June 10, 2005. There is no fee for this petition.

The petition is **GRANTED**.

On May 25, 2005, a Notice of Abandonment was mailed indicating that the application was abandoned in view of the 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 (PTOL-85). It also indicated that the issue fee was received on February 25, 2005 which was after the expiration of the statutory period for payment of the issue fee set in the Notice of Allowance (PTOL-85).

A review of the file record indicates the following:

On September 27, 2002, a Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed to applicant. The Notice of Allowability indicated that claims 38-45 were allowed. Claims 1-37 and 46-58 had been cancelled in an amendment dated July 24, 2002. The applicant paid the required issue fee on October 15, 2002.

On August 4, 2003, applicant filed a petition to withdraw the application from issue after payment of the issue fee under 37 C.F.R. § 1.313(c)(2) together with the required request for continued examination (RCE). The submission required under 37 C.F.R. § 1.114 was an information disclosure statement (IDS). The petition was granted in a decision dated August 4, 2003.

On November 10, 2003, applicant filed an amendment which amended claims 38 and 40 and added new claims 59-67. Although the amendment was entitled "PRELIMINARY AMENDMENT", since an RCE is not a new application, an amendment filed before the first Office action after the filing of the RCE is not a preliminary amendment. See MPEP §714.01(e). In any case, this amendment was unfortunately not matched with the file until after examiner

mailed a new Notice of Allowability and a new Notice of Allowance and Fee(s) Due to applicant on January 27, 2004. The new Notice of Allowability indicated that claims 38-45 were allowed. The new Notice of Allowance and Fee(s) Due indicated that an issue fee of $50.00 was due on April 27, 2004.

On February 17, 2004, applicant filed a letter entitled "LETTER RE ERRONEOUS NOTICE OF ALLOWANCE." The letter pointed out that the claims allowed in the Notice of Allowability mailed January 27, 2004 were those that existed in the application prior to the amendment filed on November 10, 2003.

On April 27, 2004, applicant filed a letter entitled "LETTER RE WITHDRAWAL OF APPLICATION FROM ISSUE PURSUANT TO MPEP §714.15." The letter again indicated that the Notice of Allowability mailed January 27, 2004 did not refer to the claims of the amendment filed on November 10, 2003. The letter further indicated that applicant had been informed that claims 59 and 64 submitted in the amendment of November 10, 2003 had to be reviewed further before they could be allowed. The letter finally indicated that this issue fee was not being paid on April 27, 2004 with the understanding by applicant that the application would be withdrawn from issue for further examination.

On October 28, 2004, applicant resent the letter of April 27, 2004, via facsimile transmission, directly to the supervisor of the examiner.

On November 30, 2004, examiner mailed to applicant a "supplemental" Notice of Allowability which indicated that claims 38-45 and 59-67 were allowable. A corresponding Notice of Allowance and Fee(s) Due was **not** mailed with the "supplemental" Notice of Allowability.

On February 25, 2005, applicant filed a letter entitled "LETTER AUTHORIZING CHARGE OF DEPOSIT ACCOUNT FOR BALANCE OF ISSUE FEE". On March 7, 2005, the balance of the issue fee at that time was charged to applicant's Deposit Account.

CONCLUSIONS

At the time the amendment of November 10, 2003 was filed, MPEP §714.15 read in pertinent part:

"If, however, the amendment is filed in the Office prior to the mailing out of the notice of allowance, but is received by the examiner after the mailing of the notice of allowance, it has the same standing in the application as though the notice had not been mailed. Where the application has not been closed to further prosecution, as by final rejection of one or more claims, or by an action allowing all of the claims, applicant may be entitled to have such amendment entered even though it may be necessary to withdraw the application from issue Such withdrawal, however, is unnecessary if the amendatory matter is such as the examiner would recommend for entry under 37 CFR 1.312."

Based upon this passage of MPEP §714.15, it is deemed that at the time the amendment of November 10, 2003 was filed, applicant was entitled to have the amendment entered and considered.

The Office erred in not mailing a new Notice of Allowance and Fee(s) Due when the "supplemental" Notice of Allowability was mailed on November 30, 2004. If a new Notice of Allowance and Fee(s) Due was sent with the "supplemental" Notice of Allowability, it would

have set a new three month statutory period in order to pay the balance of the issue fee. The new three month statutory period would have expired on February 28, 2005 and the balance of the issue fee at that time that would have been due would have been $120.00.

Applicant acted promptly and properly when he filed the letters of February 17, 2004; April 27, 2004; and February 25, 2005.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed May 25, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn. The payment of the balance of the issue fee, via the letter giving authorization to charge applicant's Deposit Account for the balance of issue fee filed on February 25, 2005, is accepted as being timely.

A new Notice of Allowance and Fee(s) Due (PTOL-85) indicating a balance of "Total Fee(s) Due" of $0 will be sent to applicant together with another copy of the "supplemental" Notice of Allowability originally mailed on November 30, 2004. As noted on the PTOL-85, "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."

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Arthur T. Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: **7101099 B1 – 09/374580**

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2858

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
AMB 09-02

Paper No. 6

GUNNER G. LEINBERG, ESQ.
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603

COPY MAILED

SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Baker, et al. :
Application No. 09/374,681 : ON PETITION
Filed: August 16, 1999 :
Attorney Docket No. 81762/210 :
For: LOW INSERTION FORCE ELECTRICAL :
SOCKET CONTACT :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 3, 1999 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed September 2, 1999. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed August 30, 2000.

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).

The required large entity filing fee of $740.00 and the required surcharge for late submission of an executed oath or declaration of $130.00 have been charged to Deposit Account No. 14-1138 as authorized in the instant petition.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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. 23

AUDLEY A CIAMPORCERO JR
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Murji
Application No. 09/375,045
Filed: August 16, 1999
Attorney Docket No. CAN-117

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2003, 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.

This application became abandoned for failure to timely and properly reply to the final Office action mailed August 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 21, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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.[2]

The instant petition lacks item (1). Prior to filing an Appeal Brief, petitioner must submit a Notice of Appeal.

---

[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.

[2] See MPEP 711.03(c)(III)(C) and (D).

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

By mail before May 1, 2003: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By mail after May 1, 2003: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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.

Charles Steven Brantley
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. 26

AUDLEY A CIAMPORCERO JR
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Murji
Application No. 09/375,045
Filed: August 16, 1999
Attorney Docket No. CAN-117

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed May 9, 2003, 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 August 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 21, 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 3700.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Liana Chase
Program Assistant
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

MAY 16 2005

Killworth Gottman Hagan & Schaeff LLP
One Dayton Centre, Suite 500
One South Main Street
Dayton, OH 45402-2023

In re Application of: Fernando Gonzalez et al. Serial No.: 09/375,081 Filed: August 16, 1999 Attorney Docket No.: MIO-007-NA	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition entitled "PETITION TO WITHDRAW A HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181" filed on October 7, 2004. Although the first sentence of the petition states "(t)he following is submitted in support of Applicants' Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b)", the petition is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. 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 5, 2004. A Notice of Abandonment was mailed on September 30, 2004.

Petitioner asserts that a response to the Office action was timely filed on April 16, 2004 via facsimile transmission. The evidence provided by the petitioner includes a statement which basically attests upon a personal knowledge basis to the previous facsimile transmission as well as a copy of the sending unit's report confirming transmission. A copy of the "Auto-Reply Facsimile Transmission" and a copy of the response were also included as attachments to the petition. The copy of the response contains the required certificate of facsimile transmission (dated April 16, 2004) under 37 C.F.R. § 1.8 (a)(1)(ii). The evidence is sufficient under 37 C.F.R. § 1.8 (b) to establish that the response was timely filed.

Although the facsimile cover sheet (attached to the petition and included on the "Auto-Reply Facsimile Transmission") has mostly incorrect file information, the response, asserted by petitioner to be the response faxed with the facsimile cover sheet, does have the correct file information. The assertion from the petitioner together with the following facts are sufficient to establish that the response attached to the petition is the same response that was faxed together with the given facsimile cover sheet. Those facts are: (1) the Client Number listed at the top of the facsimile cover sheet matches the Docket No. listed on the response as well as

the Docket No. listed on some previous papers filed in the above-identified application; (2) the correct examiner is listed on the facsimile cover sheet; and (3) the number of pages listed on the facsimile cover sheet matches that of the response.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed September 30, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on October 7, 2004 is accepted since the originally submitted response was not matched with the above-identified application nor matched with the application whose Serial No. is listed on the facsimile cover sheet and cannot be otherwise located.

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

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James 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. 7

NIXON PEABODY
Clinton Square, PO Box 31051
Rochester, NY 14603-1051

COPY MAILED

SEP 2 4 2002

OFFICE OF PETITIONS

In re Application of
Craig H. Baker et al.
Application No. 09/375,114
Filed: August 16, 1999
Attorney Docket No. 81762/280

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 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 Notice to File Missing Parts of Application (Notice) mailed September 8, 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 November 10, 1999.

This application is being forwarded to the Office of Initial Patent Examination 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Gunnar G. Leinberg, Esq.
NIXON PEABODY LLP
Clinton Square , P.O. Box 31051
Rochester, NY 14603

COPY MAILED
MAR 23 2006
OFFICE OF PETITIONS

In re Application of		
Baker et al.	:	
Application No. 09/375,114	:	
Filed: August 16, 1999	:	NOTICE
Patent No.: 6,899,572	:	
Issued: May 31, 2005	:	
Title of Invention:	:	
ELECTRICAL SOCKET CONTACT WITH TINES	:	

This is a notice regarding your request to change your entity status to large.

Office records reveal that Anderson Power Products is the assignee of the above-identified application.

In accordance with 37 CFR 1.27(g), said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The file is being referred to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

Cc: MAINE & ASMUS
PO BOX 3445
NASHUA, NH 03061-3445

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : DECEMBER 4, 2006

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction for Appl. No.: 09375164 Patent No.: RE39340E

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

SPE

3747
Art Unit

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
Washington, D.C. 20231
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DIW 06-01

Paper No. 11

EDWARD J LYNCH
HELLER EHRMAN WHITE & MCAULIFFE
525 UNIVERSITY AVENUE
PALO ALTO, CA 94301-1900

COPY MAILED

JUN 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Aita et al. :
Application No. 09/375,169 :
Filed: 16 August, 1999 :
Attorney Docket No. 26767-1000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed on 10 January, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 October, 2000, for failure to file a timely response to the non-final Office action mailed on 6 July, 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 on 11 January, 2001.

The application has been restored to pending status.

The application file is being forwarded to Technology Center 1700 for further examination.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

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
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Paper No. 19

COUDERT BROTHERS
333 SOUTH HOPE STREET
23RD FLOOR
LOS ANGELES, CA 90071

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Pierre Zakarauskas :
Application No. 09/375,309 :
Filed: August 16, 1999 :
Attorney Docket No. 10514/002001 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 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 to the final Office action mailed May 14, 2002, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 15, 2002.

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

The application file is being forwarded to Technology Center AU 2654 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and the currently filed amendment.

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

In re Patent No. 6731314
Issue Date: May 4,2004
Application No. 09375476
Filed: August 16,1999
Attorney Docket No. MUSE-10

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

This is a decision on the electronic petition, filed May 3,2010 ,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 May 3,2010 .
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)
6,731,314	2004-05-04	09/375,476	1999-08-16	

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	/ joe zheng /	Date (YYYY-MM-DD)	2010-05-03
Name	Joe Zheng	Registration Number	39450

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2006

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/375514 patent No.: 7,022,831

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JAMES SCHULTZ, PH.D. 12/20/06 1635

Supervisory PRIMARY EXAMINER **SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 17

Thomas R. Vigil
Welsh & Katz
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606-3912

COPY MAILED

JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Loschner et al.	:	
Application No. 09/375,627	:	ON PETITION
Filed: August 17, 1999	:	
Attorney Docket No. 99108	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 30 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 August 14, 2001, 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 November 15, 2001.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on June 30, 2003.

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

The application file is being forwarded to Technology Center AU 2881 for processing the Continued Prosecution Application (CPA) filed with the instant petition.

Latrice Bond

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

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

JUL 19 2005

TECHNOLOGY CENTER 3600

Douglas Holtz
Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Ave. 16th Floor
New York, New York 10001-7708

In re Application of:
Masahiko Kato
Application No. 09/375,676
Filed: August 17, 1999
For: SELF REFERENCE TYPE DISTANCE MEASURING METHOD AND DISTANCE MEASURING APPARATUS USING OPTICAL PULSE

: PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment, filed June 16, 2005.

Applicant has requested the abandonment be withdrawn because the Notice of Allowance was never received.

This petition is **GRANTED**.

A review of the above application reveals that a Notice Allowance was mailed to an incorrect address on April 3, 2001. The address this paper was mailed to,

John Yeh
International Express Mfg.
6505 Gayhart Street
City of Commerce, CA 90040

is the address of customer number 09133. Applicant's correspondence address, as submitted on March 2, 2001, should be 01933.

The application was then abandoned (the Notice of Abandonment also being mailed to the same incorrect address) on August 9, 2001, stating that the issue fee had not been received.

In view of these facts, the abandonment of the application is withdrawn. The mailing of these papers to the incorrect address was due to an error on the part

of the Office, not the Applicant. The application will be forwarded to the Supervisory Legal Instruments Examiner for redating and remailing of the Notice of Allowance originally mailed April 3, 2001.

Inquiries related to this decision may be directed to Special Programs Examiner Steven Meyers at (571) 272-6611.

Steven N. Meyers
Patent Technology Center 3600
(571) 272-6611

SNM/js 7/18/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 19

DUANE MORRIS LLP
PO BOX 5203
PRINCETON, NJ 08543-5203

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AUG 29 2006

OFFICE OF PETITIONS

In re Application of Hoyle et al. :
Application No. 09/375,695 :
Filing Date: August 17, 1999 :
Attorney Docket No. GE-06987A :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed April 4, 2003, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A request to change the address of record was mailed to the Office on March 22, 2002. The request was received by the Office on April 4, 2002, and matched with the application file on or about April 12, 2002.

The Office failed to change the address of record.

A Notice of Allowance and Notice of Allowability were mailed to the old, incorrect address on September 25, 2002. Petitioner failed to receive either Notice.

A Notice of Abandonment was mailed February 5, 2003.

The instant petition was filed April 4, 2003.

A facsimile copy of the petition was sent to Examiner Jewell Thompson on October 17, 2003. The copy of the petition was matched with the application file.

Pursuant to a telephone conversation with Petitions Attorney Steven Brantley, petitioner filed a new copy of the petition on August 21, 2006. The application file wrapper was obtained from Technology Center 2800 on August 29, 2006.

Discussion:

Petitioner has established non-receipt of the Notice of Allowance and Notice of Allowability.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

New copies of the papers originally mailed September 25, 2002, including the Notice of Allowance, will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2855 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance, Notice of Allowability, and Reasons for Allowance. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

Telephone inquiries regarding this communication should be directed to Senior 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. 13

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OCT 1 5 2002

OFFICE OF PETITIONS

DECISION ON PETITION

DAVID P SCHNEIDER
4 WOODSIDE DR EAST
APALACHIN NY 13732

In re Application of
David P. Schneider
Application No. 09/375,767
Filed: August 17, 1999
Attorney Docket No. DPS*1

This is a decision on the petition under 37 CFR 1.181(a), filed September 10, 2002, to withdraw the holding of abandonment based on failure to receive an office action.

The petition is **GRANTED**.

Petitioner avers non-receipt of the non-final Office Action mailed on December 12, 2001. In support, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

The Notice of Abandonment is hereby withdrawn.

The non-final Office action, mailed December 12, 2001, will be re-mailed and a new time period for response will be set to run from the mailing date thereof.

The application file is being forwarded to Technology Center AU 1616 for re-mailing of the Office action to and restarting the time period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 30 2002
PATENT & TRADEMARK OFFICE

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Paper No. 13

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OCT 15 2002

OFFICE OF PETITIONS

DAVID P. SCHNEIDER
4 WOODSIDE DR EAST
APALACHIN NY 13732

In re Application of
David P. Schneider
Application No. 09/375,767
Filed: August 17, 1999
Attorney Docket No. DPS*1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a), filed September 10, 2002, to withdraw the holding of abandonment based on failure to receive an office action.

The petition is **GRANTED**.

Petitioner avers non-receipt of the non-final Office Action mailed on December 12, 2001. In support, Petitioner has provided the necessary statements and copies of the docket record where the non-received Notice would have been entered had it been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notice was not received.

The Notice of Abandonment is hereby withdrawn.

The non-final Office action, mailed December 12, 2001, will be re-mailed and a new time period for response will be set to run from the mailing date thereof.

The application file is being forwarded to Technology Center AU 1616 for re-mailing of the Office action to and restarting the time period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/25/06 **Paper No.:** 11

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6229369

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.**

changes to claims approved?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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

2816
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. 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

PATENT NO. : 6229369 B1

APPLICATION NO. : 09/375807

ISSUE DATE : May 8, 2001

INVENTOR(S) : Atsushi Yusa et al.

It is certified that the errors appear in the above-identified patent and that said Letters Patent is hereby amended as shown below:

IN CLAIM 1:

A clock control circuit for supplying operation clock signals, each having a given period, to a central processing unit and to an internal circuit, comprising:

a divider for generating a **first and second** divided clock signal**s** by dividing a reference clock signal;

a first selector for selectively outputting either the reference clock signal or the **first** divided clock signal as an operation clock signal to the central processing unit; and

a second selector for selectively outputting either the reference clock signal or the **second** divided clock signal as an operation clock signal to the internal circuit,

wherein said divider comprises a first subdivider for generating ~~a~~ **the first** divided clock signal to be inputted to the first selector and **a** ~~the~~ second subdivider for generating ~~a~~ **the second** divided clock signal to be inputted to the second selector.

IN CLAIM 2:

The clock control circuit according to claim 1, wherein said divider generates a plurality of **first and second** divided clock signals having different frequencies, and said first and second selectors output either the reference clock signal or one of the plurality of **first and second** divided clock signals as the operation clock signals.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Jeffrey W. Gluck, Ph.D.
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998

765273

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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NOV 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Koken Yamamoto, et al.	:	
Application No. 09/376,308	:	
Filed: August 18, 1999	:	
Atty Docket No. 990934	:	

This is a decision on the petition, filed November 12, 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 20, 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 (571) 272-3204.

The application is being referred to Technology Center AU 2876 for further processing of the request for continued examination under 37 CFR 1.114 filed November 12, 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
WASHINGTON, D.C. 20231
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Paper 15

PAUL K LEGAARD
WOODCOCK WASHBURN KURTZ MACKIEWICZ &
NORRIS
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

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MAR 2 9 2002

OFFICE OF PETITIONS

In re Application of
Stokes et al.
Application No. 09/376,317
Filed: August 18, 1999
Attorney Docket No. P-3569CON

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed January 17, 2002 (certificate of mailing November 30, 2001, to revive the above-identified application.

This above-identified application became abandoned for failure to file a timely response to a non-final Office Action which was mailed on February 2, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No timely request for extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 3, 2001. A Notice of Abandonment was mailed on August 29, 2001.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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 amendment submitted on September 4, 2001 (certificate of mail date August 31, 2001) along with a request for a four (4) month extension of time were untimely and improperly entered by the examiner during the period of abandonment. The six (6) month maximum statutory period for extension of time expired on August 3, 2001. Accordingly, deposit account number 13-2546 will be credited with $1,440.00 for fees paid to acquire an extension of time. The gap in prosecution is being closed by this decision.

The RCE submitted with the instant petition will not be entered. As such the RCE fee of $740.00 will be refunded to deposit account number 13-2546. Petitioner should note a final office action was mailed December 19, 2001 setting a shortened three month

period for reply of March 19, 2002. Petitioner can obtain an additional three months by requesting an extension of time pursuant to 37 CFR 1.136(a). If petitioner wishes to continue the prosecution of this application petitioner may wish to resubmit the RCE along with an appropriate submission to the examiner of record. [1] See 37 CFR 1.114(c).

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

cc: Kenneth J. Collier
Medtronic Inc.
Patent Department
710 Medtronic Parkway NE
Minneapolis, MN 55432-5604

enclosure

[1] A submission as used in this section includes, but is not limited to , an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirement of §1.111.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 23

PAUL K LEGAARD
WOODCOCK WASHBURN KURTZ MACKIEWICZ &
NORRIS
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA PA 19103

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Stokes et al. :
Application No. 09/376,317 : DECISION ON PETITION
Filed: August 18, 1999 :
Attorney Docket No: P-3569CON :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2004, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration 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.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on June 20, 2002. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 21, 2002. A Notice of Abandonment was mailed on January 29, 2003.

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 (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the

application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. The examiner has determined the amendment submitted with the petition does not place the application in condition for allowance. Accordingly, this application cannot be revived.

It is also noted a review of Office records do not show petitioner was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney and change of correspondence address documentation must be submitted.

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) 872-9306
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 concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Kenneth J. Collier
Medtronic, Inc.
710 Medtronic Parkway NE
Minneapolis, MN 55432

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH J. COLLIER
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY N.E.
M.S. LC 340
MINNEAPOLIS MN 55432

COPY MAILED

JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Stokes et al. :
Application No. 09/376,317 :
Filed: August 18, 1999 :
Attorney Docket No: P-3569CON :

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 10, 2004,(certificate of mailing December 7, 2004) to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on June 20, 2002. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 21, 2002. A Notice of Abandonment was mailed on January 29, 2003. A petition filed under 37 CFR 1.137(b) was dismissed on July 13, 2004.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

Petitioner has submitted an additional unintentional petition fee in the amount of $1370.00. However since petitioner submitted a three month extension of time fee, an additional petition fee is not required. Accordingly, deposit account 13-2546 is being refunded the petition fee.

This application is being forwarded to Technology Center 1600 for further processing of the Request for Continued Examination (RCE) and the amendment submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/05

TO SPE OF : ART UNIT 2663

SUBJECT : Request for Certificate of Correction on Patent No.: 6,721,279

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 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

2663
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

COPY MAILED

OCT 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Paul A. Moore, et al. :
Application No. 09/376,430 :
Filed: August 18, 1999 :
Attorney Docket No. PF466P1 :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 16, 2004, to accept an unintentionally delayed corrected claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on August 18, 1999 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the corrected claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed corrected claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being referred to Technology Center Art Unit 1646 for any appropriate action as may be deemed necessary by the examiner on the amendment submitted July 16, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

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

ATTACHMENT : Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/06/06

TO SPE OF : ART UNIT **1646**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/376430 6982320

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:

the patent should be read as shown in the Certificate of correction.

SPE — **Art Unit** 1646

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 10 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

John L. Rogitz
Rogitz & Associates
750 B Street, Suite 3120
San Diego, CA 92101

Paper No. 25

In re Application of David Windsor Rillie Application No. 09/376,461 Filed: August 18, 1999 Attorney Docket No.: 1128.006A For: SKYLIGHT FLASHING	DECISION ON PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 CFR 1.181

This is in response to applicant's petition to invoke supervisory authority under 37 CFR 1.181 filed June 20, 2003 requesting consideration of whether or not prosecution can be properly reopened after a Board reversal of all previous rejections.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.181 must include the following: (1) a statement of the facts involved; (2) the point or points to be reviewed; and (3) the action requested, i.e., the relief sought. See 37 CFR 1.181(b). The instant petition lacks item (3).

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 1.181".

John J. Love, Director
Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 872-9306

SNM/DS: 2/2/04
SM

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.
09/376,461	08/18/1999	DAVID WINDSOR RILLIE	1128.006A	6542

7590 03/28/2008

JOHN L ROGITZ ESQ
ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

EXAMINER
CHILCOT, RICHARD E

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
03/28/2008	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
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MAILED
FROM DIRECTORS OFFICE

MAR 27 2008

TECHNOLOGY CENTER 3600

John L. Rogitz
Rogitz & Associates
750 B Street
Suite 3120
San Diego, CA 92101

In re Application of
David Windsor Rillie
Application No. 09/376,461
Filed: August 18, 1999
Attorney Docket No.: 1128.006A
For: SKYLIGHT FLASHING

DECISION ON PETITION
TO INVOKE SUPERVISORY
AUTHORITY
UNDER 37 CFR 1.181

This is in response to applicants' renewed petition to invoke supervisory authority under 37 CFR 1.181 that was filed on February 23, 2004 requesting review of whether or not prosecution can be properly reopened after a Board decision reversing all of the previous rejections on appeal.

The petition is **DISMISSED AS MOOT**.

A review of the file reveals that a Notice of Allowance was mailed on October 3, 2006 and that the instant application issued as United States Patent No. 7,159,364 on January 9, 2007. Further, prior to the Notice of Allowance, there was a Non-Final Rejection mailed July 17, 2006 that included an indication of allowable subject matter and a response by applicant on July 20, 2006 incorporating the indicated subject matter into the sole remaining independent claim.

In view of the above, applicant's petition is moot and is hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel Stodola at (571) 272-7087.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

TL/DS: 3/18/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 11

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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AUG 13 2002

OFFICE OF PETITIONS

In re Application of
Sharon Peleg
Application No. 09/376,512
Filed: August 18, 1999
Attorney Docket Number: 66371

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 21, 2002 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on October 2, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 3, 2002. A Notice of Abandonment was mailed on April 10, 2002.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the amendment.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Charlema R. Grant
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

In re Patent No. 6148343
Issue Date: November 14,2000
Application No. 09376525
Filed: August 18,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 28,2009 ,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 April 28,2009 .
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)
6148343	2000-11-14	09376525	1999-08-18	

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	/Donald Lewine/	Date (YYYY-MM-DD)	2009-04-28
Name	Donald Lewine		

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)
6258023	2001-07-10	09376538	1999-08-18	5838-02801

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	/Eric B. Meyertons/	Date (YYYY-MM-DD)	2009-08-03
Name	Eric B. Meyertons	Registration Number	34876

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. 6258023
Issue Date: July 10,2001
Application No. 09376538
Filed: August 18,1999
Attorney Docket No. 106388-00022

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 27

KONRAD RAYNES VICTOR & MANN LLP
315 SOUTH BEVERLY DRIVE
SUITE 210
BEVERLY HILLS, CA 90212

COPY MAILED

APR 2 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Noboru Aoyama	:	
Application No. 09/376,651	:	
Filed: August 18, 1999	:	
Attorney Docket No. JA9-98-073	:	

This is a decision on the petition, filed by facsimile transmission on April 19, 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 March 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) 305-8680.

The application will be forwarded to Technology Center AU 2854 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 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 f e be applied towards the new Notice and payment of any balanc du 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
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MAY 10 2002

Benjamin Aaron Adler, Ph.D., J.D.
ADLER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071

#15

In re Application of
Fung
Application No. 09/376,774
Filed: August 17, 1999
Attorney Docket No. D6087

: DECISION ON PETITION

This is a decision on the "PETITION FOR WITHDRAWAL OF GOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed on January 16, 2002.

On June 18, 2001, an Advisory action was mailed to applicant which indicates that the period for reply expires on the mailing date of the Advisory action, OR continues to run from the mailing date of the final rejection, whichever is later. On October 17, 2001, a Notice of Abandonment for failure to timely file a proper reply to the Office letter mailed on June 18, 2001. On January 16, 2002, the present petition was filed. Applicant asserts that a proper reply, including a Petition for a Three Month Extension of time, was timely filed via facsimile on September 26, 2001. A complete copy of the reply filed on September 26, 2001 is accompanied the petition.

Applicant's statement and evidence have been carefully considered. The Supplemental Response after Final filed on September 26, 2001 is considered timely. Accordingly, the petition is **Granted**.

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

Should there be any questions with regard to this letter please contact Cecilia Tsang by letter addressed to the Director, technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 308-3890.

Cecilia Tsang for
John Doll
Director, TC1600

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

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MAR 30 2001
Office of Director
Tech Center 1600

#14

KURT G. BRISCOE
NORRIS, MCLAUGHLIN & MARCUS
220 EAST 42ND STREET
30TH FLOOR
NEW YORK , NY 10017

In re Application of
Rainer Kropke et al
Serial No.: 09/376,794
Filed: August 18, 1999
Attorney Docket No.: Beiersdorf576

: PETITION DECISION

This is in response to applicant's petition under 37 CFR 1.181, filed March 22, 2001, requesting withdrawal of the finality of the last Office action.

A review of the file history shows that the examiner mailed a first Office action to applicants in which claims 2-3 were rejected under 35 U.S.C. 112, second paragraph as indefinite for various reasons. Of the claims, claim 1 was directed to a composition and claims 2-3 were directed to a use of a composition and were rejected as non-statutory, but treated as a method of use for examination purposes. All claims were further rejected over existing prior art. Applicants replied by canceling claims 1-3 and replacing them with claims 4-11. In the next and Final Office action, mailed to applicants on October 17, 2000, setting a three month shortened statutory period for reply, the examiner rejected claims 4-7 as indefinite under 35 U.S.C. 112, second paragraph. Specifically objected to as indefinite was the term "tackiness". Applicants filed an amendment after Final rejection on February 28, 2001, canceling claims 8-11 and arguing the merits of the rejection of the term "tackiness". Applicants also included within the argument a request to withdraw the finality of the rejection on the basis that the rejection was a new rejection and was not necessitated by applicants' amendments, and a conditional petition should it not be withdrawn. Petitions, however, must be presented as separate papers. Thus no petition decision was rendered. The examiner mailed an Advisory Action on March 8, 2001, indicating entry of the amendment upon filing of an Appeal and disagreeing with applicants' allegation that the rejection under 35 U.S.C. 112, second paragraph, was a new rejection not necessitated by applicants' amendments.

A review of the examiner's actions shows that original claim 2 uses the terms "non-tacky" and "reducing the tackiness" of compositions as alternative embodiments. Although these specific terms were not rejected, the entire claim containing the terms was rejected. Since the examiner could not reasonably predict how the claim would be amended, rejection of all specific terms which could have been considered indefinite was not made. Applicants' presentation of new claims in which the term "reducing the tackiness" only was used altered the claim scope significantly since "non-tacky" is the ultimate reduction of tackiness and "non-tacky" was no longer included within the claim scope.

Applicant's petition is **DENIED**.

Applicant remains under obligation to file an Appeal Brief or take other appropriate action within TWO MONTHS of the date of receipt by the Office of the Notice of Appeal, March 22, 2001, which time may be extended under 37 CFR 1.136(a).

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.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 11

MAILED

JUN 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS TX 75225

In re Application of:
GRONROOS, MIKA
Application No. 09/376,927
Filed: August 18, 1999
For: RECREATIONAL REWARD-RELATED APPARATUS, AND ASSOCIATED METHOD, FOR REWARDING PERFORMANCE OF EXECUTION OF A RECREATION APPLICATION AT A MOBILE TERMINAL

DECISION
ON PETITION

This is a decision on the petition filed May 19, 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 December 9, 2002. A Notice of Abandonment was mailed May 1, 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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Mika Gronroos :
Application No. 09/376,927 : ON PETITION
Filed: August 18, 1999 :
Attorney Docket No. 042933/302586

This is a decision on the petition, filed March 6, 2006 and supplemented on March 7, 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 July 15, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2685 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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

Date : March 23, 2009

Patent No. :6777388
Inventor(s) :Patricia Grasso et al.
Issued :August 17, 2004
Title :LEPTIN=RELATED PEPTIDES

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 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 ext. 123

Ivor R. Elrifi
Attorneys for Applicant
Mintz Levin
One Finanacial Center
Boton, Massachusetts 02111

/arg

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)
6152064	2000-11-28	09377187	1999-08-19	

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	/Karen L Morton/	Date (YYYY-MM-DD)	2009-01-21
Name	Karen L Morton		

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.11122004

Rhonda L. Sheldon
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, Texas 77024

In re Application: Brad Rumsey	:	DECISION ON PEITION FILED
Serial Number: 09/377286	:	June 17, 2002
Filing Date: August 18, 1999	:	
For: Positioning Flowable Solder for Bonding	:	
Integrated Circuit Elements	:	

Petitioner filed a petition for "Reopening of Prosecution After Filing An Appeal Brief in Order To Incorporate a New Ground of Rejection" on June 17, 2002.

The petition is DENIED.

An Appeal Brief was filed on January 2, 2002. An examiner's answer was mailed on May 21, 2002. A reply brief was submitted by Appellant on July 23, 2002, and that reply brief is acknowledged in the paper mailed with this decision.

Appellant asserts that prosecution on this application should be reopened to include the new grounds of rejection presented in the examiner's answer. Appellant argues that the final rejection did not rely on the Abe, Schuller and Natarajan references for the rejection. Appellant further states that the examiner's answer relies on these references; therefore, a new grounds of rejection is being made.

After careful review of the final rejection and the examiner's answer, it is noted that the exact same ground of rejection is made in both the final office action and the examiner's answer. The final rejection, as in the first office action sets forth a rejection based on anticipation by Healy. This rejection is repeated in the examiner's answer. The rejection in this answer is identical to that presented in the final office action. As such, Petitioner's identification of a new ground of rejection in the answer is incorrect.

The Abe, Schuller and Natarajan references mentioned by Petitioner were not relied upon in the rejection: they are mentioned in the Response to Arguments section. To remove any ambiguity surrounding reliance on these references, a supplemental examiner's answer will be issued removing any mention of these references.

For the foregoing reasons, the examiner's answer is not found to contain a new ground of rejection and the petition is hereby denied. The case is being forwarded to the examiner for issuance of a supplemental examiner's answer.

For questions relating to this petition, Petitioner can contact the Supervisory Patent Examiner, Kamand Cuneo, at 571-272-1957.

Richard Seidel, Director
Technology Center 2800

UNITED STATES 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. 6521745
Issue Date: February 18,2003
Application No. 09377399
Filed: August 20,1999
Attorney Docket No. 1038-974-MIS

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

This is a decision on the electronic petition, filed August 6,2007 ,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 August 6,2007 . 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)
6521745	2003-02-18	09377399	1999-08-20	1038-974-MIS

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)	2007-08-06
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.

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Alexandria, VA 22313-1450
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US PATENT OPERATIONS/RLS
DEPT. 4300, M/S 27-4-A
AMGEN INC.
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Ella MAGAL et al.	:	
Application No. 09/377,446	:	DECISION ON PETITION
Filed: August 19, 1999	:	
Patent No. 6,274,554	:	
Attorney Docket No. A-444A		

This is a decision on the petition under 37 CFR 1.182, filed, May 27, 2004, to obtain duplicate Letters Patent.

The petition is **DISMISSED**.

Duplicate Letters Patent may be obtained where the original is not received from the USPTO. However, where the original Letters Patent are received but subsequently lost, duplicate Letters Patent may not be obtained. As the original Letters Patent were received from the USPTO in this instance, a petition under 37 CFR 1.182 to obtain duplicate Letters Patent cannot be granted.

A certified copy of the patent may be purchased through the USPTO Website or by calling the Office of Document Services at 571-272-3150 or 800-972-6382.

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

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

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

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

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

COPY MAILED

JUL 2 6 2002

OFFICE OF PETITIONS

In re Application of
Bradley B. Olwin and Richard Scott Rosenthal
Application No. 09/377,675
Filed: August 19, 1999
Attorney Docket No. 2848-32
Title: CHIMERIC FIBROBLAST GROWTH FACTOR PROTEINS, NUCLEIC ACID MOLECULES, AND USES THEREOF

DECISION ON PETITION

This is a decision on the petition filed on March 13, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the restriction requirement, mailed on December 6, 2000, which set a period for reply of one (1) month. No extensions of time pursuant to 37 C.F.R. §1.136 were received. Accordingly, the above-identified application became abandoned on January 7, 2001. A Notice of abandonment was mailed on August 9, 2001.

With the instant petition, the petitioner has submitted the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries specific to 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

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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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 02-02

Paper No. 13

KATHRYN CAMPBELL
CAMPBELL & FLORES, LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122-1252

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MAR - 1 2002

OFFICE OF PETITIONS

In re Application of
Karin et al.
Application No. 09/377,795
Filed: August 20, 1999
Attorney Docket No. P-UD 3613

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 9, 2002 (Certificate of Mailing date December 13, 2001), to revive the above-identified application.

The petition is **GRANTED.**

A non-final Office Action was mailed on February 13, 2001 ("2/13/01 non-final Office Action"), setting forth a shortened statutory period of 3 months for reply. No response was filed and no extension of time under 37 CFR 1.136(a) was obtained. The application thus became abandoned on May 14, 2001 for failure to timely submit a proper reply to this office action.[1] A Notice of Abandonment was mailed on September 21, 2001.

Although the instant petition is entitled "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," it nevertheless asserts that a reply to the 2/13/01 non-final Office Action was mailed on June 11, 2001 along with a certificate of mailing and a request for a 1-month extension of time for filing that reply. Where, as in here, there is a question regarding whether a document was received by the Office, the Office will rely on its official records, i.e., the contents of the pertinent application file, absent convincing evidence such as a properly completed postcard receipt[2] suggesting that the Office has received and subsequently misplaced that document which is not contained in the Office file for this application.[3] The official records for

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1 37 CFR 1.135(a); also see MPEP 711.04(a) (Aug. 2001): "[T]he date of abandonment is after midnight of the date on which the set shortened statutory period, including any [obtained] extensions under 37 CFR 1.136, expired." Even though under 37 CFR 1.7(a), a required reply to the 2/13/01 non-final Office Action filed on or before 5/14/01 (Monday) would have been considered "timely," failure to file such a reply on or before 5/14/01 renders the application abandoned as of 5/14/01. The maximum extendable reply period would end on 8/13/01 had the maximum 3-month extension of time been timely obtained.

2 MPEP section 503 (Aug. 2001).

3 See MPEP section 513 (Aug. 2001).

this application, unfortunately, do not contain the reply allegedly mailed on June 11, 2001. Neither does the instant petition provide any evidence supporting the assertion that a reply to the 2/13/01 non-final Office Action had been timely received in the PTO, and was subsequently misplaced. Therefore, the assertion that the application should not be considered abandoned because a reply to the 2/13/01 non-final Office Action was timely filed is not convincing.

On the other hand, the instant petition contains an Amendment and Response to Office Action Mailed February 13, 2001, and the $640 petition fee (small entity). The petition also includes 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. Although the petition contends that the application is not abandoned, and that "any time Applicants spent discerning options to petition for the withdrawal of the holding of abandonment was incidental to the unintentional loss or mutilation of the papers Applicants deposited with the U.S. Postal Service on June 11, 2001," the statement contained in the petition is being construed as meeting the requirement of 37 CFR 1.137(b)(3). The petition to revive under 37 CFR 1.137(b) is thus granted. Petitioner must notify the Office if the above is **not** a correct interpretation of the statement contained in the instant petition.

The instant petition also encloses a $460 payment intended for an extension of time for filing the required reply with the instant petition. However, an extension of time under 37 CFR 1.136 may only be filed prior to the expiration of the maximum extendable period for reply.[4] The request for extension of time submitted with the instant petition is not applicable, in that, it is subsequent to the maximum extendable period for reply, i.e., subsequent to August 13, 2001.[5] The fee is therefore not necessary and has been credited to Deposit Account No. 08-1290 as authorized in the instant petition.

Finally, the Office notes that the practitioner filing the instant petition does not appear to have been given a power of attorney or authorization of agent to prosecute this application. Also, an address different from that in the Office record was utilized. If this practitioner desires to receive future correspondence regarding this application, an appropriate power of attorney or authorization of agent as well as a change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to this practitioner, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1600 for further examination.

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4 In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

5 See note 1, *supra*.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Medlen & Carroll, LLP
101 Howard Street, Suite 350
San Francisco, CA 94105
Attorney Docket No. UCSD-04523

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Sugiyama, Akira	:	DECISION ON PETITION
Application No. 09/377,827	:	TO WITHDRAW
Filed: August 20, 1999	:	FROM RECORD
Attorney Docket No. 1453.1001/JD	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James D. Halsey, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Akira Sugiyama at the address indicated below.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

AKIRA SUGIYAMA
3-1-27-102 FUJINOKIDAIDANCHI
SUGESENGOKU, TAMA-KU
KAWASAKI-SHI, KANAGAWA-KEN
JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 20

HOWISON THOMA & ARNOTT
P.O. BOX 741715
DALLAS, TX 75374-1715

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of :
Jeffry Jovan Philyaw :
Application No. 09/378,218 :
Filed: August 19, 1999 :
Attorney Docket No. PHLY-24,706 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 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 to the final Office action mailed April 11, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 12, 2001.

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

The application file is being forwarded to Technology Center AU 2152 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and the currently filed amendment and IDS.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 21

THOMPSON & HOWISON
P O BOX 741715
DALLAS, TX 75374

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OCT 0 1 2002

OFFICE OF PETITIONS

In re Application of :
Jeffry Jovan Philyaw et al :
Application No. 09/378,222 : ON PETITION
Filed: August 19, 1999 :
Attorney Docket No. PHLY-24,670 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 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 November 5, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. 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.

The above-identified application is being revived for purposes of a request for continued examination (RCE) filed on September 12, 2002.

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

The application file is being forwarded to Technology Center AU 2152.

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

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DEC 16 2003

Technology Center 2100

Paper No. 15

SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of Mark D. RIGGINS Application No. 09/378,226 Filed: August 19, 1999 For: SYSTEM AND METHOD FOR ENCRYPTING AND DECRYPTING FILES	:	DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 4, 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 communication from the Office will continue to be directed to the above-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 U.S. Patent and Trademark Office (the 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, Software and Information Security
(703) 305-9750

cc: Jinntung Su
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road
Building 2
Palo Alto, CA 94304

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JUN 29 2007

OFFICE OF PETITIONS

ROBERT D. BECKER
MANATT PHELPS AND PHILLIPS
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

In re Application of	:	
Mark D. RIGGINS	:	
Application No. 09/378,226	:	DECISION ON PETITION
Filed: August 19, 1999	:	TO WITHDRAW
Attorney Docket No. 25587-033-011	:	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 April 16, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Manatt , Phelps and Phillips has been revoked by the assignee of the patent application on June 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SCOTT MCKEOWN
OBLON, SPIVAK, MCCELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314-3412

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/378,226	08/19/1999.	MARK D. RIGGINS	

CONFIRMATION NO. 8867

OC000000024396482

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Date Mailed: 06/18/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Diane Goodlin

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/378,226	08/19/1999	MARK D. RIGGINS	

CONFIRMATION NO. 8867

OC000000024396460

36614
MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Denise Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/378,226	08/19/1999	MARK D. RIGGINS	

CONFIRMATION NO. 8867

OC000000024396460

36614
MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

MAIL

OCT 31 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CHARLES E SHEMWELL
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES CA 90025

In re Application of :
Teo, Patrick :
Application No. 09/378,398 :
Filed: August 20, 1999 :
For: VIRTUAL REALITY CAMERA :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on September 23, 2002.

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.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

It is noted that the following attorneys are still of record: Aloysius T. C. AuYeung, Reg. No. 35,432; Carol F. Barry, Reg. No. 41,600; Bradley J. Bereznak, Reg. No. 33,474; Ronald C. Card, Reg. No. P44,587; Yong S. Choi, Reg. No. P43,324; Michael Anthony DeSanctis, Reg. No. 39,957; Daniel M. De Vos, Reg. No. 37,813; Robert Andrew Diehl, Reg. No. 40,992; Tarek N. Fahmi, Reg. No. 41,402; Dinu Gruia, Reg. No. P42,996; Dag H. Johansen, Reg. No. 36,172; Darren J. Milliken, reg. No. 42,004; Lisa A. Norris, Reg. No. P44,976; Dennis A. Nicholls, Reg. No. 42.036; Kimberley G. Nobles, Reg. No. 38,255; Babak Redjaian, Reg. No. 42,096; Anand Sethuraman, Reg. No. P43,351; Charles e. Shemwell, Reg. No. 40,171; Jeffrey Sam Smith, Reg. No. 39,377; Maria McCormack Sobrino, Reg. No. 31,639; Vincent P. Tassinari, Reg. No. 42,179; Georgr G. C. Tseng, Reg. No. 41,355; Joseph A. Twarowski, Reg. No. 42,191; Stephen Warhola, Reg. No. 43,237; Charles T. J. Weigell, Reg. No. 43,398; Kirk D. Williams, Reg. No. 42,229; James M. Wu, Reg. No. P45,241; Steven D. Yates, Reg. No. 42,242; and Ben J. Yorks, Reg. No. 33,609.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark 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: Albert S. Penilla, Esq.
Martine & Penilla, LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 20

CASEY AUGUST
INTELLECTUAL PROPERTY GROUP
INTERNATIONAL BUSINESS MACHINES CORP
P O BOX 218
YORKTOWN HEIGHTS NY 10598

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NOV 0 4 2004

Director's Office
Office of Patent Publication

In re Application of :
F. Read McFeely, et al. :
Application No. 09/378,502 :
Filed: August 20, 1999 :
Attorney Docket No. YO999-198 :

DECISION ON PETITION

This is a decision on the Petition Pursuant To 37 CFR 1.181 To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on October 19, 2004.

The petition is **DISMISSED.**

The application was held abandoned for failure to timely file a proper reply to the Office letter mailed on August 13, 2002 Accordingly, the Notice of Abandonment was mailed February 4, 2003.

As previously noted, the Petition was received in the USPTO on October 19, 2004. Unfortunately, the holding of abandonment cannot be withdrawn at this time due to the applicant failure to comply with the requirement under 37 CFR 1.181(f), which states:

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.

Also, Petitioner's copy of a postcard receipt, which Petitioner states acknowledges the receipt of the response to a Notice of Abandonment, do not support receipt of a response, since it does not properly identify a response as required in MPEP 503.

Applicant should seek relief by filing a Petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or 1203 of the Official Gazette 63, October 21, 1997, 65 FR 57057, Sept. 20, 2000.

- 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.

- 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.

Further correspondence or inquires with respect to filing a Petition For Revival Under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9285 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision should be directed to the undersigned at 703-305-8380.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
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

CASEY AUGUST
INTELLECTUAL PROPERTY GROUP
INTERNATIONAL BUSINESS MACHINES CORP
P O BOX 218
YORKTOWN HEIGHTS NY 10598

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
F. Read McFeely et al. :
Application No. 09/378,502 : ON PETITION
Filed: August 20, 1999 :
Attorney Docket No: YO999-198 :

This is a decision on the petition filed December 27, 2004, for reconsideration of an adverse decision, on a petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative, to revive the above identified application under 37 CFR 1.137(a)[1].

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition to revive under 37 CFR 1.137(a) is **DISMISSED** as involving moot issues.

The application was held abandoned on September 14, 2002, for failure to file a timely response to the Notice to File Corrected Application Papers mailed August 13, 2002, requiring a new oath or declaration with the first inventor's mailing information. The notice set a (30) day shortened period for reply and the time for reply was not extendable under 37 CFR 1.136(a) or (b). Accordingly, a Notice of Abandonment was mailed on February 4,.2003.

In a petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 19, 2004, petitioner asserted that a response to the Notice to File Corrected Application Papers had been timely filed and submitted a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office. The document contains a certificate of mailing dated September 13, 2002, and is signed by petitioner's counsel, Thomas A. Beck. Petitioners have also provided a copy of a postcard receipt itemizing the filing of a declaration and identifying the application by serial number, attorney docket

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[1]A grantable petition under 37 CFR 1.137(a) 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 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(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 37 CFR 1.137(a) was unavoidable; and

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

number, and inventor's last name, bearing an Office-date stamp of September 23, 2002.[2]

However, the petition to withdraw the holding of abandonment was dismissed because it was not filed within (2) two months of the mailing of the Notice of Abandonment on February 4, 2003.

With the instant request for reconsideration, petitioner asserts that proof of a timely response to the Notice of Abandonment was also undertaken. Petitioner shows again by post card receipt bearing a USPTO postmark, that on March 19, 2003, a declaration and receipt for filing were filed in the instant application, to show that a response had been properly and timely filed to the Notice to File Corrected Application Papers. Unfortunately that response was also not associated with the file.

Although the response purportedly filed March 19, 2003 was not filed in the format of a petition, it and the evidence presented in the petition filed October 19, 2004, substantially complies with the requirements set forth in 37 CFR 1.8(b) and 37 CFR 1.181 and MPEP 503. The totality of the evidence presented points to a conclusion that the substance is there if not the form.

Accordingly, the holding of abandonment is withdrawn. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee is unnecessary and therefore will not be charged to petitioner's deposit account.

It is noted also that the petition to withdraw the holding of abandonment included at Exhibit "5", a copy of the Issue Fee Transmittal (PTOL-85B) also said to have been timely filed on July 29, 2002. The Issue Fee Transmittal has with it a certificate of mail dated July 29, 2002 and authorizes the payment of the issue fee from deposit account no. 05-0510.

This matter is being referred to the Publishing Division.

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

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[2]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. 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. See section 503, Manual of Patent Examining Procedure (MPEP 503).

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7000182 B1
Ser. No. : 09/378,526
Inventor(s) : IREMONGER, STEPHEN
Issued : 02/14/06
Title : **ASSISTANT FOR CREATION OF LAYOUTS OR REPORTS FOR DATABASES**
Docket No. : **CLARP026/P24**

Re: Request for Certificate of Correction

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

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

In view of the foregoing, your request, in this mater, 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
401 Dulany Street
Alexandria, VA 22314

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Patent No. 7,000,182	:	
Issue Date: February 14, 2006	:	
Application No. 09/378,526	:	ON PETITION
Filed: August 20, 1999	:	
Attorney Docket No. CLARP026/P24	:	

This is a decision in response to the communication filed April 7, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 9

MAIL

NOV 3 - 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KONRAD RAYNES & VICTOR, LLP
315 S. BEVERLY DRIVE
210
BEVERLY HILLS CA 90212

In re Application of
Arianne Therese Hinds, et al.
Application No. 09/378, 648
Filed: August 20, 1999
For: **METHOD, SYSTEM, AND PROGRAM FOR MANAGING CALIBRATION FILES IN A PRINTING SYSTEM**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed August 16, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the non-final Office action mailed March, 31, 2003, re-mailed April 15, 2003 and re-mailed again on May 19, 2003. A Notice of Abandonment was mailed November 19, 2004.

Petitioner alleges to have timely filed a response to said non-final Office action. In support thereof, Petitioner provided evidence in the way of a copy of the return post card date stamped as received by the PTO on August 25, 2003 and a copy of the amendment/response filed August 25, 2003.

The original amendment filed on August 25, 2003 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The application file is being forwarded to the Technology Center's technical support staff for entry of the amendment as timely filed on August 25, 2003. The copy of the August 25, 2003 amendment re-submitted November 19, 2003 will be un-entered. A refund of the three month extension of time filed with the November 19, 2003 submission as well as a refund for the petition fee will be credited to Applicant's account. No petition fee is required for this type of petition.

From there, the file will be forwarded to the examiner for further action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT OPERATIONS
THOMSON LICENSING INC.
PO BOX 5312
PRINCETON, NJ 08543-5312

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Shu Lin et al	:	
Application No. 09/378,671	:	ON PETITION
Filed: August 20, 1999	:	
Attorney Docket No. RCA89727	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 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 March 24, 2004, 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 May 25, 2004.

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

This matter is being referred to Technology Center 2616.

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

#31
DW

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OFFICE OF THE DIRECTOR
TC 3600

F JASON FAR-HADIAN ESQ
LAW OFFICES OF FAR-HADIAN & ASSOCIATES
1200 PARK NEWPORT
SUITE 420
NEWPORT BEACH, CA 92660

Paper No. 31

In re application of
Bruce Eisen et al.
Application No. 09/379,167
Filed: August 23, 1999
For: DISTRIBUTING PROMOTIONAL AND ADVERTISING MATERIAL BASED UPON INTERNET USAGE

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on February 6, 2003, 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 Item A).

As to Item A, it is not clear whether the attorney signing the request is signing to withdrawal on behalf of himself or all the attorneys of record.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps 10/30/03

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NOV 22 2004

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P.O. Box 1450
Alexandria, VA 22313-145

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OFFICE OF THE DIRECTOR
TC 3600

ANDRE L MARAIS
BLAKELY SOKOLOFF TAYLOR AND ZAFMAN LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

In re application of
Richard Ney et al
Application No. 09/379,385 : DECISION ON REQUEST
Filed: August 23, 1999 : FOR WITHDRAWAL OF
For: METHOD AND PROCESS FOR : ATTORNEY
ACCUMULATING AND SUMMARIZING
DATA FOR DEFINED TIME INTERVALS
WITHIN A CUSTOMER INTERACTION SYSTEM

This is a decision on the request filed on October 28, 2004,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), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/12/04

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Richard Ney, et al.	:	
Application No. 09/379,385	:	DECISION ON REQUEST
Filed: August 23, 1999	:	TO WITHDRAW
Attorney Docket No. 2046.087US1	:	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.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Andre L. Marais on behalf of all attorneys of record who are associated with Customer No. 21186.

All attorneys/agents associated with the Customer Number 21186 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The response filed March 9, 2006 to the non-final Office action has been entered and forwarded to the Examiner for consideration.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: WELSH & KATZ, LTD
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

PTO/SB/66 (03-09)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays 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)
6,171,168	2001-01-09	09/379,395	1999-08-23	BAI525-1003/09250

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	/Mark G. Kachigian/	Date (YYYY-MM-DD)	2009-07-01
Name	Mark G. Kachigian	Registration Number	32840

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. 6171168
Issue Date: January 9,2001
Application No. 09379395
Filed: August 23,1999
Attorney Docket No. RVJ-P1

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

This is a decision on the electronic petition, filed July 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 July 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.

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

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MAR 13 2001

OFFICE OF PETITIONS
A/C PATENTS

BAKER & MCKENZIE
101 WEST BROADWAY
12TH FLOOR
SAN DIEGO , CA 92101

In re Application of
Raymond D. McIntyre,
Stanley W. Johnsen, Marcel Marc,
Michelango Delfino, and Edward
Seppi
Application No. 09/379,439
Filed: August 23, 1999
Title of Invention: METHOD AND
APPARATUS FOR PRODUCING RADIOACTIVE
MATERIALS FOR MEDICAL TREATMENT
USING X-RAYS
PRODUCED BY AN ELECTRON ACCELERATOR

DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed January 31, 2000. The delay in treating this petition is regretted.

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 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 August 23, 1999, without an executed oath or declaration. Accordingly, on September 9, 1999, a "Notice to File Missing Parts of Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, an executed oath or declaration.

In response, on January 31, 2000, applicant filed a petition under 37 CFR 1.47(a). The Petition avers that the assignee, Varian Medical Systems, requested in writing that the non-signing inventor, Mr. Michelango Delfino, sign an assignment form and declaration, which he refused.

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) as set forth above.

As to item (1), the applicant has failed to establish that the non-signing inventor, Christopher M. Campbell, was presented with the application papers (specification, claims and drawings). *See* MPEP 409.03(d).

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: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may 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
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Paper No. 8

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JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

BAKER & MCKENZIE
101 WEST BROADWAY
12TH FLOOR
SAN DIEGO , CA 92101

In re Application of
Raymond D. McIntyre,
Stanley W. Johnsen, Marcel Marc,
Michelango Delfino, and Edward
Seppi
Application No. 09/379,439
Filed: August 23, 1999
Title of Invention: METHOD AND
APPARATUS FOR PRODUCING RADIOACTIVE
MATERIALS FOR MEDICAL TREATMENT
USING X-RAYS
PRODUCED BY AN ELECTRON ACCELERATOR

CORRECTED
DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed January 31, 2000. The delay in treating this petition is regretted.

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 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 August 23, 1999, without an executed oath or declaration. Accordingly, on September 9, 1999, a "Notice to File Missing Parts of Application" (hereinafter "Notice") was mailed to Petitioner. The Notice required, in relevant part, an executed oath or declaration.

In response, on January 31, 2000, applicant filed a petition under 37 CFR 1.47(a). The Petition avers that the assignee, Varian Medical Systems, requested in writing that the non-signing inventor, Mr. Michelango Delfino, sign an assignment form and declaration, which he refused.

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) as set forth above.

As to item (1), the applicant has failed to establish that the non-signing inventor, Michelango Delfino, was presented with the application papers (specification, claims and drawings). *See* MPEP 409.03(d).

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: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

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
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Paper No. 10

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JUL 30 2001

OFFICE OF PETITIONS
A/C PATENTS

BAKER & MCKENZIE
101 WEST BROADWAY
12TH FLOOR
SAN DIEGO , CA 92101

In re Application of :
Raymond D. McIntyre, :
Stanley W. Johnsen, Marcel Marc, :
Michelango Delfino, and Edward :
Seppi :
Application No. 09/379,439 :
Filed: August 23, 1999 :
Title of Invention: METHOD AND :
APPARATUS FOR PRODUCING RADIOACTIVE:
MATERIALS FOR MEDICAL TREATMENT :
USING X-RAYS :
PRODUCED BY AN ELECTRON ACCELERATOR:

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed July 16, 2001 (certificate of mailing July 11, 2001).

The petition is **granted**.

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.

Petitioner has shown that the non-signing inventor, Michelango Delfino, refuses to sign the declaration after being presented with the above-identified application and declaration.

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 Technology Center 2800 for further processing in due course.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

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. None

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED
SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of Stephen G. Perlman Application No. 09/379,710 Filed: August 24, 1999 Attorney Docket No.: 004259.P003 Title of Invention: SYSTEM AND METHOD FOR PERFORMING INTERLACED-TO-PROGRESSIVE CONVERSION USING INTERFRAME MOTION DATA	DECISION ON PETIITON UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed September 6, 2005, 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 in a timely manner to the non-final Office action, mailed June 4, 2004, which set a shortened statutory period for reply of three months. No response was received, and no extensions of

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.

time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 5, 2004. A notice of abandonment was mailed on January 13, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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[2]. 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 the delay was intentional, petitioner must notify the Office.

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2 See 37 CFR 10.18(b); cf. 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).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. 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

cc: Kerry D. Christensen
Stoel Rives LLP
One Utah Center
201 South Main Street, Suite 1100
Salt Lake City, UT 84111

---

3 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

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/23/2010

Applicant	: STEPHEN G. PERLMAN	: DECISION ON REQUEST FOR
Patent Number	: 7573529	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/379,710	: OF WYETH
Filed	: 08/24/1999	:
		:

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

OCT 11 2001
Mailed:

BRC
Paper Number 12

In re Application of
Michael N. Grimbergen
Serial No.: 09/379,753
Filed: August 24, 1999
For: MONITORING A PROCESS AND COMPENSATING FOR RADIATION SOURCE FLUCTUATIONS

DECISION ON PETITION

This is a decision on the PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT, filed August 13, 2001, requesting that the abandonment, as set forth in the Notice of Abandonment of June 10, 2001, for failure to timely respond to the Office action of October 20, 2000 be withdrawn. The petitioner asserts that the applicants' response of April 17, 2001, which included an amendment, a request for a three month extension of time, and a fee payment, was a proper reply to the final Office action of October 20, 2000.

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 entire application history indicates that the petitioner's request cannot be granted. Specifically, 37 C.F.R. 1.116 states:

> "37 CFR 1.116.
> (a) After final rejection or action (§ 1.113) amendments may be made canceling 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 to save the application from abandonment under § 1.135.**" (Emphasis added).

While, 37 CFR 1.113 states:

> "37 CFR 1.113
> (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.** Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the response to a final rejection or action must comply with any requirements or objection as to form." (Emphasis added).

In the instant application, the six month statutory period for response to the final Office action of October 20, 2000 expired on April 20, 2001. The applicants' response of April 17, 2001 included an AMENDMENT and a PETITION FOR EXTENSION OF TIME, but did not include a Notice of Appeal. The examiner's Advisory Action of April 30, 2001 clearly indicated that the April 17, 2001 proposed amendment, raised new issues and did not place the rejected claims into allowable form. Since the applicants' response of April 17, 2001 did not place the application in condition for allowance, and did not include a Notice of Appeal under 37 C.F.R. 1.191, the application was properly abandoned.

The request for withdrawal of the holding of abandonment is **DENIED.**

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Ashok K. Janah
Applied Materials Inc.
Patent Department
P.O. Box 450A
Santa Clara, CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

APPLIED MATERIALS INC
PATENT DEPARTMENT
P O BOX 450 A
SANTA CLARA CA 95052

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DEC 3 1 2001

OFFICE OF PETITIONS

In re Application of
Michael N. Grimbergen
Application No. 09/379,753
Filed: August 24, 1999
Attorney Docket No. 3948/USA/SIL

DECISION ON PETITION

This is a decision on the petition filed November 5, 2001, 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 reply to the final Office action mailed October 20, 2000, which set a shortened statutory period for reply of three (3) months. Petitioner filed an Amendment on April 23, 2001.[1] By Advisory Action mailed April 30, 2001, petitioner was informed that the amendment would not be entered because it failed to place the application in condition for allowance. No further reply having been received, the above identified application became abandoned on April 21, 2001. A Notice of Abandonment was mailed on June 10, 2001. Petitioner filed a petition to withdraw the holding of abandonment on August 13, 2001. However, this petition was denied in a decision mailed on October 11, 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), paid the petition fee, and made the proper statement of unintentional delay.

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 November 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

[1] This amendment was made timely by including a three month extension of time and a Certificate of Mailing dated April 17, 2001.

solely to the address of record.

The application file is being forwarded to Technology Center 1700 for processing of the CPA.

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

E. Shirene Willis for

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

cc: Ashok K. Janah
Janah & Associates
650 Delancey Street
Suite 106
San Francisco, CA 94107

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 28

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

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OCT 16 2003

OFFICE OF PETITIONS

In re Application of
Michael Grimbergen
Application No. 09/379,753
Filed: August 24, 1999
Attorney Docket No. 3948/USA/SIL

DECISION ON PETITION

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed July 8, 2003 in the above-identified application.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 5, 2002. This Office action set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On March 12, 2003, applicant filed an amendment, made timely by an accompanying petition for extension within the first month. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed March 24, 2003). On Monday, April 7, 2003, applicant timely filed a request for continued examination (RCE). However, it was determined that the RCE was improper because it did not include the required fee[1] (Notice of Improper RCE mailed June 2, 2003). No proper reply having been filed and no further extensions of time obtained, the above-identified application became abandoned effective April 6, 2003. The present petition precedes the mailing of a Notice of Abandonment.

The instant petition includes the required reply in the form of payment of the RCE fee; payment of the petition fee; 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 this paragraph was unintentional." No terminal disclaimer is required on petition.

---

[1] It is presumed that either on the date of processing of the fee the Deposit Account provided on the RCE transmittal did not have sufficient funds or the form was not signed by an authorized user. On petition, applicant does not contest the determination that the RCE was improper.

The application file is being forwarded to Technology Center 1763 for consideration by the examiner of both the RCE filed April 7, 2003 (and perfected on petition) and the submission under § 1.114, an amendment previously filed March 12, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

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

IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND OR 97205

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey S. Anderson
Application No. 09/379,945
Filed: August 24, 1999
Attorney Docket No. 1006-018/MMM

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 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 election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of May 17, 2004, 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 2644.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

29 AUG 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

#3

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Alexander Zinchuck
BROWN & WOOD LLP
One World Trade Center
New York, NY 10048-0057

In re Application of
KORTH, Carsten *et al*
U.S. Application No.: 09/380,015
PCT No.: PCT/EP98/00917
Int. Filing Date: 23 October 1997
Priority Date: 24 October 1996
Attorney's Docket No.: DT 3073
For: IMMUNOLOGICAL DETECTION OF PRIONS

DECISION ON PETITION
UNDER 37 CFR 1.181

The decision is in response to the papers submitted on the above-captioned application. The file was reported as lost and applicants submitted a copy of the attorney's file with the appropriate postcard receipt. This is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 23 August 1999, applicants purportedly 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*, a copy of the original specification, PCT Request, International Preliminary Examination Report, two signed declarations, and authorization to charge the required fees to Deposit Account No. 50-0955.

On 18 May 2000, the DO/EO/US reported the case as lost.

On 09 May 2000, applicants submitted a copy of the attorney's file in the above-captioned application. On 24 May 2000, applicants resubmitted the file. On 01 June 2000, applicants again resubmitted the above-captioned attorney's file via facsimile. Applicants included a copy of the postcard receipt for the papers filed 09 May 2000 and 24 May 2000.

On 21 August 2000, applicants submitted via facsimile a copy of the postcard receipt for the original papers submitted 23 August 1999.

DISCUSSION

MPEP 503 lists procedures for applicants 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. For example, the MPEP states each separate component, e.g., the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard.

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.

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt clearly identifies the application by title, applicant, serial number and docket number. The receipt itemizes all papers filed in the PTO including the papers filed: a copy of the original specification, PCT Request, International Preliminary Examination Report, and two signed declarations. The receipt is stamped, but the stamp is somewhat smudged. The stamp appears to be "518 Rec'd PCT/PTO 23 AUG 1999." Moreover, a review of PTO computer records indicate that the 371 request was received in the above-captioned application on 23 August 1999. Furthermore, PTO financial records show that the mailroom date for the fees collected in the above-captioned application from Deposit Account No. 50-0955 is also 23 August 1999.

In light of the evidence provided by applicant and corroborating PTO records, it is clear that the original papers were received by the PTO in the above-captioned application on 23 August 1999.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 23 October 1997, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of **23 August 1999**. This application is being forwarded to the National Stage Processing Division of the PCT Operations Office for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Attorney
PCT Legal Office

Tel.: (703) 308-6457

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

PAUL SCOTT, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
875 THIRD AVE
NEW YORK, NY 10022

COPY MAILED

MAR 1 8 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Korth et al. :
Application No. 09/380,015 :
Filed: August 23, 1999 :
Attorney Docket No. DT-3073 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Restriction Requirement mailed on March 8, 2001, which set a shortened statutory period of one (1) month to respond. Accordingly, this application became abandoned on April 9, 2001. The present petition precedes the mailing of a Notice of Abandonment.

The file is being forwarded to Technology Center 1600 for review of the responses submitted on October 17, 2001, and March 7, 2002.

The $110.00 petition fee has been charged to Deposit Account No. 50-0955, as authorized by petitioner.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell 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

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ALEXANDRIA, VA 22313-1450
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Paper No. 29

SUGHRUE MION ZINN MacPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037

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MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of
Takashi Takami et al
Application No. 09/380,032
Filed: November 9, 1999
Attorney Docket No. Q55529

ON PETITION

This is a decision on the petition, filed May 7, 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 March 5, 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 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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT 0 7 2003
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Paper No. _____

SUGHRUE MION ZINN MacPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037

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MAY 1 4 2003

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OFFICE OF PETITIONS

In re Application of :
Takashi Takami et al :
Application No. 09/380,032 : ON PETITION
Filed: November 9, 1999 :
Attorney Docket No. Q55529 :

This is a decision on the petition, filed May 7, 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 March 5, 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 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

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

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

Paper No. 13

MAILED

JAN 20 2006

Director's Office
Group 3700

In re Application of
PERSSON, LARS
Appl. No.: 09/380,080
Filed: November 15, 1999
For: HEAT EXCHANGER WITH LEAKAGE VENT
Attorney Docket Number: 10438-0001-6

DECISION DISMISSING PETITION
37 CFR 1.181

This is a decision on the request filed March 27, 2002 to review the holding of abandonment, mailed October 23, 2001. The papers of March 27, 2002 are accepted as duplicates of papers filed October 31, 2001 due to the itemized postcard receipt stamped October 31, 2001. In view of petitioner's statements, the petition is being treated as a petition under 37 CFR 1.181. No fee is required for this petition.

The petition is dismissed.

The petition is informal as it is unsigned. The petition also states that "[i]n order to expedite prosecution, Applicants' Attorney is submitting a signed certified copy of the documents listed above." However, none of the documents have been signed.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No 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 1.181." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Henry A. Bennett, Acting 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
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DIW May-06

Paper No. 15

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

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Lars Persson	:	DECISION ON PETITION
Application No. 09/380,080	:	TO WITHDRAW HOLDING
Filed: 22 March, 2006	:	OF ABANDONMENT
Atty Docket No. 10438-0001-PCT	:	

This is a decision on the petition to withdraw the holding of abandonment filed on 22 March, 2006.

This application was held abandoned for failure to respond to the Office action in accordance with *Ex parte Quayle*[1] mailed on 13 February, 2001. A Notice of Abandonment was mailed 23 October, 2001. The petition filed on 27 March, 2002 (postcard date 31 October, 2001), was dismissed on 20 January, 2006. The present renewed petition was filed on 22 March, 2006.[2]

Petitioner asserts that a proper reply was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 13 April, 2001, acknowledging receipt of, *inter alia*, an amendment and letter requesting approval of drawing changes. The postcard identifies the application by applicant's name, filing date, attorney docket number, and invention title.[3] A copy of the amendment and drawing sheet is included with this petition.

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

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[1] 1935 C.D. 11; 453 O.G. 213

[2] Although the present renewed petition is untimely by two (2) days, under the circumstances of this case the petition will be accepted as if timely filed.

[3] It is noted that the application number is miscaptioned as "09/08,080" on the postcard. Nevertheless, the identifying data on the postcard is considered complete as to clearly identify the item for which a receipt is requested in accordance with MPEP 503.

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 Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application is being forwarded 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

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Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 13

Knobbe Martens Olson & Bear
2040 Main Street
Fourteenth Floor
Irvine, 92614

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MAR 2 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koenraad H. M. Goethals et al. :
Application No. 09/380,106 :
Filed: November 24, 1999 :
Attorney Docket No. DECLE2.001AP :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 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 21, 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 22, 2001.

The application file is being forwarded to Technology Center AU 1661 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

MAY 3 0 2001
UNITED STATES PATENT AND TRADEMARK OFFICE

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John G. Chupa
Chupa & Alberti
31313 Northwestern Highway
Suite 205
Farmington Hills, MI 48334

In re Application of JOYCE et al. Application No.: 09/380,189 PCT No.: PCT/AU98/00127 Int. Filing Date: 26 February 1998 Priority Date: 26 February 1997 Attorney Docket No.: 070-011 For: COMBINED LIGHT SOURCE AND AIR PURIFIER	:	DECISION ON PETITION

This decision is in response to the submission filed 26 February 2001 which included, *inter alia*, a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), a declaration signed by three of the four joint inventors, and a STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. 1.47).

BACKGROUND

On 26 February 1998, applicant filed international application No. PCT/AU98/00127 which claimed a priority date of 26 February 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 September 1998. A Demand for international preliminary examination in which the United States was elected, was filed on 28 September 1998, prior to the expiration of nineteen months from the priority date (26 September 1998 being a Saturday). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 August 1999.

On 26 August 1999, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 along with, *inter alia*, the U.S. basic national fee and a declaration of inventors executed by two of the four joint inventors.

On 08 December 1999, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that

an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. This notification set a one-month extendable period for reply.

On 08 August 2000, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 December 1999 within the time period set therein.

On 26 February 2001, applicant submitted the instant PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with a declaration signed by three of the four joint inventors and a STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. 1.47).

DISCUSSION

The STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR filed 26 February 2001, the declaration signed by three of the four joint inventors filed 26 February 2001, and the authorization to charge fees under 37 CFR 1.17 to Deposit Account No. 03-1723 in the Transmittal letter filed 26 August 1999 is construed as a petition under 37 CFR 1.47(a).

Petition Under 37 CFR 1.137(b)

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

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

As to item (1), a petition under 37 CFR 1.47(a) was filed 26 February 2001, which is a proper reply.

As to item (2), the petition fee of $620.00 for a small entity was also submitted on 26 February 2001.

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

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to item (1), the fee of $130.00 has been charged to Deposit Account No 03-1723. Items (3) and (4) have been satisfied as well.

As to item (2), the statement of facts by Glenda Joyce suggests that Mr. Wynne-Jones cannot be reached after diligent effort. MPEP § 409.03(d) states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> . . .
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

It is noted that the statement of facts by Glenda Joyce is not an affidavit or a declaration. It is also noted that no copies of documentary evidence such as a certified mail return receipt have been provided to support a finding that Mr. Wynne-Jones could not be reached. It is not clear that anyone has even attempted to contact Mr. Wynne-Jones at his last known address. Nor is it clear why it is believed that Mr. Wynne-Jones left Australia. It is also noted that the statements made in the statement of facts by Glenda Joyce regarding the activities and knowledge of Stephen John Joyce and Brett Alan Sarghi are hearsay. As noted above, the affidavit or declaration of facts must be signed by a person having firsthand knowledge of the facts recited therein.

If applicants are attempting to establish a refusal of the non-signing inventor to execute the application, attention is directed to MPEP § 409.03(d).

The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account No. 03-1723, as authorized in the Transmittal Letter filed 26 August 1999.

CONCLUSION

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

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice for the reasons set forth above.

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.

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.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

15 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

John G. Chupa
Chupa & Alberti
31313 Northwestern Highway
Suite 205
Farmington Hills, MI 48334

In re Application of	:	
JOYCE et al.	:	DECISION ON
Application No.: 09/380,189	:	
PCT No.: PCT/AU98/00127	:	PETITION
Int. Filing Date: 26 February 1998	:	
Priority Date: 26 February 1997	:	
Attorney Docket No.: 070-011	:	
For: COMBINED LIGHT SOURCE AND AIR	:	
PURIFIER	:	

This decision is in response to the submission filed 07 June 2002 which included a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) and a declaration of inventors.

BACKGROUND

On 26 February 1998, applicant filed international application No. PCT/AU98/00127 which claimed a priority date of 26 February 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 September 1998. A Demand for international preliminary examination in which the United States was elected, was filed on 28 September 1998, prior to the expiration of nineteen months from the priority date (26 September 1998 being a Saturday). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 August 1999.

On 26 August 1999, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 along with, *inter alia*, the U.S. basic national fee and a declaration of inventors executed by two of the four joint inventors.

On 08 December 1999, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

This notification set a one-month extendable period for reply.

On 08 August 2000, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 December 1999 within the time period set therein.

On 26 February 2001, applicant submitted a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with a declaration signed by three of the four joint inventors and a STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. 1.47).

On 30 May 2001, the USPTO mailed a decision granting applicant's petition under 37 CFR 1.137(b) and dismissing applicant's petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided. The decision set a two-month time period for reply.

On 07 June 2002, applicant submitted the instant PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) and declaration of inventors.

DISCUSSION

The application is abandoned for failure to respond to the Decision mailed 30 May 2001 within the time period set therein.

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

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

As to item (1), the declaration of inventors filed 07 June 2002 is not in compliance with 37 CFR 1.497(a)-(b). The first page of the declaration is missing. Thus item (1) has not been met. It is noted that a copy of the entire declaration submitted to applicant(s) for signing must be provided. Thus, providing a copy of a first page of the declaration which does not appear to have been presented to and signed by applicants will not be sufficient. For example, a copy of a first page of the declaration which does not include the facsimile transmission information which

appears at the top of the pages of the declaration submitted 07 June 2002 would not be sufficient.

As to item (2), the petition fee of $640.00 for a small entity was submitted on 07 June 2002.

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

CONCLUSION

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

Since the reply filed 07 June 2002 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Failure to timely file a proper reply will result in abandonment of the application.

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.

Daniel Stemmer
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21 MAY 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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In re Application of	:	
JOYCE et al.	:	DECISION ON
Application No.: 09/380,189	:	
PCT No.: PCT/AU98/00127	:	PETITION
Int. Filing Date: 26 February 1998	:	
Priority Date: 26 February 1997	:	
Attorney Docket No.: 070-011	:	
For: COMBINED LIGHT SOURCE AND AIR PURIFIER	:	

This decision is in response to applicants' "RESPONSE TO DECISION ON PETITION TO REVIVE" filed 20 November 2002, which was accompanied by a declaration of inventors.

BACKGROUND

On 26 February 1998, applicant filed international application No. PCT/AU98/00127 which claimed a priority date of 26 February 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 September 1998. A Demand for international preliminary examination in which the United States was elected, was filed on 28 September 1998, prior to the expiration of nineteen months from the priority date (26 September 1998 being a Saturday). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 August 1999.

On 26 August 1999, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371 along with, *inter alia*, the U.S. basic national fee and a declaration of inventors executed by two of the four joint inventors.

On 08 December 1999, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. This notification set a one-month extendable period for reply.

On 08 August 2000, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 December 1999 within the time period set therein.

On 26 February 2001, applicant submitted a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) along with a declaration signed by three of the four joint inventors and a STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. 1.47).

On 30 May 2001, the USPTO mailed a decision granting applicant's petition under 37 CFR 1.137(b) and dismissing applicant's petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided. The decision set a two-month time period for reply.

On 07 June 2002, applicant submitted a PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) and a declaration of inventors.

On 15 October 2002, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.137(b) without prejudice. Specifically, it was noted that the declaration of inventors filed 07 June 2002 was not in compliance with 37 CFR 1.497(a)-(b) and thus the required reply had not been provided and the conditions of 37 CFR 1.137(b) had not been met.

On 20 November 2002, applicants submitted the instant "RESPONSE TO DECISION ON PETITION TO REVIVE" which was accompanied by a declaration of inventors.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of inventors filed 20 November 2002 is in compliance with 37 CFR 1.497(a)-(b).

As to item (2), the petition fee of $640.00 for a small entity was submitted on 07 June 2002.

As to item (3), the required statement was provided in the submission filed 07 June 2002.

CONCLUSION

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **20 November 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
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. 20

Bemis Company, Inc.
Patent and Trademark Department
2200 Badger Avenue
OshKosh, WI 54904

COPY MAILED

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Darrel Loel Wilhoit et al. :
Application No. 09/380,222 :
Filed: August 26, 1999 :
Attorney Docket No. 20176-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 in a timely manner in reply to the final Office action mailed July 22, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.113 have been obtained. Accordingly, the above-identified application became abandoned on October 23, 2002.

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 $930 extension of time submitted with the petition on January 27, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 1773 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

SEP 1 4 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#10

James E. Ledbetter
Stevens, Davis, Miller & Mosher, L.L.P.
1615 L Street, NW, Suite 850
P.O. Box 34387
Washington, D.C. 20043-4387

In re Application of
MINAMIO et al. :
Application No.: 09/380,312 :
PCT No.: PCT/JP98/02544 : DECISION ON PETITION
Int. Filing Date: 08 June 1998 :
Priority Date: 27 June 1997 :
Attorney Docket No.: JEL 30763PC :
For: RESIN MOLDED TYPE SEMICONDUCTOR DEVICE AND AN A METHOD OF MANUFACTURING THE SAME :

This is a decision on applicants' "Request for Corrected Filing Receipt" filed 13 February 2001 and (renewed) "Supplemental Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 Based on Failure to Receive Office Action" filed on 22 February 2001.

On 21 September 2000, applicants filed "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 Based on Failure to Receive Office Action or in the Alternative Petition Under 37 CFR 1.137(b)." In a decision dated 21 January 2001, the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181" was dismissed without prejudice because applicants did not provide a copy of the docket record which purportedly shows where the Notification of Missing Requirements would have been entered had it been received. However, in the alternative, the "Petition Under 37 CFR 1.137(b)" was granted.

On 13 February 2001, applicants filed "Request for Corrected Filing Receipt."

On 22 February 2001, applicants filed "Supplemental Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 Based on Failure to Receive Office Action."

DISCUSSION

A. Request for Correct Filing Receipt

The actual filing date of the present application is considered to be the international filing date, 08 June 1998. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of

the application file reveals that the declaration was filed with the USPTO on 21 September 2000, the date which the requirements set forth in 35 U.S.C. 371(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 31 August 1999 is not proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 21 September 2000. (Note MPEP section 1893.03(b)). Therefore, the filing date will be changed to 21 September 2000.

B. Renewed Petition under 37 CFR 1.181

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). The 12 January 2001 decision indicated that applicant satisfied requirements (1) and (2) above.

As to Item (3), applicants have submitted a docket record for all actions due on April 25, 2000. Applicants states that "the non-received office action would have been entered on this docket record had it been received. This docket record contains no item due for Application No. 09/380,312." Therefore, since applicant has satisfied Items (1), (2), and (3) above, the request may be properly granted.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is **GRANTED**.

The decision mailed 12 January 2001 granting applicants' petition to revive under 37 CFR 1.137(b) is **VACATED**. Applicants' $1210.00 petition fee under 37 CFR 1.17(m) will be refunded to Deposit Account No. 19-4375.

The application has an international filing date of 08 June 1998 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **21 September 2000**. The PTO database will be corrected to show a filing date of 21 September 2000.

This application is being returned to Art Unit 2811.

Leonard Smith
Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel.: 703-308-6314
Facsimile: 703-308-6459

JAN 1 2 2001

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James E. Ledbetter
Stevens, Davis, Miller & Mosher, L.L.P.
1615 I Street, NW, Suite 850
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Washington, D.C. 20043-4387

In re Application of	:	
MINAMIO et al.	:	
Application No.: 09/380,312	:	DECISION ON PETITION
PCT No.: PCT/JP98/02544	:	
Int. Filing Date: 08 June 1998	:	
Priority Date: 27 June 1997	:	
Attorney Docket No.: JEL 30763PC	:	
For: RESIN MOLDED TYPE SEMICONDUCTOR DEVICE AND AN A METHOD OF MANUFACTURING THE SAME		

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 Based on Failure to Receive Office Action or in the Alternative Petition Under 37 CFR 1.137(b)" filed 21 September 2000 requesting that the United States Patent and Trademark Office withdraw the abandonment of the above captioned application, or in the alternative revive the application.

BACKGROUND

On 08 June 1998, applicant filed international application No. PCT/JP98/02544 which claimed a priority date of 27 June 1997, and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 January 1999. A Demand, electing the U.S., was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date. As a result, the deadline for entry into the national stage in the U.S. expired 30 months from the priority date, on 27 December 1999.

On 31 August 1999, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a translation of the international application; and a copy of the international application.

On 15 February 2000, 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 oath or declaration executed by the inventor and the $130.00 surcharge for filing after the thirty-month period were required. The notification set a ONE (1) MONTH period for response.

On 15 September 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 15 February 2000 within the time period set therein.

On 21 September 2000, applicant filed the present "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181 Based on Failure to Receive Office Action or in the Alternative Petition Under 37 CFR 1.137(b)" accompanied by: an executed declaration; Declaration of Docket Clerk; and a docket record for application no 09/380,312.

DISCUSSION

Petition Under 37 CFR 1.181

With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicant has satisfied Items (1) and (2).

As to Item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. The printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements was not received and mis-docketed for another application. Accordingly, applicant is required to provide docket record for 25 April 2000, indicating all applications for which a response was due on said date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required 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 until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the submission of the declaration.

As to Item (2), the appropriate petition fee of $1210.00 as required by 37 CFR 1.17(m) has been charged to Deposit Account No. 19-4375.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and

1.137(b) for revival have been satisfied and revival is therefore appropriate.

Deposit Account No.19-4375 has been charged a $130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date, as authorized.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application has an international filing date of 08 June 1998 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **21 September 2000**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

THOMAS E. SISSON
JACKSON WALKER
112 E PECAN STREET SUITE 2100
SAN ANTONIO, TX 78205

In re Application of	:	
Edwin James Dumorris Eddy et al	:	
Application No. 09/380,351	:	ON PETITION
Filed: August 31, 1999	:	
Attorney Docket No. P-6374.03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed March 22, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 23, 2006.

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

This file is being forwarded to the Publishing Division to be reviewed by the drawing draftperson.

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 25

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

JUN 9 2005

In re Application of:
Frank JENAU et al.
Serial No.: 09/380,410
Filed: October 28, 1999
For: Method and Device for Measuring an Electrical Voltage

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed June 18, 2003, and renewed on March 25, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due action was mailed on June 20, 2002, setting forth a statutory period of three months to pay the issue fee. The application became abandoned for failure to timely pay the issue fee.

Petitioner asserts that the Notice of Allowance and Fee(s) Due action mailed on June 20, 2002 was not received. To support this assertion, petitioner includes copies of the computer and hand entry docket records for application. Petitioner states that if the Notice of Allowance and Fee(s) Due action had been received it would have been docketed for payment on the day before the due date, namely September 19, 2002.

A review of the written record indicates that the Notice of Allowance and Fee(s) Due action was returned as undelivered mail by the US Postal Service on July 8, 2002. The record shows that a supplemental Notice of Allowability was mailed on May 6, 2003.

Pursuant to MPEP § 707.13, the Notice of Allowance and Fee(s) Due action should have been re-mailed.

> MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an

> attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment mailed on December 31, 2003 is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to remail the Notice of Allowance and Fee(s) Due action after ascertaining the correct correspondence address was insufficient to hold the application abandoned.

The Notice of Allowance and Fee(s) Due action will be remailed and the period for response will be reset to run three months from the date it is re-mailed. The delay in re-mailing the Notice of Allowance and Fee(s) Due action and any inconvenience it may have caused the petitioner is regretted.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

KNOBBE, MARTENS, OLSON, & BEAR, LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

In re Application of LJUNGSTROEM et al. Application No.: 09/380,412 PUT No.: PCT/DE98/00569 Int. Filing Date: 26 February 1998 Priority Date: 28 February 1997 For: CORDLESS COMMUNICATION SYSTEM COMPATIBLE WITH A PUBLIC MOBILE COMMUNICATION SYSTEM	:	DECISION ON PAPERS UNDER 37 CFR 1.42 and 37 CFR 1.44

This is a response to the papers filed 19 January 2000 in Response to Notification of Missing Requirements which is being treated as a petition under 37 CFR 1.42 and 37 CFR 1.44.

On 26 February 1998, applicant filed the international application, which claimed a priority date of 28 February 1997. A proper Demand for international preliminary examination in which the United States was elected, was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at 30 August 1999 (28 August 1999 was a Saturday).

On 30 August 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by: the requisite basic national fee, a copy of the international application, and a translation of the international application.

On 13 October 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 oath or declaration executed by the inventor and the $130.00 surcharge for filing after the thirty-month period were required and that the English translation of the international application was defective. The notification set a ONE (1) MONTH period for response.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), applicants filed on 19 January 2000, inter alia,: an executed declaration signed by Patrick Ljunstroem, Walter Mohs and Edith Pernice as the "sole successor" of the deceased inventor; Freighter Pernice; a proof of authority of administrator, executor, or legal representative; an English translation of the certificate of heirship; a power of attorney and copy of assignment; and a two-month extension of time fee.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 19 January 2000 is executed by Edith Pernice, as the "sole successor" of the deceased inventor, and by inventor Patrick Ljunstroem and Walter Mohs. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into the national stage under 35 U.S.C. were completed as of 19 January 2000.

Further, a review of the papers submitted on 19 January 2000 reveals that they are sufficient to establish proof of authority under 37 CFR 1.44.

CONCLUSION

The papers filed under 37 CFR 1.42 and 37 CFR 1.44 are ACCEPTED.

The application has an international filing date of 26 February 1998, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of **19 January 2000**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: (703) 308-6314
Fax: (703) 308-6459

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PATENT & TRADEMARK OFFICE

PCT

424 Rec'd PCT/PTO 24 JUL 2000

Attorney Docket: P03815US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: ROTHSCHILD ET AL. GROUP ART NO:
SERIAL NO: 09/380,419
FILED: September 1, 1999
TITLE: MELANOCORTIN-4 RECEPTOR GENE AND USE AS A GENETIC MARKER FOR FAT CONTENT, WEIGHT GAIN, AND/OR FEED CONSUMPTION OF ANIMALS

TRANSMITTAL LETTER

Assistant Commissioner for Patents
ATTN: Box Missing Parts
Washington, D.C. 20231

Dear Sir:

In response to the Notice to File Missing Parts of an Application with filing date granted, enclosed please find the following documents:

(1) Declaration Not Accompanying Application, dated July 16, 2000, July 16, 2000, and July 14, 2000 by the inventors (Max F. Rothschild, Kwan Suk Kim, and Niels J. Larson);

(2) $65.00 surcharge fee;

Repln. Ref: 08/23/2000 ERIMANDO 0008385200
DA#:260084 Name/Number:09380419
FC: 704 $65.00 CR

(3) A copy of the Notice to File Missing Parts of Application.

If any additional fees are needed, please charge Deposit Account No. 26-0084.

Adjustment date: 08/23/2000 ERIMANDO
07/28/2000 ERIMANDO 00000053 09380419
01 FC:254 -65.00 OP

==========

CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))

I hereby certify that this paper and the documents referred to as enclosed are being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Assistant Commissioner for Trademarks, BOX MISSING PARTS, Washington, D.C. 20231, on this 19th day of July, 2000.

07/28/2000 ERIMANDO 00000053 09380419
01 FC:254 65.00 OP

Heidi S. Nebel

Respectfully submitted,

Heidi S. Nepel, Reg. No. 37,719
ZARLEY, McKEE, THOMTE, VOORHEES
& SEASE
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No. (515) 288-3667
Fax No. (515) 288-1338
CUSTOMER NO: 22885

Attorneys of Record

- jc -

09/380419

09/380,419

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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M P03815US1

U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
		5071	PCT/US99/16862

HEIDI S NEBEL
ZARLEY MCKEE THOMTE VOORHEES & SEASE
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

INTERNATIONAL APPLICATION NO.

I.A. FILING DATE 99	PRIORITY DATE 7/98

DATE MAILED: 06/30/00

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as
   - ☑ a Designated Office (37 CFR 1.494),
   - ☐ an Elected Office (37 CFR 1.495):
   - ☑ U.S. Basic National Fee.
   - ☑ Copy of the international application in:
     - ☐ a non-English language.
     - ☑ English.
   - ☐ Translation of the international application into English.
   - ☐ Oath or Declaration of inventors(s) for DO/EO/US.
   - ☐ Copy of Article 19 amendments.
   - ☐ Translation of Article 19 amendments into English.
   - ☐ The International Preliminary Examination Report in English and its Annexes, if any.
   - ☐ Translation of Annexes to the International Preliminary Examination Report into English.
   - ☐ Preliminary amendment(s) filed _____ and _____.
   - ☑ Information Disclosure Statement(s) filed Sept 1, 1999 and Feb 29, 2000.
   - ☐ Assignment document.
   - ☐ Power of Attorney and/or Change of Address.
   - ☐ Substitute specification filed _____.
   - ☐ Verified Statement Claiming Small Entity Status.
   - ☐ Priority Document.
   - ☑ Copy of the International Search Report ☑ and copies of the references cited therein.
   - ☑ Other: 316

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2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
   - ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
     - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
   - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
   - ☑ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
     - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
   - ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☑ 21 OR ☐ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes MUST be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR. 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed:
☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Telephone: 703 [illegible]

OIPE
DEC 0 4 2000
PATENT & TRADEMARK OFFICE

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DEC 8 2000
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WD 1655
Box SEQ
#10
12-14-00

PATENT
P03815US1
ISURF 2413

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: ROTHSCHILD, et al. GROUP ART NO: 1655
SERIAL NO: 09/380,419 EXAMINER: Goldberg, J.
FILED: July 24, 2000
TITLE: MELANOCORTIN-4 RECEPTOR GENE AND USE AS A GENETIC MARKER FOR FAT CONTENT, WEIGHT GAIN, AND/OR FEED CONSUMPTION OF ANIMALS

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TRANSMITTAL LETTER

To the Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

In response to the Notice to Comply with Sequence Rules dated October 31, 2000, Filing Date Granted, enclosed please find the following documents:

1. A copy of the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures;
2. Computer readable copy of the "Sequence Listing";
3. Paper copy of "Sequence Listing";
4. Statement that the Content of the paper and computer readable copies are the same and include no new matter.

==========

CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))

I hereby certify that this Transmittal Letter 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 the Assistant Commissioner for Patents, Washington, D.C. 20231, this 30 day of November, 2000.

Heidi S. Nebel

Date

If any additional fees are needed, please charge Deposit Account No. 26-0084.

Respectfully submitted,

Heidi S. Nebel,
Reg. No. 37,719
ZARLEY, McKEE, THOMTE, VOORHEES & SEASE
ATTORNEYS OF RECORD

801 Grand - Suite 3200
Des Moines, Iowa 50309-2721
515-288-3667 - pw

Notice to Comply	Application No.	Applicant(s)
	09/380,419	ROTHSCHILD ET AL
	Examiner	Art Unit
	Jeanine Enewold Goldberg	1655

OIPE DEC 0 4 2000 PATENT & TRADEMARK OFFICE

RECEIVED DEC 8 2000 TECH CENTER 1600/2900

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

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MAR 0 2 2001
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OIPE JC126
FEB 2 8 2001
PATENT & TRADEMARK OFFICE

WD 1655
Box SEQ

PATENT
P03815US1
ISURF 2413

a/13
1.79
3/08/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Rothschild, et al.
SERIAL NO: 09/380,419
FILED: July 24, 2000
TITLE: MELANOCORTIN4 RECEPTOR GENE AND USE AS A GENETIC MARKER FOR FAT CONTENT, WEIGHT GAIN, AND/OR FEED CONSUMPTION OF ANIMALS

GROUP ART NO: 1655
EXAMINER: Goldberg, J.

TRANSMITTAL LETTER

To the Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

In response to the Notice to Comply with Sequence Rules dated January 30, 2001, enclosed please find the following documents:

1. A copy of the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (7 pages);
2. Computer readable copy of the "Sequence Listing";
3. Paper copy of "Sequence Listing" (9 pages);
4. Statement that the Content of the paper and computer readable copies are the same and include no new matter (2 pages).

==========

CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))

I hereby certify that this Transmittal Letter 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 the Assistant Commissioner for Patents, Washington, D.C. 20231, this 23rd day of February, 2001.

Heidi S. Nebel

RECEIVED
MAR 0 6 2001
TECH CENTER 1600/2900

No fees are believed to be due at this time, however if any additional fees are needed, please charge Deposit Account No. 26-0084.

Respectfully submitted,

Heidi S. Nebel, Reg. No. 37,719
ZARLEY, McKEE, THOMTE, VOORHEES & SEASE
801 Grand - Suite 3200
Des Moines, Iowa 50309-2721
telephone 515-288-3667
facsimile 515-288-1338

CUSTOMER NO. 22885
ATTORNEYS OF RECORD

-pw-

Notice to Comply	Application No.	Applicant(s)	
	09/380,419	ROTHSCHILD ET AL.	
	Examiner	Art Unit	
	Jeanine Enewold Goldberg	1655	

OIPE JC126 FEB 2 8 2001 PATENT & TRADEMARK OFFICE

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 REPORT

BIOTECHNOLOGY SYSTEMS BRANCH

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The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 09/380,419

Source: 1655

Date Processed by STIC: 12/20/2000

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: patin30help@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 JC126
FEB 2 8 2001
PATENT & TRADEMARK OFFICE

Raw Sequence Listing Error Summary

ERROR DETECTED SUGGESTED CORRECTION

SERIAL NUMBER: 09/380,419

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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)	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.

J. Goldberg

1655

OIPE JC126
FEB 2 8 2001
PATENT & TRADEMARK OFFICE

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/380,419

DATE: 12/20/2000
TIME: 15:02:54

Input Set : A:\MC4R.txt
Output Set: N:\CRF3\12202000\I380419.raw

Does Not Comply
Corrected Diskette Needed

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JAN 02 2001
TECH CENTER 1600/2900

```
  3 <110> APPLICANT: Rothschild, Max F.
  4       Kim, Kwan Suk
  5       Emnett, Rebecca S.
  7 <120> TITLE OF INVENTION: Melanocortin-4 Receptor Gene and Use as a Genetic
  8       Marker for Fat Content, Weight Gain, and/or Feed
  9       Consumption in Animals
 11 <130> FILE REFERENCE: rothshcild mc4r2
 13 <140> CURRENT APPLICATION NUMBER: 09/380,419
 14 <141> CURRENT FILING DATE: 2000-07-24
 16 <150> PRIOR APPLICATION NUMBER: PCT/US99/16862
 17 <151> PRIOR FILING DATE: 1999-07-26
 19 <160> NUMBER OF SEQ ID NOS: 26
 21 <170> SOFTWARE: PatentIn Ver. 2.0
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ERRORED SEQUENCES

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 23 <210> SEQ ID NO: 1
 24 <211> LENGTH: 745
 25 <212> TYPE: DNA
 26 <213> ORGANISM: porcine
 28 <220> FEATURE:
 29 <221> NAME/KEY: variation
 30 <222> LOCATION: (678)
 31 <223> OTHER INFORMATION: G/A
 33 <400> SEQUENCE: 1
 34 acaagaatct gcattcaccc atgtacttt tcatctgtag cctggctgtg gctgatatgc 60
 35 tggtgagcgt ttccaatggg tcagaaacca ttgtcatcac cctattaaac agcccggacc 120
 36 cggacgcacc gagtttcacc gtgtatattg ataatgtcat tgactcagtg atctgtagct 180
 37 ccttactcgc ctcaatttgc agcctgcttt cgattgcagt ggacagctat tttactatct 240
 38 tttatgctct ccagtaccat aacattatga cagttaagcg ggttggaatc atcatcagtt 300
 39 gtatctgggc agtctgcacg gtgtcgggtg tttttgttcat cattactcca gatagcagtg 360
 40 ctgttattat ctgcctcata accgtgttct tcacccatgct gcctctcatg gcttctctct 420
 41 atgtccacat gttcctcatg gccagactcc acattaagag gatcgccgtc ctcccagcca 480
 42 ctgcgcaccat ccgccaaggt gccaacatga agggggcaat taccctgacc atcttgattg 540
 43 gggtctttgt ggtctgctgg gccccctttct tcctccactt aatattctat atctcctgcc 600
 44 cccagaatcc atactgtgtg tgcttcatgt ctcactttaa tttgtatctc atcctgatca 660
 45 tgtgtaattc catcatcgat cccctgattt atgcactccg gagccaagaa ctgaggaaaa 720
                                                                    746
E--> 46 ccttcaaaga gatcatctgt tgctat
```

746 shown

Per Sequence Rules, use "r" to represent g or a; "g" can only represent itself

see next pages for more errors

09/380,419 2

<210> 3
<211> 311
<212> PRT
<213> Homo sapiens

see p. 3

<400> 3
Gln Leu Phe Val Ser Pro Glu Val Phe Val Thr Leu Gly Val Ile Ser
1 5 10 15

Leu Leu Glu Asn Ile Leu Val Ile Val Ala Ile Ala Lys Asn Lys Asn
20 25 30

Leu His Ser Pro Met Tyr Phe Phe Ile Cys Ser Leu Ala Val Ala Asp
35 40 45

Met Leu Val Ser Val Ser Asn Gly Ser Glu Thr Ile Ile Ile Thr Leu
50 55 60

Leu Asn Ser Thr Asp Thr Asp Ala Gln Ser Phe Thr Val Asn Ile Asp
65 70 75 80

Asn Val Ile Asp Ser Val Ile Cys Ser Ser Leu Leu Ala Ser Ile Cys
85 90 95

Ser Leu Leu Ser Ile Ala Val Asp Arg Tyr Phe Thr Ile Phe Tyr Ala
100 105 110

Leu Gln Tyr His Asn Ile Met Thr Val Lys Arg Val Gly Ile Ser Ile
115 120 125

Ser Cys Ile Trp Ala Ala Cys Thr Val Ser Gly Ile Leu Phe Ile Ile
130 135 140

Tyr Ser Asp Ser Ser Ala Val Ile Ile Cys Leu Ile Thr Met Phe Phe
145 150 155 160

Thr Met Leu Ala Leu Met Ala Ser Leu Tyr Val His Met Phe Leu Met
165 170 175

Ala Arg Leu His Ile Lys Arg Ile Ala Val Leu Pro Gly Thr Gly Ala
180 185 190

Ile Arg Gln Gly Ala Asn Met Lys Gly Ala Ile Thr Leu Thr Ile Leu
195 200 205

Ile Gly Val Phe Val Val Cys Trp Ala Pro Phe Phe Leu His Leu Ile
210 215 220

Phe Tyr Ile Ser Cys Pro Gln Asn Pro Tyr Cys Val Cys Phe Met Ser
225 230 235 240

His Phe Asn Leu Tyr Leu Ile Leu Ile Met Cys Asn Ser Ile Ile Asp
245 250 255

Pro Leu Ile Tyr Ala Leu Arg Ser Gln Glu Leu Arg Lys Thr Phe Lys
260 265 270

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09/380,419 3

Glu Ile Ile Cys Cys Tyr Pro Leu Gly Gly Leu Cys Asp Leu Ser Ser
275 280 285

Arg Tyr Ala Pro Pro Glu Asn Asp Ile Xaa Val Ile Cys Asn Phe Ile
290 295 300

Asp Glu Asn Thr Ile Ala Leu
305 310

See item 10 on Error Summary Sheet

VERIFICATION SUMMARY
PATENT APPLICATION: US/09/380,419

DATE: 12/20/2000
TIME: 15:02:55

Input Set : A:\MC4R.txt
Output Set: N:\CRF3\12202000\I380419.raw

L:46 M:252 E: No. of Seq. differs, <211>LENGTH:Input:745 Found:746 SEQ:1
L:129 M:258 W: Mandatory Feature missing, <220> not found for SEQ ID#:3
L:129 M:258 W: Mandatory Feature missing, <221> not found for SEQ ID#:3
L:129 M:258 W: Mandatory Feature missing, <222> not found for SEQ ID#:3
L:129 M:258 W: Mandatory Feature missing, <223> not found for SEQ ID#:3
L:129 M:340 W: (46) "n" or "Xaa" used: Feature required, for SEQ ID#:3

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

#7

NOV 21 2000

KNOBBE, MARTENS, OLSON & BEAR, LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

In re Application of		
Thomas M. Kundig, et al	:	
Serial No.: 09/380,534	:	
Filed: September 1, 1999	:	DECISION ON PETITON
For: A Method of Inducing A CTL	:	
Response	:	

This is in response to applicants' petition filed November 13, 2000, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS and cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John E. Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

21 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BACON & THOMAS
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314

In re Application of	:	
ALBY, Albert	:	
U.S. Application No.: 09/380,614	:	DECISION ON
PCT No.: PCT/FR98/00543	:	PETITION UNDER
International Filing Date: 18 March 1998	:	37 CFR 1.182
Priority Date: 18 March 1997	:	
Attorney's Docket No.: JEK/Alby	:	
For: IMPLANT FOR OSTEOSYNTHESIS DEVICE	:	
AND TOOL FOR SETTING SUCH IMPLANT	:	

This decision is issued in response to applicant's "Communication And Petition Under 37 CFR 1.182" filed 14 August 2003 via facsimile submission seeking to correct the international application referenced in the Form 1390 Transmittal Letter here from PCT/EP98/00543 to PCT/FR98/00543. Deposit Account No. 02-0200 will be charged the required petition fee.

BACKGROUND

On 18 March 1998, applicant filed international application PCT/FR98/00543 which claimed a priority date of 18 March 1997 (based on French application number 97/03277) and which designated the United States. On 24 September 1998, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 18 September 1999.

On 17 September 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee and a translation of international application PCT/FR98/00543 into English. However, the Form 1390 Transmittal Letter filed by applicant identified the international application as PCT/EP98/00543.

Based on the Form 1390 Transmittal Letter filed by applicant, this application file was set up in USPTO records as a national stage of PCT/EP98/00543.

On 10 December 1999, the DO/EO/US mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

07 January 2000, applicant filed a response to the Notification Of Missing Requirements including payment of the required surcharge and a declaration executing international application PCT/FR98/00543.

On 02 February 2000, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that applicant had satisfied the requirements of 35 U.S.C. 371 as of 07 January 2000. The Notification identified the international application as PCT/EP98/00543. Subsequently, a filing receipt was issued.

On 18 February 2000, applicant filed a "Request For Corrected Filing Receipt" which asserted that the filing receipt was incorrect in that it listed the wrong title and priority information (the information listed was taken from PCT/EP98/00543).

On 05 May 2000, a new filing receipt was issued in which the title had been changed to the title of PCT/FR98/00543. However, the continuing data still referred to PCT/EP98/00543 and the reference to the priority application was incorrect (the application number listed was now the number of the French priority application claimed in PCT/FR98/00543, but the application was still identified as Japanese).

On 09 June 2000, applicant filed a "Second Request For Corrected Filing Receipt" again requesting correction of the priority information.

On 14 August 2003, applicant filed the petition considered herein seeking to correct the original reference to PCT/EP98/00543 and have the present application file corrected to be a national stage application for PCT/FR98/00543.

DISCUSSION

The present petition asserts that the Form 1390 Transmittal Letter filed 17 September 1999 contained a typographical error in the listed international application. Specifically, the international application, listed as PCT/EP98/00543, was intended to read PCT/FR98/00543. As applicant notes in the petition, the intended application was identified in that the inventor, title, priority date, and international filing date for the intended application (PCT/FR98/00543) were present on the Transmittal Letter. In addition, the original submission was accompanied by a translation of the intended application, PCT/FR98/00543, and an unsigned declaration that referred to PCT/FR98/00543. The petition is accompanied by a corrected version of the Form 1390 Transmittal Letter that properly identifies the international application.

Based on applicant's statements, the submission of the corrected Form 1390, and the payment of the $130 petition fee, applicant's petition to correct the Form 1390 Transmittal Letter is granted. Based on this correction, this application file will now be treated as a national stage of international application PCT/FR98/00543.

Based on this correction, the Notification Of Acceptance mailed 02 February 2000 and the filing receipt, both of which refer to international application PCT/EP98/00543, are appropriately vacated.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

The present application will be treated as a national stage of international application PCT/FR98/00543.

The Notification Of Acceptance mailed 02 February 2000 and the subsequently issued filing receipt are hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision, including: (1) updating USPTO records to indicated that this application is a national stage of PCT/FR98/00543; (2) issuance of a corrected Notification Of Acceptance properly identifying the international application as PCT/FR98/00543 (the 35 U.S.C. 371 date remains 07 January 2000); and (3) issuing a corrected filing receipt that correctly identifies this application as a 35 U.S.C. 371 national stage of PCT/FR98/00543 and properly identifies the priority application as French application number 97/03277, filed 18 March 1997.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 05/22/02 **Paper No.:** 14

TO : **Supervisor, Art Unit** 1600 / 623 Crane

SUBJECT : Certificate of Correction Request in Patent No.: 6268490

A response to the following question is requested with respect to the accompanying request for a certific 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 tl scope or meaning of the claims be changed.

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, placing a check mark (+) in the box that reflects your decision, which corresponds to the question checke above.

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:**

Supervisor

Acting-SPE 1623
Art Unit

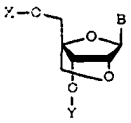
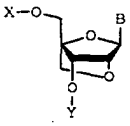
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

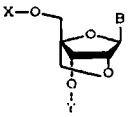
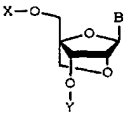
PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

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

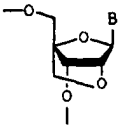
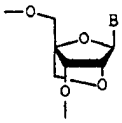
Title page,
Item [57], "**ABSTRACT**", after lines 2 and 3,

delete "  " and insert therefor --  --.

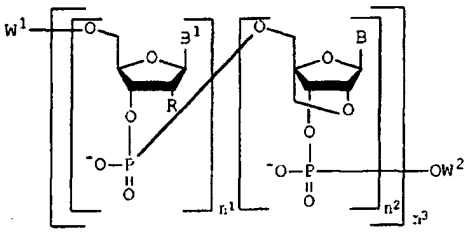
Column 2,
Lines 7-13,

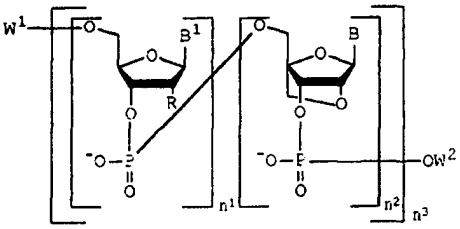
delete "  " and insert therefor --  --.

Column 3,
Lines 11-17,

delete "  " and insert therefor --  --.

Lines 27-37,

delete "  " and insert

therefor --  --.

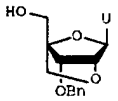
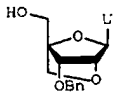
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

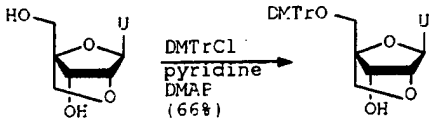
PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

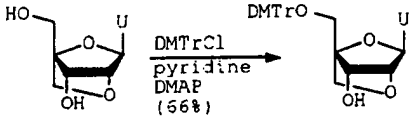
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 5,
Lines 1-8,

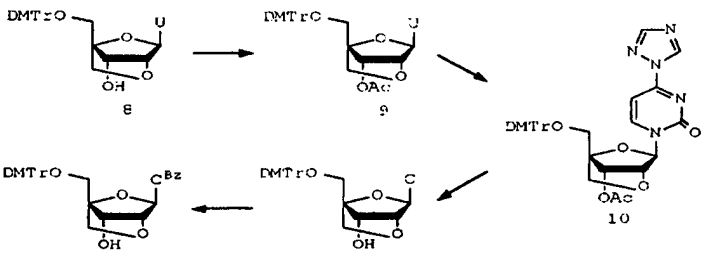
delete "  " and insert therefor --  --.

Lines 9-15,

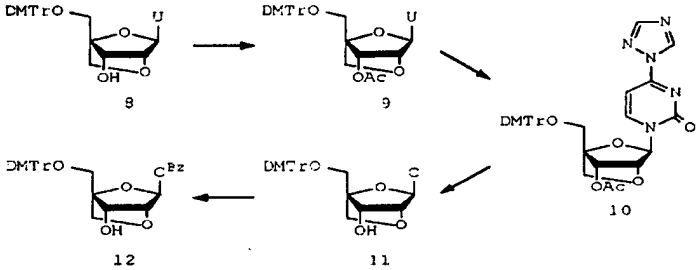
delete "  " and insert

therefor --  --.

Columns 5 and 6,
Lines 22-38, delete

"  ",

and insert therefor

--  --.

UNITED STATES PATENT AND TRADEMARK OFFICE

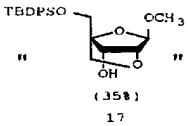
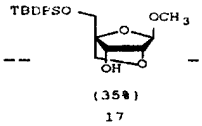
CERTIFICATE OF CORRECTION

PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

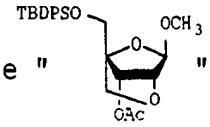
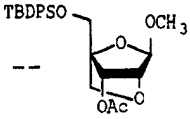
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6,
Line 63, delete "aceone" and insert therefor -- acetone --.

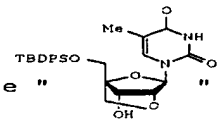
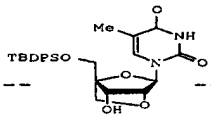
Column 7,
Lines 54-61,

delete "  " and insert therefor --  --.

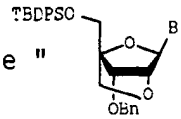
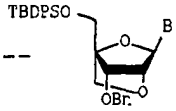
Column 8,
Lines 7-14,

delete "  " and insert therefor --  --.

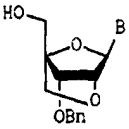
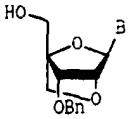
Lines 15-25,

delete "  " and insert therefor --  --.

Column 9,
Lines 58-63,

delete "  " and insert therefor --  --.

Column 10,
Lines 1-8

delete "  " and insert therefor --  --.

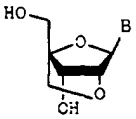
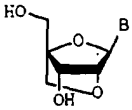
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

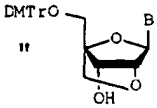
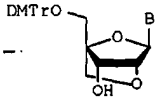
PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

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

Column 10 cont'd.
Lines 11-16,

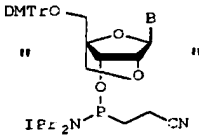
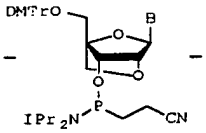
delete "  " and insert therefor --  --.

Lines 32-38,

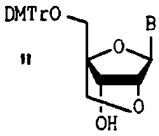
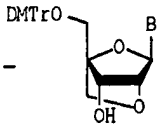
delete "  " and insert therefor --  --.

8 8

Lines 41-49,

delete "  " and insert therefor --  --.

Column 23,
Lines 42-48,

delete "  " and insert therefor --  --.

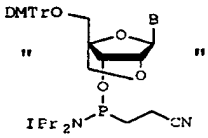
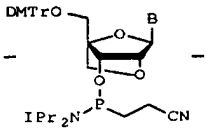
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

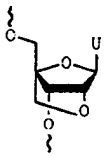
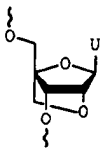
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 23,
Lines 50-58,

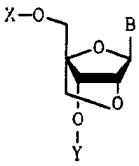
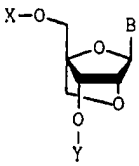
delete "  " and insert therefor --  --.

21 21

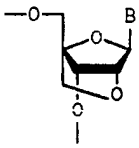
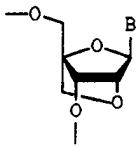
Column 24,
Lines 2-10,

delete " X=  " and insert therefor -- X=  --.

Column 31,
Lines 42-49,

delete "  " and insert therefor --  --.

Column 32,
Lines 41-46,

delete "  " and insert therefor --  --.

UNITED STATES PATENT AND TRADEMARK OFFICE

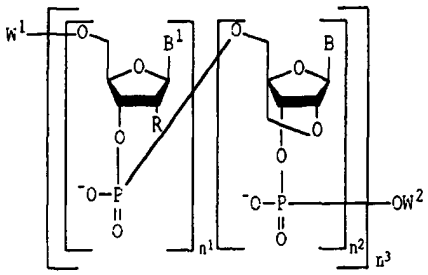
CERTIFICATE OF CORRECTION

PATENT NO. : 6,268,490 B1
DATED : July 31, 2001
INVENTOR(S) : Takeshi Imanishi and Satoshi Obika

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

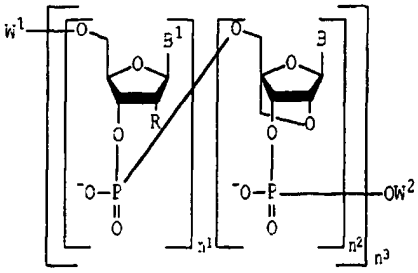
Column 32,
Lines 54-63,

delete "



" and insert

therefor --



--.

Signed and Sealed this

Twentieth Day of August, 2002

Attest:

Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

14 JUN 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 H. Dippert
COWAN, LIEBOWITZ, AND LATMAN
1133 Avenue Of The Americas
New York, NY 10036-6799

In re Application of
DAFNI, Ehud, et al.
U.S. Application No.: 09/380,654
PCT No.: PCT/IL98/00074
International Filing Date: 12 February 1998
Priority Date: 20 February 1997
Attorney's Docket No.: 043/01136
For: REAL-TIME DYNAMIC IMAGE RECONSTRUCTION

DECISION ON PETITION TO REINSTATE AND/OR REVIVE AND PETITION FOR CORRECTED FILE DATE

This decision is issued in response to the "Petition To Correct Filing Date" filed on 21 October 1999 and the "Petition To Reinstate And/Or Revive" filed on 10 January 2000. No petition fee is required.

BACKGROUND

On 12 February 1998, applicants filed international application PCT/IL98/00074 which claimed a priority date of 20 February 1997 and which designated the United States. On 27 August 1998, a copy of the international application was forwarded to the United States Patent and Trademark Office ("USPTO") by the International Bureau.

On 12 July 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 20 August 1999.

On 24 August 1999, applicants filed a transmittal letter for entry into the national stage in the United States which indicates that it was accompanied by, among other materials: (1) a copy of the international application, and (2) an unexecuted declaration. The transmittal letter also authorized a charge to Deposit Account No. 03-3419 for $1,212 (including $840 for the basic national fee). In the present petitions, applicants assert that these materials were deposited as "Express Mail" on 19 August 1999. However, the documents in the file all bear a 24 August

1999 receipt stamp, and none of the materials indicate that they were sent by Express Mail or reference an Express Mail label number. After this submission, applicants were sent a return postcard with a 24 August 1999 receipt stamp.

On 21 October 1999, in response to the return postcard, applicants filed the "Petition To Correct Filing Date" considered herein.

On 06 December 1999, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to pay the basic national fee within 30 months of the priority date.

On 10 January 2000, in response to the Notification Of Abandonment, applicants filed the "Petition To Reinstate And/Or Revive" considered herein.

DISCUSSION

A. "Petition To Correct Filing Date"

Applicants' petitions are both based on the same argument. Specifically, applicants argue that the 24 August 1999 filing date accorded to the materials submitted to initiate this national stage application (including the authorization for payment of the basic national fee) should be changed to 19 August 1999, the date on which applicants assert that these materials were deposited as Express Mail for delivery to the USPTO. In order to obtain such a change, however, applicants must submit a grantable petition under 37 CFR 1.10(c).

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.

In this case, applicants have not satisfied item (2) above. A review of the transmittal letter containing the authorization to pay the basic national fee, as well as the other materials submitted therewith, reveals that none of the materials contains the "number of the Express Mail mailing label."

Accordingly, the 24 August 1999 filing date accorded these materials upon their receipt in the USPTO remains in affect. Because the authorization to charge applicants for the basic national fee was not filed until 24 August 1999, after the 30 month deadline of 20 August 1999, the Notification Of Abandonment mailed on 06 December 1999 was properly issued.

B. "Petition To Reinstate And/Or Revive"

The petition filed on 10 January 2000 is titled "Petition To Reinstate And/Or Revive." However, the petition does not expressly refer to 37 CFR 1.137(b), it does not include the requisite petition fee, and it does not include 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," as required in a grantable petition to revive under 37 CFR 1.137(b). Rather, the petition asserts that the holding of abandonment in the present application is "the result of an inadvertent Patent Office clerical error" and again asserts that the national stage application papers were timely filed on 19 August 1999 by Express Mail. Accordingly, this petition has not been treated as a petition to revive under 37 CFR 1.137(b), but rather a further petition under 37 CFR 1.10.

CONCLUSION

Applicants' "Petition To Correct Filing Date" filed on 21 October 1999 and the "Petition To Reinstate And/Or Revive" filed on 10 January 2000 are both **DISMISSED** without prejudice.

The application remains **ABANDONED** as of midnight on 20 August 1999.

Any reconsideration on the merits of this petition 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 should be addressed 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.

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30 OCT 2000

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Patent and Trademark Office

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In re Application of	:	
DAFNI, Ehud, et al.	:	
U.S. Application No.: 09/380,654	:	
PCT No.: PCT/IL98/00074	:	DECISION ON
International Filing Date: 12 February 1998	:	PETITION FOR CONSIDERATION
Priority Date: 20 February 1997	:	AND/OR REVIVAL UNDER
Attorney's Docket No.: 043/01136	:	37 C.F.R. 1.137(b)
For: REAL-TIME DYNAMIC IMAGE	:	
RECONSTRUCTION	:	

This decision is issued in response to the "Petition For Consideration And/Or Revival Under 37 CFR 1.137(b)" filed on 17 August 2000. Applicants have paid the petition fee.

BACKGROUND

The procedural background for this decision is set forth in detail in the decision mailed 14 June 2000. In that decision, this Office dismissed applicants' petition to change the filing date assigned to the materials submitted to initiate this national stage application. The dismissal was based on applicants' failure to satisfy the requirements of 37 CFR 1.10(c). Specifically, applicants had failed to place the number of the Express Mail mailing label on the materials submitted, as required by 37 CFR 1.10(c)(2).

On 17 August 2000, applicants filed the "Petition For Consideration And/Or Revival Under 37 CFR 1.137(b)" considered herein.

DISCUSSION

A. Petition For Reconsideration

Applicants argue that the "only" reason these application materials were not assigned the desired filing date was " a procedural error within the mailroom at the Patent Office." In fact, as set forth in the previous decision, it is applicants' failure to follow the procedures set forth in 37 CFR 1.10 regarding the use of Express Mail for USPTO filings which precludes the correction of the filing date sought by applicants here.

Section 513 of the MPEP specifically addresses these circumstances and states that relief is not available by petition:

> Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable" within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a).

Based on the above, the previous decision dismissing applicants' petition to change filing date remains in effect.

B. "Petition To Revive Under 37 CFR 1.137(b)"

The present petition also includes a petition to revive the application under 37 CFR 1.137(b). 37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required 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 until 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).

Regarding item (1), the "required reply," section 711.03(c) of the MPEP states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, a copy of the international application had previously been transmitted to the USPTO by the IB. The "required reply" was therefore payment of the basic national fee. The transmittal letter filed by applicant on 24 August 1999 included the authorization to charge Deposit Account No. 03-3419 for $1,212 ($840 as the basic national fee, $216 for inclusion of 12 extra claims, and $156 for inclusion of two extra independent claims. Thus, applicants have made a submission which would have been "sufficient to have avoided abandonment" had it been made in a timely manner, that is, on or before 20 August 1999. Accordingly, applicants have submitted the "required reply." Item (1) is satisfied.

Item (2) is the petition fee required under 37 CFR 1.17(m). The present petition was accompanied by a check in the amount of $1,210 for the petition fee. Item (2) is satisfied.

As for item (3), the present petition expressly states that the "entire delay in filing the above application from the due date for the National Stage filing until the filing of a grantable petition to revive pursuant to 37 CFR 1.137(b) was unintentional." Item (3) under 37 CFR 1.137(b) is satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application. Applicants have therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b). The petition to revive is granted.

CONCLUSION

Applicants' petition for reconsideration of the decision mailed 14 June 2000 is **DISMISSED** without prejudice.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED.**

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision, including mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed declaration and the surcharge for filing the declaration after the thirty month deadline.

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TECHNOLOGY CENTER 2600

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ATTN: PATENT RECORDS DEPARTMENT
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NEW YORK, NY 10022-7650

In re application of:
Ehud Dafni, et al.
Application No. 09/380,654
Filed: April 13, 2001
For: REAL-TIME DYNAMIC IMAGE RECONSTRUCTION

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on August 13, 2004

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.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with Customer Number 26418 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Patricia A. Heim
Intellectual Property Coordinator
Philips Medical Systems (Cleveland), Inc.
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UNITED STATES DEPARTMENT OF COMMERCE
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In re Application of Josef otto RETTENMAIRER Application No.: 09/380,731 PCT No.: PCT/DE98/00630 Int. Filing Date: 04 March 1998 Priority Date: 13 March 1997 Attorney's Docket No. 017309/0173 For: ANCILLARY FILTERING AGENT	DECISION ON PETITION UNDER 37 CFR 1.181(a)

This is in response to the "PETITION UNDER 37 CFR 1.181(a)" filed on 13 July 2000.

BACKGROUND

On 4 March 1998, this international application was filed, claiming an earliest priority date of 13 March 1997.

On 01 October 1998, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 September 1999. This international application became abandoned with respect to the United States at midnight on 13 September 1999 for failure to pay the required basic national fee.

On 13 September 1999, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, the copy of the international application. No executed declaration or oath was submitted at that time.

On 09 November 1999, the U.S. Patent & Trademark Office issued a Notification of Acceptance (PCT/DO/EO/903).

Petitioner, while reviewing the file realized that the application was submitted with an unexecuted Declaration and Power of Attorney and that the office instead of issuing a Notification of Missing Requirements (PCT/DO/EO/903) issued a Notification of Acceptance (PCT/DO/EO/903).

On 13 July 2000, petitioner filed the instant petition accompanied, inter alia, by an executed Declaration and power of Attorney.

DISCUSSION

A review of the file reveals that on 13 September 1999, the above captioned-application had not satisfied the requirement under 35 U.S.C. 371(c)(4) because no executed oath or declaration was submitted at such time. Accordingly, the Notification of Acceptance (PCT/DO/EO/903) was erroneously issued on 09 November 1999.

The executed declaration submitted 13 July 2000 is proper and the application has now satisfied the requirements under 35 U.S.C. 371(c).

The Notification of Acceptance (PCT/DO/EO/903) mailed on 09 November 1999 is **VACATED** with the issuance of this decision.

DECISION

The petition under 37 CFR 1.181(a) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing, including the preparation and mailing of a new Notification of Acceptance (Form PCT/DO/EO/903) and a corrected filing receipt. The 35 U.S.C. 102(e) and 35 U.S.C. 371 date of this application is **13 July 2000.**.

Leonard Smith
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OFFICE OF PETITIONS

NOTICE

In re Application of
Eric Reynolds
Application No. 09/380,738
Filed: December 6, 1999
Attorney Docket No. 040268-0161

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 the Publishing Division.

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

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In re Application of RETTENMAEIR, Josef, Otto U.S. Application No.: 09/380,739 PCT No.: PCT/DE98/00589 International Filing Date: 28 February 1998 Priority Date: 11 March 1997 Attorney's Docket No.: 017309/0172 For: LAUNDRY DETERGENT COMPACT WHICH DISINTEGRATES IN LIQUID	DECISION ON PETITION UNDER 37 CFR 1.48(a)

This decision is issued in response to the "Petition Under 37 CFR 1.48(a)" filed on 05 May 2000. Applicants have paid the required petition fee.

BACKGROUND

On 28 February 1998, applicant filed international application PCT/DE98/00589 which claimed a priority date of 11 March 1997 and which designated the United States. On 17 September 1998, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 02 September 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the IB) and payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 13 September 1999 (11 September 1999 was a Saturday).

On 13 September 1999, applicant filed a transmittal letter for entry into the national stage in the United States which indicates that it was accompanied by, among other materials: (1) a translation into English of the international application, and (2) a check for the $840 basic national fee. The transmittal letter noted that the international application had already been transmitted by the IB.

On 10 December 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 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicant that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 15 December 1999, applicant filed a response to the Notification Of Missing Requirements which included a check for the $130 surcharge and a declaration executed by five persons identified as inventors (Josef Otto Rettenmaier, Hans-Friedrich Kruse, Martin Holl, Harald Schlosser, and Armin Ungerer). However, Mr. Rettenmaier is the only inventor identified on the published international application.

On 07 February 2000, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/US/917) which indicated that the declaration filed on 15 December 1999 was defective because it identified inventors not included in the international application.

On 05 May 2000, applicant filed the petition considered herein, which seeks to correct the inventorship on this application so as to include the additional inventors identified on the declaration filed 15 December 1999. Included with this petition was a request for a four-month extension of time to respond to the Notification Of Missing Requirements, including the appropriate fee for such an extension. Based on this extension of time, the present petition is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.48(a) to correct an error in naming inventorship requires: (1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63; (3) the fee set forth in 37 CFR 1.17(I); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). As discussed below, applicants have satisfied items (1), (2), and (3), but have failed to satisfy item (4).

Regarding item (1), applicants have submitted a statement executed by the four added inventors (Hans-Friedrich Kruse, Martin Holl, Harald Schlosser, and Armin Ungerer) which states that "the omission of my name as an inventor in the PCT application was an error without any deceptive intention on my part." Item (1) is therefore satisfied.

Regarding item (2), the declaration filed on 15 December 1999 satisfies the requirements of 37 CFR 1.497(a) and (b) and is executed by all five inventors. Item two is therefore satisfied.

Regarding item (3), applicants have provided a check for the petition fee required under 37 CFR 1.17(I). Item (3) is therefore satisfied.

Regarding item (4), applicants have submitted statements executed on behalf of two purported assignees (J.Rettenmaier & Sonne GmbH+Co and Henkel KGaA) in which the purported assignees gives consent to the addition of four inventors. However, as noted above, the consent of an assignee must be provided "in compliance with 37 CFR 3.73(b)." (See MPEP section 324, and form PTO/SB/96). The statements submitted here do not satisfy 37 CFR 3.73(b). Accordingly, item (4) has not been complied with.

Because applicants have failed to satisfy all the requirements for a grantable petition under 37 CFR 1.48(a), the petition cannot be granted in its present form. The declaration submitted on 15 December 1999 therefore remains defective.

CONCLUSION

The Petition To Add Inventors Under 37 CFR 1.48(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a)." No additional petition fee is required. Failure to file a timely and proper response will result in abandonment of the application.

Extensions of time may be obtained 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 the letter marked to the attention of the PCT Legal Office.

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In re Application of
RETTENMAEIR, Josef, Otto
U.S. Application No.: 09/380,739
PCT No.: PCT/DE98/00589
International Filing Date: 28 February 1998
Priority Date: 11 March 1997
Attorney's Docket No.: 017309/0172
For: LAUNDRY DETERGENT COMPACT WHICH DISINTEGRATES IN LIQUID

DECISION ON RENEWED PETITION UNDER 37 CFR 1.48(a)

On 20 September 2000, this Office mailed a decision dismissing applicants' "Petition Under 37 CFR 1.48(a)" for failure to satisfy all the requirements of a grantable petition. Specifically, applicant failed to provide the written consent of the assignee in compliance with 37 CFR 3.73(b).

On 15 November 2000, applicants submitted the "Renewed Petition Under 37 CFR 1.48(a)" considered herein. The renewed petition was accompanied by an executed Assignment and an assignment cover sheet. The renewed petition is signed by applicants' counsel.

37 CFR 3.73 requires submission of a statement establishing ownership by the assignee, and it states that "[t]he submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee." Section 324 of the MPEP, which discusses who may execute the statement under 37 CFR 3.73, states the following:

> A power of attorney from the inventors in an organization to the practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

The submission establishing ownership, i.e., the renewed petition and accompanying assignment, is signed by applicants' counsel. Evidence that counsel is "a party authorized to act on behalf of the assignee" has not been submitted, and, accordingly, the submission fails to satisfy the requirements of 37 CFR 3.73. The previously submitted consent statements executed by authorized officers of the assignees also fail to satisfy this requirement in that they do not specifically refer to the Assignment document here (see form PTO/SB/96).

Based on the above, applicants have failed to satisfy the requirement that they provide "the written consent of the assignee in compliance with 37 CFR 3.73(b)." Accordingly, the renewed petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.48(a)." No additional petition fee is required. Failure to file a timely and proper response will result in abandonment of the application.

Extensions of time may be obtained 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 the letter marked to the attention of the PCT Legal Office.

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In re Application of RETTENMAEIR, Josef, Otto U.S. Application No.: 09/380,739 PCT No.: PCT/DE98/00589 International Filing Date: 28 February 1998 Priority Date: 11 March 1997 Attorney's Docket No.: 017309/0172 For: LAUNDRY DETERGENT COMPACT WHICH DISINTEGRATES IN LIQUID	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.48(a)

On 19 January 2001, this Office mailed a decision dismissing applicants' "Renewed Petition Under 37 CFR 1.48(a)" for failure to satisfy all the requirements of a grantable petition. Specifically, the written consent of the assignee (required to be in compliance with 37 CFR 3.73(b)) was found inadequate because it was not executed by a party authorized to act on behalf of the assignee.

On 12 July 2001, applicants submitted the "Second Renewed Petition Under 37 CFR 1.48(a)" considered herein. The second renewed petition was accompanied by an "Assignee Consent Under 37 CFR 1.48(a)" executed by the Patent Director and Vice President Patents for the Assignee Henkel KGaA. The statement refers specifically to the recorded assignments through which Henkel KGaA owns this application, states that the executing parties are authorized to act on behalf of the assignee, and consents to the requested correction in inventorship. Applicants have therefore now satisfied the final requirement for a grantable petition under 37 CFR 1.497(d).

The petition is **GRANTED**. The inventorship for this application is corrected so as to add Hans-Friedrich Kruse, Martin Holl, Harold Schlosser, and Armin Ungerer as inventors.

Based on the corrected inventorship, the declaration filed by applicants on 15 December 1999 is no longer defective and can now be accepted in compliance with 37 CFR 1.497.

It is noted that, on 26 February 2001, a "Request To Change Correspondence Address" and a "Revocation And Appointment Of Power Of Attorney" were filed in this case. The Revocation was executed on behalf of the assignee. However, one of the same representatives of the assignee who executed the Revocation has also executed the Assignee Consent considered herein, which was submitted by prior counsel. It is therefore unclear whom is the proper attorney of record in this matter. For that reason, a copy of this decision has been forwarded to counsel

appointed in the 26 February 2001 submission. Applicants are advised to submit clarification as to the proper agents and correspondence address for this application.

The application is being forwarded to the National Stage Processing Brance of the Office of PCT Operations for further processing in accord with this decision. Hte 35 U.S.C. 371 date is 15 December 1999.

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In re Application of	:	
Masaru Takada et al	:	
Application No. 09/380,994	:	ON PETITION
Filed: September 13, 1999	:	
Attorney Docket No. P23128USA	:	

This is a decision on the petition, filed November 29, 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 February 26, 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2827 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul MERTES, et al	:	
Application No. 09/381,056	:	DECISION ON PETITION
Filed: December 21, 1999	:	
Attorney Docket No. 2345/86	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before March 31, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 1, 2008.

Petitioner states the issue fee was timely paid via facsimile on March 31, 2008. Petitioner has provided a copy of the previously submitted correspondence, which bears a certificate of mailing or transmission date of March 31, 2008. Since receipt by the Office cannot be determined by the evidence provided, the Notice of Abandonment mailed on April 24, 2008, cannot be withdrawn.

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 $1510; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay. Hence the petition is therefore granted.

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 appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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

Thurman Page
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6279289	2001-08-28	09381216	1999-09-16	

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 Ostrander K./	Date (YYYY-MM-DD)	2009-10-16
Name	Bruce Ostrander		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6279289
Issue Date: August 28,2001
Application No. 09381216
Filed: September 16,1999
Attorney Docket No. 75002.0002

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

This is a decision on the electronic petition, filed October 16,2009 ,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 October 16,2009 . 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

Paper No.: _____

DATE : 4-3-09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/381295 Patent No.: 6811928

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

Enng Yang
Certificates of Correction Branch
703-308-9390 ext. 117

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: _____

[signature]
SPE

1795
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

TRACY DOVE
PRIMARY 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

MAR 21 2005

J. D. EVANS
CROWELL & MORING
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Toshikazu Kawai et al.	:
Serial No.: 09/381,372	: PETITION DECISION
Filed: September 20, 1999	:
Attorney Docket No.: 038788.48236	:

This is in response to the petition under 37 CFR 1.181, filed April 6, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on December 13, 2002, setting a three month shortened statutory period for reply. The Final Office action was mailed to: EVENSON MCKEOWN EDWARDS & LENAHAN, 1200 G STREET NW, SUITE 700, WASHINGTON DC 20005-3814. The address is the same address that the previous Office action to which the previous Office action was mailed. It is noted that the response to the previous Office action, filed September 26, 2002, included on the last page the return address shown above. A Notice of Abandonment was mailed to the same address on July 24, 2003. Both of these communications were returned by the Postal Service as undeliverable as addressed. No formal request to change the correspondence address was filed with the response or at any other time. Applicants state that a change of correspondence address was submitted by facsimile and indicates a copy of the facsimile is enclosed with the petition. The original facsimile, filed July 10, 2003, has been located in the file, but was never entered into the Office database. In view of the Office error for non-entry, 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 remailing of the Final Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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)
6309604	2001-10-30	09381536	1999-09-21	BLEUSE1

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	/rlb/	Date (YYYY-MM-DD)	2007-04-14
Name	Roger L. Browdy	Registration Number	25618

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.

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P.O. Box 1450
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In re Patent No. 6309604
Issue Date: October 30,2001
Application No. 09381536
Filed: September 21,1999
Attorney Docket No. XPROB-230

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

This is a decision on the electronic petition, filed April 14,2007 ,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 April 14,2007 . 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

MAY 14 2001

Carol W. Burton
HOGAN & HARTSON
1200 Seventeenth Street, Suite 1500
Denver, Colorado 80202

In re Application of	:	
SHATTIL, Steven	:	DECISION ON MERGING
U.S. Application No.: 09/381,588 and 09/601,922	:	APPLICATION FILES AND
PCT No.: PCT/US99/02838	:	REQUEST FOR REFUND
Int. Filing Date: 10 February 1999	:	
Priority Date: 12 February 1998	:	
Attorney's Docket No.: 022950 PCTUS	:	
For: MULTIPLE ACCESS METHOD AND SYSTEM	:	

This is a decision on applicant's "Request for Refund" filed in the Patent and Trademark Office (PTO) on 02 February 2001.

DISCUSSION

On 10 February 1999, applicants filed international application PCT/US99/02838 which designated the United States. On 19 August 1999, a copy of the international application was communicated to the PTO by the International Bureau ("IB").

On 31 August 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the international filing date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the international filing date, i.e., 12 August 2000.

On 20 September 1999, applicant filed "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371," which indicated that the filing was intended as a national stage filing of PCT/US99/02838 pursuant to 35 U.S.C. 371. This Transmittal Letter was accompanied by: a check in the amount of $627 ($420 as the basic national fee and $207 for inclusion of extra claims); a small entity statement; a preliminary amendment; and an executed declaration. This submission was assigned application number 09/381,588.

On 02 November 1999, a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying the 35 U.S.C. 371(c) date as 20 September 1999 was mailed.

On 09 August 2000, counsel filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371," which indicated that it too was intended as a national stage filing of PCT/US99/02838. This Transmittal Letter was accompanied by: a check in the amount of $960 ($485 for the basic national fee, $279 for inclusion of total claims, $156 for inclusion of independent claims and $40 fee for recording an assignment); a preliminary amendment; a small entity statement; and an executed declaration and power of attorney. The submission was assigned application number 09/601,922.

Counsel in application number 09/601,922 subsequently submitted a "Request for Refund" on 02 February 2001.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage have been submitted for international application number PCT/US99/02838 (United States application numbers 09/381,588 and 09/601,922). The end result for an international application designating the United States of America is a single United States national stage application. Therefore, the submission of two sets of national stage papers was improper.

As noted above, application number 09/381,588 has fulfilled the requirements of 35 U.S.C. 371 and "A Notification Of Acceptance Of Application Under 35 U.S.C. 371" (Form PCT/DO/EO/903) has been mailed in this application. Accordingly, application number 09/381,588 will be treated as the United States national stage application file for international application PCT/US99/02838.

CONCLUSION

The request for refund is **GRANTED**

The papers filed in application number 09/601,922 will be placed in the file of application no. 09/381,588. Applicant should only refer to application no. "09/381,588" in all future communications, as application no. 09/601,922 will no longer be an active file.

All future communication will be sent to Carol W. Burton, HOGAN & HARTSON, 1200 Seventeenth Street, Suite 1500, Denver, Colorado 80202, in view of the Power of Attorney filed on 09 August 2000 in application no. 09/601,922.

This application is being forwarded to the United States Designated/Elected Office (DO/EO) for processing in accordance with this decision, that is for: (1) removing the papers from application no. 09/601,922 and placing such papers into the file of application no. 09/381,588; (2) correcting PALM database; (3) and refunding applicant the filing fees paid in application on. 09/601,922.

Thereafter, this application will then be returned to Group Art Unit 2634 for further prosecution including processing the preliminary amendment filed on 09 August 2000 in 09/601,922, which adds claims 44-94 (it is noted that the preliminary amendment filed 19 May 2000 in application no. 09/381,588 adding claims 44-94 is unsigned and thus should not entered).

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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Paper No. 18

DAVID L. PARKER
ARNOLD WHITE & DURKEE
PO BOX 4433
HOUSTON, TX 77210-2198

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OFFICE OF PETITIONS

In re Application of
Mar Tormo, Ana Tari,
Gabriel Lopez-Berestein and
Timothy McDonnell
Application No. 09/381,747
Filed: September 22, 1999
Attorney Docket No. UTSC:550
Title: INHIBITION OF BCL-2 PROTEIN EXPRESSION BY LIPOSOMAL ANTISENSE OLIGODEOXYNUCLEOTIDES

DECISION ON PETITION
and
SECOND NOTICE OF
ABANDONMENT

This is in response to the petition under § 1.47(a), filed June 6, 2002, which should properly be treated as a petition under § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67[1]. Consideration of this petition on the merits is being held in abeyance pending revival of this application.

For the reasons set forth herein, the petition is **DISMISSED**.

The above-identified application was abandoned for failure to timely file a proper response to the final Office action mailed February 1, 2001. This action set a shortened statutory period for reply of three (3) months, with extensions of time under 37 CFR 1.136(a) permitted. On August 7, 2001 (certificate of mailing August 1, 2001), applicants replied with an amendment, made timely by an accompanying request for extension of time. However, this reply was determined by the examiner not to constitute a proper reply under 37 CFR 1.113(a) to the final rejection (Advisory Action mailed August 28, 2001). No proper reply having been received and no further extensions of time obtainable, the application became abandoned effective August 2, 2001. A Notice of Abandonment was mailed on September 10, 2001.

A review of the record of this application does not reveal that any response was filed to the Notice of Abandonment (i.e. petition to revive or petition for withdrawal of abandonment[2]). Nor does the record of the application indicate that the abandonment was properly withdrawn by the Office. Accordingly, by operation of law, no proper reply having been received within the statutory period for reply, the instant application continues to be considered abandoned. The application must be shown to have returned to pending status before the instant petition under § 1.183 can be considered.

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[1] A showing that such waiver is appropriate is generally met by satisfying the requirements of § 1.47 for acceptance of an original declaration without the signatures of all inventors.

[2] Any petition to withdraw a holding of abandonment should be filed within TWO MONTHS of the action complained of. See 37 CFR 1.181(f). A Notice of Abandonment was mailed in the instant application more than a year ago. See MPEP 711.03(c).

Petitioners may elect to file a petition to revive under 37 CFR § 1.137(a)[3] or § 1.137(b)[4]. Petitioners are advised that the instant petition is not sufficient to satisfy the reply requirement of either § 1.137(a) or § 1.137(b). Petitioners may reference this petition in response to the examiner's objection to the substitute declaration not being proper. However, as to the other requirements set forth, the proposed reply to the final Office action required for consideration of any petition to revive must be either (1) a Notice of Appeal (and fee required by law), (2) an amendment that *prima facie* places the application in condition for allowance, (3) the filing of a continuing application, (4) a request for continuing examination under §1.114, or (5) if applicable, a §1.129(a) submission.

Petitioners should not delay filing a petition to revive as petitioners continue to bear the burden of establishing that the entire delay, including the delay from the due date for the reply until the filing of a grantable petition, was unavoidable or unintentional.

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

By mail: 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 may 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

---

[3] A grantable petition to revive an unavoidably abandoned application under 37 CFR § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 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 § 1.137(d).

[4] A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

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

DAVID L. PARKER
ARNOLD WHITE & DURKEE
PO BOX 4433
HOUSTON, TX 77210-2198

COPY MAILED

MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Mar Tormo, Ana Tari,
Gabriel Lopez-Berestein and
Timothy McDonnell
Application No. 09/381,747
Filed: September 22, 1999
Attorney Docket No. UTSC:550
Title: INHIBITION OF BCL-2 PROTEIN EXPRESSION BY LIPOSOMAL ANTISENSE OLIGODEOXYNUCLEOTIDES

DECISION ON PETITION UNDER § 1.183

This is a decision on the petition under § 1.47(a), filed June 6, 2002, which should properly be treated as a petition under § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67[1].

Preliminary, it is noted that a decision on the petition was initially held in abeyance pending revival of this application or a showing that the application was not abandoned.

In this regard, the above-identified application was considered abandoned for failure to timely file a proper response to the final Office action mailed February 1, 2001. A reply was filed on August 7, 2001 (certificate of mailing August 1, 2001), but by Office action mailed August 28, 2001, applicants were advised that the reply was determined by the examiner not to constitute a proper reply under 37 CFR 1.113(a) to the final rejection. No proper reply having been received and no further extensions of time obtainable, the application was considered abandoned effective August 2, 2001. A Notice of Abandonment was mailed on September 10, 2001. However, a further review of the electronic record of the application reveals that, on September 13, 2001, the Office rescinded the abandonment as the examiner had determined that the Office action mailed February 2, 2001 was not a final rejection and thus, the response filed on August 7, 2001, should have been considered as a response to a non-final rejection. Now that a showing has been made that the application is not abandoned, a decision on the petition under § 1.47 can be rendered.

The petition is **GRANTED**.

By declarations of Cheryl McCants and Priya D. Subramony, petitioners have shown the unavailability, within the meaning of 37 CFR 1.47, of inventor Tormo to execute the substitute declaration. Inventor Tormo previously signed declarations for patent in this application. However, those declarations were rendered defective. The petition shows *bona fide* attempts to present inventor Tormo with the substitute declaration for signature. The petition includes the

[1] A showing that such waiver is appropriate is generally met by satisfying the requirements of § 1.47 for acceptance of an original declaration without the signatures of all inventors.

petition fee and a statement of the last known address of inventor Tormo.

The application file is being returned to Technology Center 1635 for action by the examiner, including as appropriate mailing of an Office action in response to Paper No. 12. (See Paper No. 13).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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 14 2000

DAVID L PARKER
ARNOLD WHITE & DURKEE
PO BOX 4433
HOUSTON , TX 77057-2198

In re Application of TORMO et al.	:	
Application No.: 09/381,747	:	
PCT No.: PCT/US97/18348	:	
Int. Filing: 03 October 1997	:	
Priority Date: 04 October 1996	:	DECISION ON
Attorney Docket No.:UTSC:550---/PAR	:	PETITION
For: INHIBITION OF BCL-2 PROTEIN	:	UNDER 37 CFR 1.137(b)
EXPRESSION BY LIPOSOMAL ANTISENSE	:	
OLIGODEOXYNUCLEOTIDES		

The petition to revive under 37 CFR 1.137(b) filed 22 September 1999 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' 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" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee has been paid and 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.

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 22 September 1999.

Leonard E. Smith
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/LES:cmk

Telephone: (703) 306-5467

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

12 APR 2000

Mark B. Wilson
ARNOLD, WHITE & DURKEE
P.O. BOX 4433
Houston, Texas 77210-4433

In re Application of PARMACEK et al. U.S. Application No. 09/381,750 PCT No.: PCT/US97/16204 Int. Filing Date: 29 August 1997 Priority Date: 07 October 1996 Attorney Docket No. ARCD: 333/WIM For: PROMOTER FOR SMOOTH MUSCLE CELL EXPRESSION	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b) AND REQUEST FOR REFUND

This is a decision on applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER CFR 1.137(b)" and "REQUEST FOR REFUND OF FEES" filed 22 September 1999 in the above-captioned application. The required petition fee of $1210.00 (37 CFR 1.17(m)) has been submitted.

BACKGROUND

On 29 August 1997, applicant filed international application PCT/US97/16204 which claimed a priority date of 07 October 1996 and which designated the United States. A proper Demand was filed with for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 07 April 1999. The application was abandoned on 08 April 1999.

On 22 September 1999, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee; an international search report; present petition seeking revival under 37 CFR 1.137(b) with the appropriate fee; and a request for refund of fees.

DISCUSSION

I. Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the

grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due from the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the submission of the payment of the basic national fee of $970.00.

As to Item (2), the appropriate petition fee of $1210.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

II. Request for Refund under 37 CFR 1.26

Applicant states in the "Request for Refund of Fees" that "[o]n September 9, 1999, a Petition for Revival of International Patent Designating the U.S. Abandoned Unintentionally Under 37 1.137(b) as well as a Transmittal Letter to the U.S. Designated/Elected Office were filed for the above referenced application. Inadvertently, an incorrect International Application Number of PCT/US97/62101 was listed instead of the correct International Application Number of PCT/US97/6204 on both the Petition and the Transmittal Letter." These papers were stamped with serial number 09/380,928.

The "Request for Refund of Fees" filed 22 September 1999 is being placed in Application No. 09/380,928 and a decision will be rendered in due course.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is **GRANTED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form

PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 must be submitted.

Leonard Smith
Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

01 JUN 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

Mark B. Wilson
ARNOLD, WHITE & DURKEE
P.O. BOX 4433
Houston, Texas 77210-4433

In re Application of	:
PARMACEK et al.	:
U.S. Application No. 09/380,928	:
PCT No.: PCT/US97/16204	: DECISION ON REQUEST
Int. Filing Date: 29 August 1997	:
Priority Date: 07 October 1996	:
Attorney Docket No. ARCD: 333/WIM	:
For: PROMOTER FOR SMOOTH MUSCLE CELL EXPRESSION	:

This is a decision on applicants' "Request for Refund of Fees" which is being treated as a Petition uder 37 CFR 1.26 filed in the Patent and Trademark Office (PTO) on 22 September 1999.

BACKGROUND

Applicant states in the "Request for Refund of Fees" that "[o]n September 9, 1999, a Petition for Revival of International Patent Designating the U.S. Abandoned Unintentionally Under 37 1.137(b) as well as a Transmittal Letter to the U.S. Designated/Elected Office were filed for the above referenced application. Inadvertently, an incorrect International Application Number of PCT/US97/62101 was listed instead of the correct International Application Number of PCT/US97/16204 on both the Petition and the Transmittal Letter." These papers were stamped with serial number **09/380,928**.

On 22 September 1999, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee; an international search report; and petition seeking revival under 37 CFR 1.137(b) with the appropriate fee; and a request for refund of fees. These papers were stamped with serial number **09/381,750**.

On 17 April 2000,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 executed oath or declaration in compliance with 37 CFR 1.497 was omitted and additional claim fees of $636 as a large entity, including any required multiple dependent claim fee, were required. The notification set a ONE (1) MONTH period for response.

DISCUSSION

37 CFR 1.26 provides, in part: (a) Any fee paid by actual mistake or in excess of that required will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw an application, an appeal, or a request for oral hearing, will not entitle a party to demand such a return.

Applicant states in the 22 September 1999 Request for Refund that "[i]nadvertently, an incorrect International application number of PCT/US97/62101 was listed instead of the correct International Application Number PCT/US97/16204 on both the Petition and Transmittal letter . . . To avoid any confusion occurring as the result of the incorrect application appearing on the Petition and Transmittal letter filed Sept. 9, 1999 we are refiling the Petition for Revival . . . " A review of the finance record for application no. 09/381,750 reveal that applicant has submitted the following fees:

1) $970 (fee code 960)
2) $130 (fee code 154)
3) $594 (fee code 966)
4) $312 (fee code 964)
5) $1210 (fee code 141)
6) $358 (fee code 198)

Under 37 CFR 1.26, applicants Deposit Account No. 01-2508 will be credited $3,574.00.

CONCLUSION

The request for refund is **GRANTED**, and the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 17 April 2000 is hereby **VACATED**.

The application papers filed on 09 September 1999 have been removed from **09/380,928** and placed in application folder **09/381,750**.

Applicant should use application number **09/381,750** in all future communications with the Patent and Trademark Office (PTO) in regards to the U.S. national stage of international application PCT/US97/16204.

Leonard Smith
Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Fax: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 4/19/07

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/381750 Patent No.: 7169764B1

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**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

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: _____

Joe Woitas
SPE

1636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 32

Date : November 5, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/382,141**

Applicant(s) : Karen R. Ferguson et al
Application No. : 09/382,141
Filed : August 24, 1999

The above-identified application has been assigned Patent No. 6,823,316 and an issue date of November 23, 2004.

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 November 23, 2004:

"All reference to Patent No. 6,823,316 to Karen R. Ferguson et al of Michigan for SYSTEM AND METHOD OF DETERMINING A KNOWLEDGE MANAGEMENT SOLUTION appearing in the Official Gazette of November 23, 2004 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
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
Tamara K. Greene, PK3-910

UNITED STATES 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

WALTER E. ZIMMERMAN
FOLEY & LARDNER
FIRSTAR CENTER
777 E WISCONSIN AVENUE
MILWAUKEE, WI 53202-5367

COPY MAILED

NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Karen R. Ferguson et al
Application No. 09/382,141
Filed: August 24, 1999
Attorney Docket No. 26167/616

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

This is a decision on the petition, filed November 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 August 5, 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 the undersigned at (571) 272-3218.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 3623 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

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
Hans J. Hansen et al	:
Serial No.: 09/382,186	: WITHDRAWAL OF ATTORNEY
Filed: August 23, 1999	:
Attorney Docket No.: 018733-0942	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
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

HELLER EHRMAN WHITE & MCAULIFFE, LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Hans J. Hansen, et. al.	:	
Application No. 09/382,186	:	ON PETITION
Filed: August 23, 1999	:	
Attorney Docket No. 40923-0074	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2005, to revive the above-identified application.

The Office hereby acknowledges receipt of $750 for the petition to revive fee, an amendment, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

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.

This application is being referred to Technology Center Art Unit 1644, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Heller Ehrman White & McAuliffe, LLP
1666 K Street, NW
Suite 300
Washington, DC 20006-4004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. None

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Application of
Jeffry Jovan Philyaw
Application No. 09/382,372
Filed: August 24, 1999
Attorney Docket Number:
PHLY-24738
Title: METHOD AND APPARATUS FOR MATCHING A USER'S USE PROFILE IN COMMERCE WITH A BROADCAST

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

This is a decision on the petition filed March 14, 2007, under 37 C.F.R. §1.137(a)[1], 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 October 25, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on

1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

January 26, 2007. A Notice of Abandonment was mailed on February 27, 2007.

With the present petition, Petitioner has submitted, *inter alia*, the petition fee, the issue fee, and a statement of facts.

Petitioner has asserted that the notice was not timely received, in that it was "delivered to the wrong box by the Post Office" and as such, the forwarding of this mail "delayed receipt of the Notice of Allowance until February 19, 2007."

MPEP 711.03(c) states, *in pertinent part*:

> PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
>
> 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> 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).
>
> Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

Petitioner has set forth that the mailing was not timely received due to USPS delivery error. In order to establish that the mailing was not timely received, Petitioner will need to provide a copy of the docket record where the nonreceived Office communication would have been entered had it been timely received and docketed.

It follows that the present petition must be **DISMISSED.**

It is noted that Petitioner has further asked that the petition fee be refunded to his Deposit Account. This request cannot be granted - the rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition[3]. Payment of the $250 petition fee is acknowledged. Moreover, it does not appear that this petition was not necessitated by any error on the part of the Office.

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. 1.137(a)". 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[4], hand-delivery[5], or facsimile[6]. If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

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3 35 USC §41(a)(7).
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. 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

---

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

UNITED STATES 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

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

COPY MAILED
AUG 0 6 2007
OFFICE OF PETITIONS

In re Application of Jeffry Jovan Philyaw Application No. 09/382,372 Filed: August 24, 1999 Attorney Docket Number: PHLY-24738 Title: METHOD AND APPARATUS FOR MATCHING A USER'S USE PROFILE IN COMMERCE WITH A BROADCAST	: : : : : : : : : : :	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(A)

This is a decision on the renewed petition filed July 9, 2007, under 37 C.F.R. §1.137(a)[1], 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 October 25, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on

1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to 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 was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

January 26, 2007. A Notice of Abandonment was mailed on February 27, 2007.

An original petition was filed on March 14, 2007, along with the petition fee, the issue fee, and a statement of facts that asserted that the mailing was not received. The original petition was dismissed via the mailing of a decision on June 14, 2007 for failure to establish that the mailing was not timely received.

With this renewed petition, Petitioner has submitted a copy of the docket record where the nonreceived Office communication would have been entered had it been timely received and docketed.

Consequently, Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received. Accordingly, the petition under 37 C.F.R. §1.137(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[3]. 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

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3 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).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 19

JOHN H SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET S E
CEDAR RAPIDS IA 52401

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of
Heinrich, et al.
Application No.: 09/382,382
Filed: August 24, 1999
Attorney Docket No.: YO995-218
For: RADIO FREQUENCY IDENTIFICATION SYSTEM WRITE BROADCAST CAPABILITY

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 28, 2003.

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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

On July 1, 2003, a Notice of Allowance was mailed that required petitioners to submit an executed declaration within three months of the mail date of the Notice. The instant petition was filed on September 28, 2003.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Christian Lenz Cesar cannot be located. The petition contains a declaration by Attorney John H. Sherman who states that an Express Mail package containing a copy of the application and a declaration was mailed to Dr. Cesar at his last known address on September 20, 2003, and that the package was not deliverable. Exhibit E to the Sherman declaration is an e-mail dated September 24, 2003 from Carlene Pierson to Attorney Sherman. Ms. Pierson writes that an unidentified woman answered the telephone at Dr. Cesar's last known telephone number and stated that Dr. Cesar is in Europe for three weeks.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located

or reached. While petitioners' mailing to Dr. Cesar was not delivered, there is evidence to show that he would not be adverse to receiving mail concerning this application. Dr. Cesar, himself, provided petitioners with his correct mailing and e-mail addresses. Furthermore, the evidence presented shows that Dr. Cesar's lack of cooperation is a function of his being out of the country. A woman answering the telephone at his last known phone number stated that he was out of town for three weeks. As stated in MPEP 409.03(d), " The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47(a)."

Petitioners must engage in further efforts to obtain a signed declaration from Dr. Cesar. Petitioners have a two month extendable period to reply to this decision. Dr. Cesar's trip to Europe will be over long before any reconsideration petition is due.

The Office requires petitioners to mail a complete copy of the application, including specification, claims and drawings, and the declaration to the inventor's last known address with the request that he sign the declaration.

It appears that petitioners have located Dr. Cesar's residence. Thus, inability to reach/locate him is not a ground for granting 47 status. Thus, in order to obtain 47 status, petitioner must show refusal, either express or constructive, on Dr. Cesar's part to execute the declaration. When petitioners can show that Dr. Cesar received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Pursuant to petitioners' authorization, deposit account no. 14-1190 will be charged the $130 fee associated with filing a petition under 37 CFR 1.47(a).

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 24

JOHN H SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET S E
CEDAR RAPIDS IA 52401

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Heinrich, et al. :
Application No.: 09/382,382 :
Filed: August 24, 1999 :
Attorney Docket No.: YO995-218 :
For: RADIO FREQUENCY IDENTIFICATION :
SYSTEM WRITE BROADCAST CAPABILITY :

ON PETITION

This decision is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment. In the alternative, petitioners request revival under 37 CFR 1.137(b). Both petitions were filed in the same paper on February 20, 2004. In addition, the decision will address the outstanding declaration issue in this application. To that end, the instant petitions will be treated as a constructive reconsideration petition under 37 CFR 1.183 to waive 37 CFR 1.67.

On July 1, 2003, the Office mailed a Notice of Allowance and Fee(s) Due requiring petitioners to submit required fees within three (3) months of the Notice's mail date. A review of Office financial records for this application reveals that the issue fee and publication fees have not been paid. In previous correspondence, petitioner stated that a RCE would be filed in response to the July 1, 2003 Notice. The Office has no record of receiving a RCE prior to the October 1, 2003 deadline for response to the July 1, 2003 Notice. Therefore, this application was held abandoned as of October 2, 2003. The filing of the instant petitions precedes the mailing of a Notice of Abandonment.

Petitioners assert that an RCE and IDS submission were timely transmitted via facsimile to and received by the Office on September 29, 2003. The Office has no record of receiving these items. However, the copy of the aforementioned filing submitted with the instant petition contains a proper certificate of facsimile transmission citing a September 29, 2003 date of deposit.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission of the RCE and IDS submission on September 29, 2003.

The petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment is withdrawn.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

On October 21, 2003 petitioners submitted a declaration executed by the previously non-signing inventor, Christian Lenz. Therefore, all joint inventors have signed the supplemental declaration. The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **DISMISSED AS MOOT**.

No additional petition fees have been charged in connection with these matters.

After the mailing of this decision, the application file will be forwarded to Technology Center 2600's technical support staff for entry of the RCE and IDS submission, filed September 29, 2003, and charging of related fees.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 33

JOHN H. SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS, IA 52401

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OFFICE OF PETITIONS

In re Application of	:
Harley Kent Heinrich et al	:
Application No. 09/382,382	: DECISION GRANTING PETITION
Filed: August 24, 1999	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. YO995-218	:

This is a decision on the petition, filed July 26, 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 18, 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 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 2635 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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. 34

Date : July 26, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/382,382**

Applicant(s) : Harley Kent Heinrich et al
Application No. : 09/382,382
Filed : August 24, 1999

The above-identified application has been assigned Patent No. 6,768,414 and an issue date of July 27, 2004.

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 July 27, 2004:

> **"All reference to Patent No. 6,768,414 to Harley Kent Heinrich et al of New York for RADIO FREQUENCY IDENTIFICATION SYSTEM WRITE BROADCAST CAPABILITY appearing in the Official Gazette of July 27, 2004 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: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
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
Tamara K. Greene, PK3-910

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. ___

JOHN H. SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS, IA 52401

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OFFICE OF PETITIONS

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In re Application of
Harley Kent Heinrich et al
Application No. 09/382,382
Filed: August 24, 1999
Attorney Docket No. YO995-218

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 26, 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 18, 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 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 2635 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 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
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Alexandria, VA 22313-1450
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JAMES E. EAKIN
MCDERMOTT, WILL & EMERY
3150 PORTER DRIVE
PALO ALTO, CA 94304-1212

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MAR 1 5 2006

OFFICE OF PETITIONS

In re Patent No. 6,295,599 :
Issue Date: September 25, 2001 :
Application No. 09/382,402 : ON PETITION
Filed: August 24, 1999 :
Attorney Docket No. 43876-111 :

This is a decision on the petition filed January 23, 2006, to accept and record payment of a maintenance fee filed prior to expiration of patent, which is treated under 37 CFR 1.377.

The petition is **GRANTED**.

The patent issued September 25, 2001. Accordingly, the first maintenance fee due could have been paid during the period from September 25, 2004 through March 25, 2005 or with a surcharge during the period from March 26, 2005 through September 25, 2005. This petition was held expired September 26, 2005 for failure to timely pay the first maintenance fee on or September 25, 2005.

Petitioner contends that a maintenance fee transmittal and fees in the amount of $900 was remitted to the US Patent and Trademark Office on February 22, 2005 and provides a copy of a postcard receipt date stamped February 22, 2005 by the USPTO and a copy of the maintenance fee transmittal as proof of payment of the maintenance fee. The transmittal authorized the Office to charge counsel's deposit account no. 50-0417, in the amount of $900 for the first maintenance fee. The office records don't show that the transmittal was ever received or that petitioner's deposit account was ever charged.

Based on the evidence present in the record, it is concluded that the first maintenance fee payment for the present patent was timely proffered but was not matched with the file for the instant patent. The first maintenance fee has now been accepted as having been timely received on February 22, 2005 and is being charged to deposit account no. 50-0417.

In view of the above, the maintenance fee having been timely paid prior to expiration of the patent, the petition is granted. No petition fee is due and none has been charged.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries specific to 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
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Washington, D.C. 20231
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Paper No. 19

HOWISON, THOMA & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of
Jeffrey Lovan Philyaw and David Kent Mathews
Application No. 09/382,424
Filed: August 24, 1999
Attorney Docket No. PHYLY-24.733
Title: METHOD AND APPARATUS FOR TRACKING USER PROFILE AND HABITS ON A GLOBAL NETWORK

DECISION GRANTING PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on March 17, 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 C.F.R §1.113 in a timely manner to the final Office action mailed March 12, 2002, which set a shortened statutory period for reply of three (3) months. On September 16, 2002, a three-month extension of time was received, along with an amendment[2]. On September 27, 2002, an advisory action was mailed, indicating that the amendment failed the place the application in condition for allowance. No further extensions of time were received. Accordingly, the above-identified application became abandoned on September 13, 2002.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, as well as the associated fee, and has made the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment, previously filed on September 16, 2002, shall serve as the required submission.

---

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.

2 Both papers contained certificates of mailing dated September 11, 2002.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for consideration of the submission under 37 C.F.R. §1.114, the previously filed amendment.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 09/382,443 :
Filed: August 25, 1999 : ON PETITION
Title of Invention: :
REVERSE CLOSED LOOP POWER :
CONTROL IN CONTROL HOLD STATE :
FOR CDMA COMMUNICATION SYSTEM :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed October 3, 2005.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the final Office action, mailed September 1, 2004. The Office action set a three (3) month period for reply. No reply having been received, the above-identified application became abandoned December 2, 2004. A Notice of Abandonment was mailed August 19, 2005.

Applicant's Assertion

Applicant asserts that a timely reply to the Office action including, *inter alia*, a Request for a two (2) month extension of time, and fee, and a Request for Continued Examination ("RCE") and fee, were timely filed and received in this Office on February 24, 2005. In support of this assertion, Applicant provides, *inter alia*, copies of the Request for a two (2) month extension of time and RCE, and authorization to charge deposit account 04-1121 the extension of time fee and RCE fees. The Request for Extension of Time and RCE both contain Certificates of Mailing certifying that that the Extension of time and RCE were mailed to this Office on February 22, 2004. In further support of his assertion, Applicant provides a copy of his return-receipt postcard.

A review of the return-receipt postcard reveals that this Office did receive the Request for Extension of Time and RCE on February 4, 2004.

A review of the copy of the RCE request filed with the petition reveals that the application serial number thereon is 09/3*28*,443, and not 09/382,443. A review of the copy of the Request for Extension of Time filed with the petition reveals that it contains application serial number 09/382,443.

A further review of Office records reveals that, while the fee for an extension of time was correctly charged Applicant's deposit account and to application 09/382,443, the fee for the RCE was charged to applicant's deposit account, but to application 09/328,443.

Moreover, a review of Office records reveal that an RCE was filed in application 09/328,443 on February 24, 2004.

Apparently the RCE was filed in this Office on February 24, 2004, and due to errors on the part of Applicant and this Office, was inadvertently placed in application serial number 09/328,443. Accordingly, the petition is granted.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged, and none is due.

The application file is being referred to Technology Center Art Unit 2683 for continued processing in due course. The submission, in the form of an amendment, was filed on December 2, 2004 (Certificate of Mailing dated November 30, 2004).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
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

In re Patent No. 6302039
Issue Date: October 16,2001
Application No. 09382453
Filed: August 25,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 19,2010 ,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 January 19,2010 .
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)
6,302,039	2001-10-16	09/382,453	1999-08-25	

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	/Colin MacCallum/	Date (YYYY-MM-DD)	2010-01-19
Name	Colin MacCallum		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402
BOISE, ID 83716

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OFFICE OF PETITIONS

In re Application of
Paul A. Farrar
Application No. 09/382,524
Filed: August 25, 1999
Attorney Docket No. 303.610US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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** 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, 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 1.

It is noted that petitioner submitted a Request for Continued Examination (RCE) under 37 CFR 1.14 with the present petition. However, the RCE is improper, since the request was not filed prior to July 19, 2004, the date upon which the application became abandoned for failure to pay the issue fee. 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. Accordingly, this application cannot be revived in favor of the RCE until the requisite issue fee is paid. Petitioner is reminded that if the RCE is subsequently allowed, this fee can be reapplied towards the issue fee required by any new Notice of Allowance mailed in the RCE.

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[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).

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 Fax: (703) 872-9306

Any questions concerning this matter may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley

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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 8

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Thanh Tran et al.	:	
Application No. 09/382,553	:	ON PETITION
Filed: August 25, 1999	:	
Attorney Docket No. 99-P-7755-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 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.

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 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).

---

[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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 8, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(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) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

By mail: U.S. Patent and Trademark Office
Mail Stop Petitions
Mailstop DAC
Arlington, VA 22202

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

cc: Attn : Elsa Keller, IP Dept.
Siemens Corporation
Intellectual PropertyDepartment
170 Wood Avenue South
Iselin, NJ 08830

Attachment: Courtesy copy of Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 11

Attn: Elsa Keller
Siemens Corporation
Intellectual Property Department
170 Wood Avenue, South
Iselin, NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Thanh Tran et al. :
Application No. 09/382,553 : ON PETITION
Filed: August 25, 1999 :
Attorney Docket No. 99-P-7755-US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 27, 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 2642 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
P.O. Box 1450
Alexandria, VA 22313-1450
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200 WEST ADAMS STREET SUITE 2850
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Craig H. DEES et al.	:	
Application No. 09/382,622	:	DECISION ON PETITION
Filed: August 25, 1999	:	
Attorney Docket No. **PHO-107-DIV**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 05, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file corrected drawings on or before January 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 17, 2007. Accordingly, the date of abandonment of this application is January 18, 2008.

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 $1440; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Publishing Division for processing into a patent.

David Buczi
Petitions Examiner
Office of Petitions

#13
DW

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

MAR - 8 2002

Norman P. Friederichs
Friederichs Law Firm PLC
PO Box 1163
Minnetonka, MN 55345

MAILED
MAR - 8 2002
OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Cully T. Cederberg	:	
Serial No. 09/382,709	:	DECISION ON REQUEST
Filed August 23, 1999	:	FOR SUPERVISORY REVIEW
For: THE DOOR JAMB	:	

This is in response to the REQUEST FOR SUPERVISORY REVIEW filed February 13, 2002.

This application is currently under a non-final Office action mailed November 26, 2001.

The petition is DENIED.

Petitions for supervisory review are filed under 35 USC 1.181. Such petitions must contain a statement of the facts involved, the points to be reviewed and the action requested. This petition contains none of the above, merely requesting that a supervisor review the Office action dated November 26, 2001.

Applicant has filed this petition based on suggestion by the Supervisory Patent Examiner, Carl Friedman, who indicated that if applicant was not happy with the action that such a petition be filed. As noted above the petition is incomplete. Further, applicant should be made aware that such petitions are only for procedural matters and not matters subject to appeal.

The application is being returned to Central Files to await applicant's response to the outstanding Office action.

Anthony Knight, Acting Director
Technology Center 3600
703-308-3179

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

ANGENEHM LAW FIRM, LTD
P.O. BOX 48755
COON RAPIDS, MN 55448

In re Application of
Cully T. Cederberg et al.
Application No. 09/382,709
Filed: August 23, 1999
For: THE DOOR JAMB

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on April 16, 2003. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED.**

A review of the file record reveals that a Notice of Allowability and a Notice of Allowance and Fee Due were mailed to applicants on May 6, 2002. Also a Notice to File Corrected Application Papers was mailed on August 20, 2002 giving applicant 30 days to correct informalities. Applicant did not respond to either the Notice of Allowance mailed on May 6, 2002 nor the Notice mailed August 20, 2002. Since applicant did not respond to the Notice to File Corrected Application Papers was mailed on August 20, 2002 the application was abandoned and a Notice to that effect was mailed on February 4, 2003. Also applicant did not respond to the Notice of Allowance.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) 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

(3) 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.

Applicant has failed to comply with requirements (2) and (3) above.
As to requirement (2), applicant has not provided a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

As to requirement (3), the docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of August 6, 2002 and September 19, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/en 10/02/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
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ANGENEHM LAW FIRM, LTD
P.O. BOX 48755
COON RAPIDS, MN 55448

In re Application of	:	
Cully T. Cederberg et al.	:	DECISION ON PETITION
Application No. 09/382,709	:	TO WITHDRAW THE
Filed: August 23, 1999	:	HOLDING OF ABANDONMENT
For: THE DOOR JAMB	:	

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on November 18, 2003.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowability and a Notice of Allowance and Fee Due were mailed to applicants on May 6, 2002. Also a Notice to File Corrected Application Papers was mailed on August 20, 2002 giving applicant 30 days to correct informalities. Applicant did not respond to either the Notice of Allowance mailed on May 6, 2002 or the Notice mailed August 20, 2002. Since applicant did not respond to the above Notice to File Corrected Application Papers, the application was abandoned and a Notice to that effect was mailed on February 4, 2003. Applicants also failed to respond to the above Notice of Allowance.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) 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

(3) 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.

Applicant has failed to comply with requirements (2) and (3) above.

As to requirement (2), although the applicant has provided a statement attesting to the fact that a search of the file jacket and docket records was conducted, it appears that a search of Mr. N. Paul Friederichs's copy of the file was conducted rather than the file of Mr. Norman P. Friederichs, original attorney of record.

As to requirement (3), the docket record attached with the renewed petition shows only two entries, one on May 8, 2002 and another on November 18, 2003. The Notice of Allowance and Fees Due was mailed on May 6, 2002 and the Notice to File Corrected Application Papers was mailed on August 20, 2002, both to the address of record at that time. Applicant filed a Revocation and Power of Attorney on April 16, 2003 and a Notice of Acceptance was mailed by the Office on August 26, 2003 and the correspondence address was changed to the address above. Thus, the docket record of consequence is the record associated with the mailing address prior to August 26, 2003; namely, Mr. Norman P. Friederichs docket record. According to Mr. N. Paul Friederichs's declaration attached to the Petition filed April 16, 2003, the Minnesota Lawyers Board of Professional Responsibility ("Board") took control of Mr. Norman P. Friederichs law firm while he was in the hospital. The declaration further states that the Board organized files and sent the files and paperwork to the clients and that some client paperwork was inadvertently misdirected. A docket report covering this period would be necessary to evaluate whether or not documents were received at the address of record at that time.

It should be noted that the Office file currently contains copies of mailed documents (including the Notice of Allowance in question) which were mailed to the correct address of record but which were returned to the Office because they were undeliverable or possibly inadvertently mailed back to the Office by the Minnesota Lawyers Board.

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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

SUMMARY: Petition to Withdraw Abandonment is **DISMISSED**.

The application is being forwarded to the Office of Petitions to act on applicant's alternative Petition to Revive for Unavoidable Delay or Revive for Unintentional Delay.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM /mjz : 2/13/04

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COON RAPIDS, MN 55448

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Cederberg et al. :
Application No. 09/382,709 :
Filed: August 23, 1999 :
Attorney Docket No. S 855-004-PAT :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 24, 2003, and supplemented September 20, 2004, 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. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Procedural History:

A Notice of Allowance and a Notice of Allowability were mailed to the address of record on May 6, 2002.

A response was not received to the Notices. Therefore, the application became abandoned as of August 6, 2002.

On August 20, 2002, a Notice to File Corrected Application Papers was mailed to the address of record. A response to the Notice has not been received. Therefore, *even if* the Office held the application not abandoned for failure to respond to the May 6, 2002 Notices, the application would be abandoned for failure to respond to the August 20, 2002 Notice.

On August 26, 2002, a new power of attorney and change of address were submitted.

A Notice of Abandonment was mailed on February 4, 2003.

A petition to withdraw the holding of abandonment was filed on April 16, 2003. A decision dismissing the petition was mailed on October 14, 2003.

A renewed petition to withdraw the holding of abandonment was filed on November 18, 2003. The petition requested that, should the petition to withdraw the holding of abandonment be dismissed, the petition be considered under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b).

A decision dismissing the petition to withdraw the holding of abandonment was mailed on February 18, 2004.

The decision stated, "The application is being forwarded to the Office of Petitions to act on applicant's alternative Petition to Revive for Unavoidable Delay or Revive for Unintentional Delay."

Petitioner filed a Supplemental Argument to the previous petition on September 20, 2004.

Analysis:

Since the petition to withdraw the holding of abandonment filed November 18, 2003, was dismissed. The Office of Petitions must consider the November 18, 2003 paper under 37 CFR 1.137(a), or in the alternative, under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(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) 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 item (1).

Three Notices have been mailed which required replies.

A reply to the Notice of Allowance has been received since the general fee authorization in the April 16, 2003 petition was submitted after the mailing of the Notice of Allowance. The sum of $650 will be charged for the issue fee.

The file history fails to indicate a response has been submitted in reply to the Notice of Allowability which required corrected drawings.

The file history fails to indicate a response has been submitted in reply to the Notice to File Corrected Application Papers.

For the reasons above, the petition under 37 CFR 1.137(a) will not be granted.

The fee of $55 will be charged to petitioner's deposit account for the petition under 37 CFR 1.137(a) filed November 18, 2003.

Since the petition under 37 CFR 1.137(a) is being dismissed, the Office normally would consider the petition filed in the alternative under 37 CFR 1.137(b). However, considering all the facts and circumstances, the Office will refrain at this time from considering the merits of the petition under 37 CFR 1.137(b) since such consideration would require the Office charge $665 to petitioner's deposit account.

As a courtesy, copies of all papers mailed from the Office on May 6, 2002, and August 20, 2002, accompany 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 facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copies of papers mailed from the Office on May 6, 2002, and August 20, 2002

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cederberg et al. :
Application No. 09/382,709 :
Filed: August 23, 1999 :
Attorney Docket No. S 855-004-PAT :

This is a decision in response to the paper filed April 11, 2005, which is being treated as a renewed petition under 37 CFR 1.137(a) 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. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Procedural History:

A Notice of Allowance and a Notice of Allowability were mailed to the address of record on May 6, 2002.

A response was not received to the Notices. Therefore, the application became abandoned as of August 6, 2002.

On August 20, 2002, a Notice to File Corrected Application Papers was mailed to the address of record. A response to the Notice has not been received. Therefore, *even if* the Office held the application not abandoned for failure to respond to the May 6, 2002 Notices, the application would be abandoned for failure to respond to the August 20, 2002 Notice.

On August 29, 2002, a petition to withdraw the holding of abandonment, or in the alternative a petition under 37 CFR 1.137(a) and 37 CFR 1.137(b), was filed. In addition, a new power of attorney and change of address were submitted.

Apparently the petition filed on August 29, 2002, were misplaced and were not properly matched with the file.

A Notice of Abandonment was mailed on February 4, 2003.

A copy of the August 29, 2002 petition to withdraw the holding of abandonment was filed on April 16, 2003.

The Technology Center issued a decision dismissing the petition under 37 CFR 1.181, on October 14, 2003.

Normally the file would have been forwarded to the Office of Petitions to issue decisions on the

petitions filed in the alternative under 37 CFR 1.137. However, on November 18, 2003, a renewed petition under 37 CFR 1.181 was filed. The petition requested that, should the petition to withdraw the holding of abandonment be dismissed, the petition be considered under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b). The merits of a petition under 37 CFR 1.181 are always considered prior to the merits of a petition under 37 CFR 1.137. Therefore, the Technology Center retained control of the matter and rendered a decision dismissing the petition on February 18, 2004.

The decision was returned by the USPS as undeliverable. A review of the decision indicates the decision included the correct address. The Office does not know the reason the USPS was unable to deliver the decision.

The decision stated, "The application is being forwarded to the Office of Petitions to act on applicant's alternative Petition to Revive for Unavoidable Delay or Revive for Unintentional Delay." However, the Office of Petitions did not receive the file or notice of the need to file the petition. During this time period, the file was converted from a paper file wrapper to an electronic file wrapper which may have contributed to the error by the Office.

Petitioner filed a Supplemental Argument to the previous petition on September 20, 2004. A decision dismissing the petition was mailed January 31, 2005.

Analysis:

The instant petition states that the original petition filed on August 29, 2002, included three grounds for revival. The instant petition states only one of the grounds for relief was considered and that the petition has never fully been adjudicated. The instant petition requests a "complete decision" on the petition.

The request for relief under 37 CFR 1.137(a).

As stated in the January 31, 2005 decision, relief under 37 CFR 1.137(a) can not be granted until replies have been filed to the Notice of Allowability mailed May 6, 2002, and the Notice to File Corrected Papers mailed August 20, 2002.

The file history fails to indicate a response has been submitted in reply to the Notice of Allowability which required corrected drawings.

The file history fails to indicate a response has been submitted in reply to the Notice to File Corrected Application Papers.

The Office simply can not revive the application and issue the application as a patent until corrected drawings are filed and the inventorship issues listed in the Notice to File Corrected Application Papers are resolved.

The request for relief under 37 CFR 1.137(b).

Since the petition under 37 CFR 1.137(a) is being dismissed, the Office normally would consider the petition filed in the alternative under 37 CFR 1.137(b). However, **as a courtesy**, considering all the facts and circumstances, the Office will refrain at this time from considering the merits of the petition under 37 CFR 1.137(b) at this time.

If the petition under 37 CFR 1.137(b) is not considered at this time and petitioner responds by submitting replies to the Notices, then the application will be revived without having charged $665 for the petition under 37 CFR 1.137(b) since the merits of the petition under 37 CFR 1.137(b) were never considered.

If the merits of the petition under 37 CFR 1.137(b) were considered, $665 would be charged, and the decision would likely appear almost identical to this decision because a petition under 37 CFR 1.137(b) could not be granted until the replies previously discussed were filed.

One might argue that in this case, considering the petition under 37 CFR 1.137(b) would bring petitioner no benefit while costing petitioner $665. The Office is holding a decision on the petition in abeyance but is willing to issue a decision on the petition if petitioner continues to desire a "complete decision" on the original 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
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copies of Notice of Allowability mailed May 6, 2002, and Notice to File Corrected Application Papers filed August 20, 2002

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cederberg et al. :
Application No. 09/382,709 :
Filed: August 23, 1999 :
Attorney Docket No. S 855-004-PAT :

This is a decision in response to the paper filed April 11, 2005, which is being treated as a renewed petition under 37 CFR 1.137(a) to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) filed in the alternative.

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

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

A Notice of Allowance and a Notice of Allowability were mailed to the address of record on May 6, 2002. A response was not received to the Notices. Therefore, the application became abandoned as of August 6, 2002. A Notice of Abandonment was mailed on February 4, 2003.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

Since the petition under 37 CFR 1.137(a) has been granted, the petition under 37 CFR 1.137(b) is unnecessary and is dismissed as moot.

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 attached blank Issue Fee Transmittal Form should be completed and returned to the Office of Publications within **ONE MONTH** from the mail date of this decision.

The Office of Publications will be informed of the instant decision so that it may consider the declaration and drawings filed with the petition and take steps to issue the application as a patent.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of Issue Fee Transmittal Form

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Paper No. 24

DANIEL E MORRIS
INTELLECTUAL PROPERTY LAW DEPT
IBM COPORATION
P O BOX 218
YORKTOWN HEIGHTS, NY 10598

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OFFICE OF PETITIONS

In re Application of
Brian S. Beaman, et al.
Application No. 09/382,834
Filed: August 25, 1999
Attorney Docket No.YO993-028BX

ON PETITION

This is a decision on the petition, filed by facsimile transmission on June 20, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 17, 2002, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed March 19, 2003.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center 2829 for consideration of the amendment filed June 20, 2003.

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

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DANIEL E MORRIS
INTELLECTUAL PROPERTY LAW
DEPT
IBM COPORATION
P O BOX 218
YORKTOWN HEIGHTS, NY 10598

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OFFICE OF PETITIONS

In re Application of	:	
Beaman et al.	:	
Application No.: 09/382834	:	
Filing or 371(c) Date: 08/25/1999	:	ON PETITION
Attorney Docket Number:	:	
YO993-028BX	:	

This is a decision on the correspondence entitled "Withdrawal of the Notice of Abandonment Dated November 4, 2005 for Patent Office Error," filed November 17, 2005. The correspondence is properly treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

Applicant filed a Notice of Appeal on January 20, 2005, and thereafter filed a document entitled "AMENDMENT, REQUEST FOR CONTINUED EXAMINATION AND WITHDRAWAL OF NOTICE OF APPEAL" on June 16, 2005.

The Office mailed an Advisory Action on August 19, 2005, informing Applicant that the Amendment filed June 16, 2005 raised issues of new matter and would not be entered for purposes of appeal.

A Notice of Abandonment was mailed November 4, 2006.

The present petition

Applicant files the instant petition and asserts that an RCE was timely filed and requests withdrawal of the holding of abandonment.

Analysis and conclusion

A review of the application file reveals that Applicant included with his RCE request an authorization to charge fees. Also, the application file reveals that the RCE has been processed in the Technology Center and the RCE was charged on March 22, 2007.

In view of the foregoing, the petition is granted.

The application will be referred to Technology Center Art Unit 2829 for processing of the Reply, and for continued processing in due course.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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DEC - 8 2003

ELMORE CRAIG, P. C.
209 MAIN STREET
NO. CHELMSFORD MA 01863

In re Application of	:
David A. Edwards et al	:
Serial No.: 09/383,054	: PETITION DECISION
Filed: August 25, 1999	:
Attorney Docket No.: 2685.1003-001	:

This is a decision on the petition under 37 CFR 1.181, filed June 24, 2003, to have an amendment after final rejection entered.

A review of the file history shows that the examiner mailed a Final Office action to applicants on November 14, 2002, setting a three month shortened statutory period for reply. Applicants replied on May 14, 2003, with an amendment after Final rejection and request for three month extension of time and fee therefor, proposing amendments to claims 50, 63-66, 69, 91, 103-106 and 128-131 with cancellation of claims 51 and 92. A Notice of Appeal and fee therefor was filed concurrently. The examiner considered the proposed amendment and denied entry by means of an Advisory action mailed May 28, 2003, with the statement that the "examiner has not searched the claims with this more restrictive language."

Applicants then filed a "Request for Reconsideration and Petition Under 37 CFR 1.181" requesting review of the examiner's action. The examiner treated the submission as a request for reconsideration and not as a petition since it was unclear that it should be treated as a petition, and again denied entry of the amendment for essentially the same reasons by means of a second Advisory Action mailed August 4, 2003. Upon telephone inquiry by applicants, it was made clear that the Request should have been treated as a petition, thus this decision.

Upon review of the amendment and reasons for denial of entry, it is concluded that applicants have merely incorporated the limitations of a rejected dependent claim into an independent claim. As such the amendment raises no new issues and inherently must have been searched and examined by the examiner since the dependent claim was rejected. Such amendment does not affect the rejection of record and does reduce or simplify the issues for appeal without raising any new issues. In view thereof the amendment will be entered.

Applicants' petition is **GRANTED**

The amendment filed May 14, 2003, will be entered.

Applicants remain under obligation to file an appropriate Appeal Brief or take other appropriate action within the time period set by the filing of the Notice of Appeal on May 14, 2003.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

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

MAILED #6

MAR - 7 2001

R WILLIAM JOHNSTON
CHRISTIE PARKER & HALE LLP
P O BOX 7068
PASADENA , CA 91109-7068

In re Application of	:
John A. Arcadi	:
Serial No.: 09/383,114	: PETITION DECISION
Filed: August 25, 1999	:
Attorney Docket No.: 35687/RWJ/H29	:

This is in response to applicant's petition under 37 CFR 1.103, filed February 23, 2001, to suspend prosecution of the above identified application for ten months.

Applicant seeks suspension of the examiner's action on this application for a period of ten months should the application not be found allowable as is, presumably to complete additional testing trials, although this is not specifically set forth.

BACKGROUND

This application was filed August 25, 1999, and was complete except for the executed declaration which was filed in reply to a Notice of Missing Parts of Application, Filing Date Granted. The examiner of this application issued a first Office action on October 23, 2000, rejecting the claims under 35 U.S.C. 103(a). Applicant responded to the Office action by filing a proper response and amendment and by concurrently filing this petition.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in §1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicant for **good and sufficient cause** (emphasis added). Applicant does not set forth any reason in the petition other than to refer to the reply which indicates continuing human trials. Such is not sufficient to warrant suspension unless it is also shown that such trials cannot be completed within a reasonable amount of time and that they are necessary for patentability. Since applicant's reply which references the trials and provides affidavit evidence has not been evaluated by the examiner suspension of prosecution is not warranted. Further, suspension of prosecution is not granted for more than six months. Suspension beyond six months may be requested in six month increments.

DECISION

The petition to suspend action is <u>DENIED</u>. Applicant has not presented a "good and sufficient cause" warranting suspension of action by the examiner.

The application will be forwarded to the examiner following the mailing of this decision for further action not inconsistent with this decision.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mailing date of 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.

John Doll
Director, Technology Center 1600

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SQUIRE, SANDERS & DEMPSEY LLP
14TH FLOOR
8000 TOWERS CRESCENT DRIVE
TYSONS CORNER VA 22182-2700

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OFFICE OF PETITIONS

In re Application of
VAN DER VEEN
Application No. 09/383,115
Filed: August 25, 1999
Attorney Docket No. 21336-703

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005 (certificate of mailing dated August 25, 2005), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed January 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 27, 2005.

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 of $1400; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

In accordance with 37 CFR 1.33(a)(2), the correspondence address can be changed by the parties set forth in 37 CFR 1.33(b) except for registered practitioners who are not of record and that act in a representative capacity under the provisions of 37 CFR 1.34. Because the party requesting the change of correspondence address is a registered practitioner not of record, the correspondence address will remain unchanged.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is referred to Technology Center Art Unit 2143 for consideration of the Amendment After Allowance (37 CFR 1.312) dated August 29, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Robert B. Polit
Brinks Hofer Gilson & Lione
455 N. Cityfront Plaza Dr., #3600
Chicago, IL 60611

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Paper No. 14

MAY 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRETT C. MARTIN
1650 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of
Joseph KNOERLE, et al.
Application No. 09/383,145
Filed: August 26, 1999
For: METHOD AND SYSTEM FOR PRESERVING SERVICE NODE RESOURCES AND REDUCING CLIPPING EFFECT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance filed February 11, 2004.

The application is held as abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed August 11, 2003. A Notice of Abandonment was mailed February 4, 2004.

In the 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 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 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 Office action on the part of the Patent and Trademark Office.

The petitioner has not made a sufficient showing of non-receipt of the Office action in accordance with the requirements set forth above. The petition does not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record must be referenced in practitioner's statement. Petitioner states that the address was changed prior to the mailing of the Notice of Allowance. The change of address was entered into the file prior to the mailing of the Notice. It is noted that the application file is not associated with a customer number.

Accordingly, the petition is **DENIED.**

Should petitioner desire reconsideration, he or she should supplement this petition with a statement and docket records as outlined above.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and should provide the docket records and supplemental statement referencing the docket records as outlined above.

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

MAIL

FEB 27 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of
Joseph KNOERLE, et al.
Application No. 09/383,145
Filed: August 26, 1999
For: METHOD AND SYSTEM FOR PRESERVING SERVICE NODE RESOURCES AND REDUCING CLIPPING EFFECT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Renewed Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance filed May 20, 2004.

The application is held as abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed August 11, 2003. A Notice of Abandonment was mailed February 4, 2004.

In the 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 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 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 Office action on the part of the Patent and Trademark Office.

The petitioner has now made a sufficient showing of non-receipt of the Office action in accordance with the requirements set forth above. The petition includes a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record is referenced in practitioner's statement.

Accordingly, the petition is **GRANTED.**

The Notice of Abandonment is vacated and the holding of abandonment withdrawn. The Notice of Allowance mailed August 11, 2003 is also vacated.

Since it has been established that the Notice of Allowance was not received, it is presumed that the Notice of Allowability was also not received. 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. The new Notice of Allowance and the Notice of Allowability will be re-mailed to the address listed above. The statutory time period for paying the issue fee will be re-set to begin as of the mailing date thereof.

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
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AT&T LEGAL DEPARTMENT - WK
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Knoerle, et al.	:	
Application No. 09/383,145	:	DECISION
Filed: 26 August, 1999	:	
Attorney Docket No. BS99-010	:	

This is a decision on the petition filed on 3 February, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

It is noted that the address on the petition is different than that of record.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I)—*and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37*

C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 9 May, 2006, with reply due under a non-extendable deadline or before 9 August, 2006.

The application went abandoned by operation of law after midnight 9 August, 2006.

The Office mailed the Notice of Abandonment on 5 October, 2006.

On 12 December, 2006, Petitioner submitted a Revocation/Power of Attorney, however, that paper does not appear to have been entered, and Petitioner appears to have made no inquiry in that regard thereafter.

On 3 February, 2009, Petitioner filed a petition averring, *inter alia*, non-receipt, of the Notice of Allowance/Allowability and Fees Due and sought withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181—it is noted that the petition was filed more than two years after the Notice of Abandonment was mailed, and not a single Status Inquiry appears of record in that period. Turning to the 3 February, 2009, petition, Petitioner's showing is as follows:

- The instant application previously went abandoned after midnight 12 November, 2003, due apparently to failed mail delivery at the office of former Counsel—thereafter, the Office mailed a Notice of Abandonment on 4 February, 2004, and that matter was not resolved on first petition (filed 11 February, 2004, denied 5 May, 2004), and only resolved on second petition (filed 20 May, 2004, and granted on 27 February, 2006);

- However, in the interim a Revocation/Power of Attorney with certificate pursuant to 37 C.F.R. §3.73(b) was filed on 27 August, 2004, though not entered for reasons that are unclear (and Petitioner also appear not to have inquired as to that matter), with the result that the Notice of Allowance/Allowability and Fees Due mailed (re-mailed) on 9 may, 2006, was directed to the offices of former Counsel;

- Curiously, the 27 February, 2006, decision withdrawing the 4 February, 2004, holding of abandonment appears to have been received by Petitioner, however, Petitioner appears to have taken no action at that time to correct the Office error as to Counsel/Correspondence Address—and in any case, Petitioner appears not to have associated a Customer Number with the instant application in order to have on-demand information as to events/transactions in an application;

- As previously indicated, it was not until 3 February, 2009, that Petitioner filed a petition pursuant to 37 C.F.R. §1.181, and while Petitioner appears to have ignored the guidance in the Commentary at MPEP 711.03(c)(I), what is clear from the record is that the 9 May, 2006, Notice of Allowance/Allowability and Fees Due was directed to the offices of prior Counsel and not those of Petitioner as would have been proper pursuant to the 27 August, 2004, Revocation/Power of Attorney (with certificate pursuant to 37 C.F.R. §3.73(b)).

The discussion at MPEP 711.03(c)(I) provides in pertinent part:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master 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. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c)(C) ("Treatment of Untimely Petition To Withdraw Holding of Abandonment") in this regard, which provides in pertinent part:

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[1] *See*: MPEP §711.03(c) (I)(A).

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 5 October, 2006, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2614 for further processing as necessary in due course—*specifically to include the re-mailing of the 9 May, 2006, Notice of Allowance/Allowability and Fees Due.*

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
WITHERS & KEYS LLC
P.O. BOX 71355
MARIETTA, GA 30007-1355

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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CORRECTED
NOTICE OF ALLOWANCE AND FEE(S) DUE

28970 7590 05/09/2006

PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

EXAMINER	
LE, KAREN L	
ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 05/09/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,145	08/26/1999	JOSEPH MICHAEL KNOERLE	BS99-010	6171

TITLE OF INVENTION: METHOD AND SYSTEM FOR PRESERVING SERVICE NODE RESOURCES AND REDUCING CLIPPING EFFECT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	08/09/2006

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)

28970 7590 05/09/2006

PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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.
09/383,145	08/26/1999	JOSEPH MICHAEL KNOERLE	BS99-010	6171

TITLE OF INVENTION: METHOD AND SYSTEM FOR PRESERVING SERVICE NODE RESOURCES AND REDUCING CLIPPING EFFECT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$1400	08/09/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
LE, KAREN L	2614	379-221080

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
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,145	08/26/1999	JOSEPH MICHAEL KNOERLE	BS99-010	6171

28970 7590 05/09/2006

PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

EXAMINER
LE, KAREN L

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 05/09/2006

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)	
	09/383,145	KNOERLE ET AL /	
	Examiner	Art Unit	
	Karen Le	2642	

-- 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.

1. ☒ This communication is responsive to 6/23/03.
2. ☒ The allowed claim(s) is/are 1-7, 9-12,14-34,36-38 and 41-45.
3. ☒ The drawings filed on 8/26/99 are accepted by the Examiner.
4. ☐ 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: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
   (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

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.**

7. ☐ 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.

8. ☐ CORRECTED DRAWINGS 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. ____.
   (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
   (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

   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.

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

#11 K

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Attorney Poh Chua, Registration Number 44,615 on 8/7/03.

3. The application has been amended as follows:

In claim 1, line 12, before "second", add --first telephone and --

before "idle", replace --is-- by --are--

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Le whose telephone number is 703-308-4998. The examiner can normally be reached on M-F 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Karen Le
KLL

August 8, 2003

Ahmad F. Matar

AHMAD F. MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAILED

FEB 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Joseph Michael Knoerle et al.	:	
Application No. 09/383,145	:	DECISION ON PETITION
Filed: August 26, 1999	:	
Attorney Docket No. **BS99-010**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2009, 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 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 17, 2009. Accordingly, the date of abandonment of this application is July 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Christopher W. Glass
Morris Manning & Martin LLP
3343 Peachtree Road
Suite 1600
Atlanta, GA 30326

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

Carlo S. Bessone
Osram-Sylvania Inc
100 Endicott Street
Danvers, MA 01923

COPY MAILED

APR 26 2002

OFFICE OF PETITIONS

In re Application of	:	
Andreas Huber, et al.	:	
Application No. 09/383,210	:	ON PETITION
Filed: August 26, 1999	:	
Attorney Docket No. 98P5542	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) 1.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final rejection of January 19, 2001, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and fee required by law); an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance; the filing of a request for continued examination (RCE) (accompaniedby a submission and the requisite fee) under 37 CFR 1.114 (for utility or plant applications filed on or after June 8, 1995); the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a utility or plant application filed before May 29, 2000, or a design application). 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 requisite fee, an RCE accompanied by a submission; or the filing of a continuing application. See Attachment.

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

By mail: U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202

Or

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 Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

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. 15

Carlo S. Bessone
Osram-Sylvania Inc
100 Endicott Street
Danvers, MA 01923

COPY MAILED

JUN 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Andreas Huber, et al.	:	
Application No. 09/383,210	:	ON PETITION
Filed: August 26, 1999	:	
Attorney Docket No. 98P5542	:	

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

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on June 5, 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 2800, Art Unit 2835.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

Rajesh Vallabh
HALE & DORR LLP
60 State Street
Boston, MA 02109

MAILED

FEB 10 2003

OFFICE OF DIRECTOR
GROUP

In re Application of:
Ammar Derraa
Application No. 09383,331
Filed: August 26, 1999
Attorney Docket No. 100718.422/MIC-80

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed November 19, 2002, under 37 CFR § 1.181, to withdraw the holding of abandonment. No petition fee is required.

The petition to withdraw the holding of abandonment is **GRANTED.**

The application was held abandoned for the failure timely file a response to a Restriction Requirement mailed on December 04, 2001. A Notice of Abandonment was mailed on August 19, 2002.

Petitioner asserts that on January 14, 2002, a response was filed with a petition for a one month extension of time. In support of this assertion, petitioner has submitted a copy of the response, the petition for an extension of time and a copy of the itemized postcard receipt bearing a date stamp of receipt in the United States Patent and Trademark Office of February 11, 2002 of an response, and an authorization to charge a deposit account for the extension of time.

A review of the application file reveals the above noted response was matched with the application file wrapper at the time of mailing of the Notice of Abandonment, but not properly made of record in the file. It is noted that the fee for the extension of time was charged on February 14, 2002. The Notice of Abandonment was apparently issued in error, without consideration of the response filed on January 14, 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 is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for processing the response. From there, the application will be forwarded to the examiner for taking

appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, 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

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Ammar Derraa	:
Application No. 09/383,331	: DECISION GRANTING PETITION
Filed: August 26, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-7160US	:

This is a decision on the petition, filed October 3, 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 August 16, 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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) (along with any balance due or the amount due at the time of payment), 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/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)
21720-03824

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. 6,453,464 Application Number 09/383,339

Issue Date September 17, 2002 Filing Date August 25, 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.

/Laura Majerus/	Nov 28, 2006
Signature(s) of Petitioner(s)	Date
Laura A. Majerus	33,417
Typed or printed name(s)	Registration Number, if applicable
(650) 335-7152	
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) 21720-03824

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. 6,453,464 Application Number 09/383,339

Issue Date September 17, 2002 Filing Date August 25, 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 _____.

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_____ 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.

/Laura Majerus/	Nov 28, 2006
Signature(s) of Petitioner(s)	Date
Laura A. Majerus	33,417
Typed or printed name(s)	Registration Number, if applicable
(650) 335-7152	
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

UNITED STATES 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. 6453464
Issue Date: September 17,2002
Application No. 09383339
Filed: August 25,1999
Attorney Docket No. 3824US

:
: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.

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)
6453464	2002-09-17	09383339	1999-08-25	21720-03824

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	/Laura Majerus/	Date (YYYY-MM-DD)	2007-01-05
Name	Laura A. Majerus	Registration Number	33417

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

#27 DW

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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MAR 30 2004

OFFICE OF THE DIRECTOR
TC 3600

CRAWFORD PLLC
1270 Northland Drive,Suite390
St. Paul MN 55120

In re Application of
Patrick J. Ryan et al.
Application No. 09/383,508
Filed: August 26, 1999
For: RETICLE SORTER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 12, 2004 .

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed December 1, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

KJD/mjz: 3/26/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

DUKE W YEE
CARSTENS YEE & CAHOON LLP
PO Box 802334
Dallas, TX 75380

MAIL

SEP - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Hatim Y. Amro et al
Application No. 09/383,738
Filed: August 26, 1999
For: **METHOD AND APPARATUS FOR MAXIMIZING EFFICIENCY OF SMALL DISPLAY IN A DATA PROCESSING SYSTEM**

ON PETITION

This is a decision on the request filed November 18, 2002, to withdraw the holding of abandonment. The request is being treated as a petition under MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a). No fee is required.

A Notice of Abandonment was mailed October 15, 2002 for failure to timely submit a response to the Office action mailed December 18, 2001.

Petitioner alleges that no Office action was received.

In support of his allegation, petitioner has made of a statement of non-receipt of the Office action, 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 has submitted a copy of the docket record where the non-received Office communication would have been entered had it been received.

A review of the file record indicates that there was an irregularity in the mailing of the Office action of December 18, 2001, as it was improperly addressed but neither copy mailed as both copies of the Office action are in the file wrapper.

Accordingly, the petition is **GRANTED.**

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The correspondence address of record has been corrected to that shown above. The petition included a response to the Office action of December 18, 2001. Since the abandonment is withdrawn, the response is considered timely. The Office action of December 18, 2001 will not be re-mailed. The application file is being forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for further action in due course.

Ronald J. Ensgif

For Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 0 7 2003

OFFICE OF PETITIONS

B. CRAIG KILLOUGH
134 MEETING STREET
P.O. DRAWER H
CHARLESTON, SC 29402

In re Application of Ridgeway, et al. Application No. 09/383,908 Filed: 21 August, 2001 Attorney Docket No. 474.003	: : : : :	Paper No. 11 DECISION GRANTING PETITIONS UNDER 37 C.F.R. §§1.322 AND 1.53(e)
In re Application of Ridgeway, et al. Application No. 10/042,687 Filed: 21 August, 2001 Attorney Docket No. 474.003/DIV1	: : : : :	Paper No. 4

This is a decision on the petition filed on 22 February, 2002, under 37 C.F.R. §1.182, requesting that the Continued Prosecution Application (CPA) filed on 21 August, 2001, and based on prior application No. 09/383,908 (issued as U.S. Patent No. 6,341,745 on 29 January, 2002 (the '745 patent)) be treated as a continuation application under 37 C.F.R. §1.53(b), rather than 37 C.F.R. §1.53(d), and be accorded a filing date of 21 August, 2001.

The petition is treated appropriately under 37 C.F.R. §1.322 (in Application No. 09/383,908) and §1.53(e) (in Application No. 10/042,687).

The petitions under 37 C.F.R. §1.322 (in Application No. 09/383,908) and §1.53(e) (in Application No. 10/042,687), respectively, are **GRANTED**; the petition under 37 C.F.R. §1.182 is **DISMISSED as moot**.

A review of the file of prior Application No. 09/383,908 (the '908 application) reveals that:

- a Notice of Allowance and Issue Fee Due was mailed on 21 May, 2001 (the first Notice of Allowance), and Petitioner timely paid the Issue Fee on 20 August, 2001;

- a request for a continued prosecution application (CPA) under 37 C.F.R. §1.53(d) based on prior Application No. 09/383,908 was filed--improperly under the rules because it occurred after payment of the Issue Fee--on 21 August, 2001 (the 21 August CPA);

FEB 1 0 2003

- in the interim, on 6 December, 2001, the Office issued a (second) Notice of Allowance and Issue Fee Due in the '908 application (the second Notice of Allowance), this time as to the claims of the 21 August CPA;

- Petitioner did not pay the Issue Fee in response to this second Notice of Allowance.

- the '908 application issued as U.S. Patent No. 6,341,745 (the '745 patent) on 29 January, 2002 (apparently as a result of applicant's payment of the issue fee on 20 August, 2001);

- however, the Office improperly and erroneously issued the '745 patent containing the claims of the 21 August CPA, rather than the previously allowed claims of the '908 application.

RESULT AS TO APPLICATION NO. 09/383,908/PATENT NO. 6,341,745

The petition as considered under 37 C.F.R. §1.322 is **GRANTED**. All fees are waived.

The file of Application No. 09/383,908/Patent No. 6,341,745 is being forwarded to the Certificate of Corrections Branch:

- to be processed, and

- for a Certificate of Correction--specifying and containing the claims as allowed on 21 May, 2001(a copy of which is enclosed herewith), for and in Application No. 09/383,908, which issued on 29 January, 2002, as Patent No. 6,341,745--to issue in due course.

RESULT AS TO APPLICATION NO. 10/042,687

Since the prior application (the '908 application) has issued as a patent, the original application papers present in the file of Application No. 09/383,908 are no longer available for processing under 37 C.F.R. §1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 21 August, 2001, have been removed from the file of application No. 09/383,908 and have been assigned application No. 10/042,687 for identification purposes. The present petition has also been placed in the file of Application No. 10/042,687. All further correspondence concerning the application deposited on 21 August, 2001, should be directed to Application No. 10/042,687, not Application No. 09/383,908.

The present petition requests that the CPA request be treated as an application under 37 C.F.R. §1.53(b).

A petition to accept and treat an improper application filed under 37 C.F.R. §1.53(d) as a proper application under 37 C.F.R. §1.53(b) must include: (1) the $130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 C.F.R. §1.53(d).

The petition is accompanied by a specification, drawings, and a copy of a signed declaration. The submission of these application papers with the petition is understood as a representation by counsel that the specification and drawings do not contain any subject matter that would have been new matter in the prior application.

The petition under 37 C.F.R. §1.53(e) for §1.53(b)-treatment of the (improper) CPA is **granted**.

Counsel has authorized payment via credit card of the $130.00 petition fee upon filing of the petition under 37 C.F.R. §1.182, and those funds will be used instead to satisfy the fee for the petition under 37 C.F.R. §1.53(e).

Application No. 10/042,687 is being forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 C.F.R. §1.53(b), not under 37 C.F.R. 1.53(d), with a filing date of 21 August, 2001, using the application papers supplied on 22 February, 2002.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

Encl.: Copies of the Notice of Allowance of 21 May, 2001, as to Application No. 09/383,908 and the allowed claims 3-21

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)
6266879	2001-07-31	09383977	1999-08-26	ONT-PA02

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 K. Sakaguchi/	Date (YYYY-MM-DD)	2010-03-22
Name	James K. Sakaguchi	Registration Number	41285

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

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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. 6266879
Issue Date: July 31,2001
Application No. 09383977
Filed: August 26,1999
Attorney Docket No. ONT-PA02

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

This is a decision on the electronic petition, filed March 22,2010 ,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 March 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 10

GOWLING STRATHY & HENDERSON
SUITE 4900
COMMERCE COURT WEST
TORONTO CA CANADA

In re Application of
Doyle et al.
Application No. 09/384,108
Filed: August 27, 1999
For: APPARATUS AND METHOD FOR BRIDGING A WIRED NETWORK AND WIRELESS DEVICES

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition for Withdrawal of Abandonment, filed December 18, 2003, requesting the holding of abandonment be withdrawn in the above-identified application pursuant to 37 C.F.R. § 1.181. No fee is required.

This application was held abandoned for failure to timely submit a response to the final Office action mailed February 12, 2003 (paper No. 7). A Notice of Abandonment was mailed October 22, 2003 (paper No. 8).

Petitioner alleges that the final Office action was not 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.

Petitioner has satisfied the requirements set forth above. Therefore, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application is being returned to the examiner for update and processing as appropriate.

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
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Paper No. 22

Collard & Roe
1077 Northern Boulevard
Roslyn, NY 11576

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OFFICE OF PETITIONS

In re Application of

Donald Spector :

Application No. 09/384,154

: DECISION ON PETITION

Filed: August 27, 1999

:

Attorney Docket No. 4021.122

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive 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 May 19, 2003 which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 20, 2003. A Notice of Abandonment was mailed on December 9, 2003.

The amendment filed May 10, 2004, is noted and made of record.

The Revocation and Appointment in Patent Application, Power of Attorney filed May 10, 2004, is noted and made of record.

The application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Notice Regarding Change of Power of Attorney"—Copy
"Notice of Acceptance of Power of Attorney"

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

Gibson Dunn & Crutcher
One Montgomery Street, 31st. Fl.
Telesis Tower
San Francisco, CA 94104-4505

COPY MAILED

APR 0 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Danish et al.
Application No. 09/384,303
Filed: August 26, 1999
Attorney Docket No. 89282-00003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed July 25, 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 October 26, 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.

The issue fee transmittal stated to have been filed in October 25, 2000 cannot be located at the present time. However, the issue fee has been processed. If petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and submitted to: Box Issue Fee, Assistant Commissioner for Patents, Washington, D.C. 20231 within **ONE MONTH** from the mail date of this decision.

The application file is being forwarded to the Office of Patent Publication to oversee review of the drawings filed April 3, 2001.

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

cc: Gibson, Dunn & Crutcher
1801 California Street, Suite 4100
Denver, CO 80202-2641

UNITED STATES 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.

GIBSON, DUNN & CRUTCHER LLP
ATTN: STANLEY J. GRADISAR
1801 CALIFORNIA ST.
SUITE 4100
DENVER CO 80202

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of Danish et al. Application No. 09/384,303 Patent No. 6,275,821 Filed: August 26, 1999 Issue Date: August 14, 2001 Attorney Docket Number: 16321-709 Title: METHOD AND SYSTEM FOR EXECUTING A GUIDED PARAMETRIC SEARCH	:	DECISION ON PETITION UNDER 37 C.F.R. § 1.377(b)

This is a decision on the petition submitted on October 8, 2009, pursuant to 37 C.F.R. § 1.377(b) to accept and record payment of a maintenance fee. This petition was supplemented via a submission on October 29, 2009.

The present petition is **DISMISSED**.

The above-identified patent issued on August 14, 2001. Thus, the window for paying the 7½-year maintenance fee extended from August 14, 2008 to February 14, 2009 without surcharge, and from February 15, 2009 to August 14, 2009 with a surcharge. Therefore, the grace period for paying the 7½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on August 14, 2009, with no payment received. Accordingly, the patent expired on August 14, 2009 at midnight.

The petition fee has been charged to Petitioner's Deposit Account.

With this petition, Petitioner has asserted that on August 4, 2009, a transmittal letter was submitted to the Office in conjunction with Re-examination proceeding number 90/009,316 (90/009,316 is a re-examination proceeding of 09/384,303), which contained the following authorization:

> "[a]t any time during the pendency of this application, please charge any fees required…to Deposit Account 18-0013/40420-0001 pursuant to 37 CFR 1.25."[1]

This authorization was included on the bottom of a "transmittal letter for response/amendment," which contained a listing of papers submitted concurrently therewith along with a request to charge $180 to this same Deposit Account for fees that are associated with the Re-examination Application.

In short, Petitioner submitted a general authorization to charge a Deposit Account commingled with the submission of fees, and this request was made not in the patent, but rather in a re-examination application proceeding that is associated with this patent. Petitioner would have the Office hold this general authorization in the re-examination application proceeding to constitute "notice of timely payment of the required maintenance fee" in the patent.[2]

This petition cannot be granted, for the following two reasons.

First, the maintenance fee was submitted in a manner this is explicitly prohibited by both the Rules and the Procedures under which this Office operates.

37 C.F.R. § 1.366(e) sets forth, *in pertinent part*:

> Maintenance fee payments and surcharge payments relating thereto <u>must</u> (emphasis added) be submitted separate from any other payments for fees or charges, whether submitted in the manner set forth in § 1.23 or by an authorization to charge a deposit account.

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1 The electronic file that is associated with re-examination application number 90/009,316 has been renewed, and this paper has been located therein.
2 Petition, page 2.

Similarly, MPEP § 2552 sets forth, *in pertinent part*:

> The authorization to charge the deposit account must be submitted within an appropriate window or grace period and must be limited to maintenance fees and surcharges payable on the date of submission.
>
> ...
>
> Maintenance fee payments and any surcharges relating thereto must be submitted separately from any other payments for fees or charges, whether submitted in the manner set forth in 37 CFR 1.23 or by authorization to charge a deposit account. See 37 CFR 1.366(e). Maintenance fee payments and surcharge payments relating thereto that are commingled with payments for other fees or charges, e.g., application filing fees, issue fees, document supply fees, etc., will not be accepted. Maintenance fees require processing by a separate area of the Office and are not processed in the same manner as other fees and charges.
>
> Emphases added.

It follows that Patentee's submission of the maintenance fee was undertaken in a manner that is explicitly prohibited by both the C.F.R. and the MPEP: the fee was commingled with the payment of a $180 fee that is associated with the aforementioned re-examination application. As such, the Office was unable to accept this fee.

Second, the submission was made not in the patent where the maintenance fee and the associated surcharge were due, but rather in the Re-examination application proceeding. Neither the Rules nor the Procedures under which this Office operates contemplate the submission of a maintenance fee and the associated surcharge for a particular patent in the re-examination proceeding that is associated with that patent.

The petition fee of $200.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office. **The maintenance fee has not been charged to Petitioner's Deposit Account.**

Petitioner may wish to consider submitting a petition pursuant to Rule §§ 1.378(b) and/or (c). Unless Petitioner believes that he can establish that the entire period of

delay in submitting the maintenance fee was unavoidable, he may wish to file pursuant to the unintentional standard.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Steven L. Nichols
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

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

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)
6275821	2001-08-14	09384303	1999-08-26	359706USMF

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	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2010-05-11
Name	Marvin J. Spivak	Registration Number	24913

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. 6275821
Issue Date: August 14,2001
Application No. 09384303
Filed: August 26,1999
Attorney Docket No. 16321-709

: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.

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.
09/384,394	08/27/1999	DONALD F. GORDON	533/071CIP1	7740

7590 02/26/2009

EAMON J WALL
THOMASON MOSER & PATTERSON LLP
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER
PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
2613	

MAIL DATE	DELIVERY MODE
02/26/2009	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090219

DATE : February 19, 2009

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6621870 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:
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:

The Request for the Certificate of Correction filed on January 29, 2009 has been approved by the Examiner.

/MEHRDAD DASTOURI/
SPE AU 2621

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER
3000 K STREET N W SUITE 500
WASHINGTON, DC 20007

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MAR 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Graham Bank, et al.	:	
Application No. 09/384,419	:	
Filed: August 27, 1999	:	
Attorney Docket No. 85874/136	:	

This is a decision on the petition, filed March 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 February 4, 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 2643 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 : 11/13/06

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/384443 Patent No.: 7103532B1

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**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

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: Fee must be charged – Change in TITLE and Inventor's address, not office fault

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER
SPE

2626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Jerry Iggulden et al :
Application No. 09/384,468 : ON PETITION
Filed: August 27, 1999 :
Attorney Docket No. D00607/70007.US NPF :

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2005, 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 January 8, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on July 7, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed October 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 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 final Office action of January 8, 2004 is accepted as having been unintentionally delayed.

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

This matter is referred to Technology Center AU 2616.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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FEB 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Kuno, et al.	:	
Application No. 09/384,532	:	ON PETITION
Filed: August 27, 1999	:	
Attorney Docket No. 3517-45	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 11, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment, mailed March 1, 2004. This Office action set an extendable period for reply of one (1) month. No response having been received, the application became abandoned on April 2, 2004. A Notice of Abandonment was mailed on October 6, 2006.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Change of Correspondence Address, filed on November 20, 2003.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2625 for re-mailing of the March 1, 2004 Notice of Non-Compliant Amendment, to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

HARNESS, DICKEY & PIERCE
P.O. BOX 8910
RESTON VA 20195

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Kevin Birnie et al	:	
Application No. 09/384,646	:	DECISION ON PETITION
Filed: August 27, 1999	:	
Atty Docket No. 1-1-1-1	:	

This is a decision on the petition filed October 31, 2003, under §1.181 based on nonreceipt of an Notice of Allowance and Fee(s) Due.

The petition under §1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely pay the issue fee in reply to the Notice of Allowance (Notice) mailed June 16, 2003. The Notice set a period for reply of three (3) months from the mail date of the Notice. No reply having been received, the above-identified application became abandoned on September 17, 2003. A Notice of Abandonment was mailed on October 17, 2003.

The petition supports a conclusion that petitioner promptly filed the instant petition after determining that the instant application was abandoned. Petitioner states that the application became abandoned as a consequence of the Notice of Allowance not being received by the applicant's attorney. Petitioner specifically states that, he searched the file jacket and docket records for evidence of the Notice of Allowance, but no evidence of same was found. In support of a showing of nonreceipt, petitioner submits *inter alia* a copy of their docket record for the period of May 28, 2001 through May 15, 2003.

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. In addition, 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.

Petitioner's arguments and evidence have been considered, and found persuasive to show nonreceipt of the September 16, 2003, Notice of Allowance action at the correspondence address of

record. Accordingly, withdrawal of the holding of abandonment for nonreceipt is warranted.

In view thereof, the holding of abandoned is hereby **WITHDRAWN**.

This matter is being forwarded to Technology Center AU 2683 for the mailing of a new Notice of Allowance and Fee(s)Due.

Telephone inquiries concerning this decision should be directed to the undersigned 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

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

MAILED

MAR 1 8 2002

Office of the Director
Group 3600

Ralph E. Jocke
231 South Broadway
Medina, OH 44256

In re application of
James A. Michael, et al.
Application No. 09/384,650
Filed : August 27, 1999
For: METHOD FOR DISPENSING MEDICAL ITEMS

DECISION ON PETITION FOR HOLDING OF DEFECTIVE APPEAL BRIEF

This is in response to applicants' petition received July 11, 2001 requesting withdrawal of the holding of defective appeal brief. This petition will be treated as a petition to invoke the supervisory authority of the Director of the United States Patent and Trademark Office (USPTO) under 37 CFR 1.181.

On April 23, 2001, petitioner timely submitted an appeal brief. The examiner mailed a notice of defective appeal brief on July 5, 2001. The sole reason given for holding the brief as defective was the length thereof. Petitioner filed the instant petition on July 11, 2001 requesting that the notice of defective brief be withdrawn as being based on an erroneous assertion that is contrary to USPTO policy regarding the standards that must be met when filing appeal briefs before the Board of Patent Appeals and Interferences (BPAI).

The petition is **GRANTED**.

An appeal to the BPAI is not an appeal to an Article III federal court of appeal. An appeal to the BPAI is an administrative proceeding provided in title 35 of the United States Code and title 37 Code of Federal Regulations. Although there are page limits provided in federal rules for appellate procedures within federal courts (Article III Courts), they do not apply to appeal briefs submitted to the BPAI.

37 CFR 1.943(c) provides for a page/word limit on briefs in *inter partes* reexamination proceedings. 37 CFR 2.128(b) also provides for express page limits of main briefs and reply briefs submitted to the Trademark Trial and Appeal Board. No such express language is provided elsewhere in title 35 of the United States Code and title 37 Code of Federal Regulations for a page/word limit on briefs in *ex parte* application or reexamination proceedings to the Board of Patent Appeals and Interferences. By negative implication, there is no such limit during *ex parte* application or reexamination proceedings.

Therefore, the notice of defective appeal brief of July 5, 2001 is hereby vacated and the appeal brief submitted on April 23, 2001 is deemed to be appropriate under 37 CFR 1.192.

The application will be forwarded to the assigned examiner for prompt consideration of the brief and preparation of an examiner's answer.

Gerald Goldberg, Director
Technology Center 3600
Telephone No.: (703) 308-1134
Facsimile No.: (703) 308-2177

RR
rar; 3/14/02

UNITED STATES 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

HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

COPY MAILED

FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of
White et al.
Application No. 09/384,839
Filed: August 27, 1999
Attorney Docket No. 10990926-1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2004, 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 August 22, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 25, 2003. A Notice of Abandonment was mailed on January 7, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Although the Notice of Allowance states that an issue fee of $1300.00 is required, the fee has increased to $1330.00. Accordingly, an additional $30.00 has been charged to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2100 for processing of the Amendment After Notice of Allowance under 37 CFR 1.312 submitted 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

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)
6854113	2005-02-08	09384963	1999-08-27	BOR-054

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	/Scott S. Kokka/	Date (YYYY-MM-DD)	2009-06-23
Name	Scott S. Kokka	Registration Number	51893

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. 6854113
Issue Date: February 8,2005
Application No. 09384963
Filed: August 27,1999
Attorney Docket No. BOR-054

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

This is a decision on the electronic petition, filed June 23,2009 ,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 June 23,2009 .
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
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of	:	
Johan P.M.G. Linnartz et al.	:	
Application No. 09/385,278	:	ON PETITION
Filed: August 30, 1999	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2007, 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 July 9, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 10, 2007.

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 of $1,540; 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

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. 7

KNOBBE, MARTENS, OLSON & BEAR LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

MAILED

MAR 11 2003

OFFICE OF DIRECTOR
GROUP

In re Application of	:	
David Palsulich, et al.	:	DECISION ON PETITION
Application No.: 09/385,386	:	TO WITHDRAW THE
Filing Date: August 30, 1999	:	HOLDING OF ABANDONMENT
Attorney's Docket No.: MICRON.093A	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on September 10, 2002. There is no fee for this petition.

The petition is **DISMISSED**.

A review of the application file reveals that a Notice of Abandonment was mailed on July 8, 2002 holding the application to be abandoned for failure to timely file a proper response to the Office action (a restriction) mailed on November 23, 2001.

Petitioner asserts that a response (an election) to the Office action of November 23, 2001 was timely filed via facsimile transmission on December 11, 2001. In support of this assertion, petitioner submitted a copy of a response entitled "RESPONSE TO RESTRICTION REQUIREMENT" with a transmittal sheet which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated December 11, 2001.

The file record does not include the originally submitted response.

REGULATION

37 C.F.R. § 1.8(b) provides:

> "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 is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence or 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."

The petition fails to include a statement which attests on a personal knowledge basis to the previously timely transmission and a copy of the sending unit's report confirming transmission. In addition, the facsimile number (703) 302-7723 listed on the facsimile cover sheet provided by the petitioner is not a Patent and Trademark Office number.

For these reasons, the petition is **DISMISSED** and the application remains abandoned. Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137(b).

Any inquiries regarding this decision should be directed to Edward Westin at (703) 308-4823.

Janice A. Falcone

Janice A. Falcone, 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
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Paper No. 10

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
David Palsulich et al	:	
Application No. 09/385,386	:	ON PETITION
Filed: August 30, 1999	:	
Attorney Docket No. MICRON.093A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 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 23, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2001.

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

The application file is being forwarded to Technology Center AU 2881.

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. 14

Quirk & Tratos
3773 Howard Hughes Parkway
Suite 500 North
Las Vegas, NV 89109

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AUG 2 2 2002

OFFICE OF PETITIONS

In re Application of
Ira W. Bradshaw
Application No. 09/385,520
Filed: August 30, 1999
Attorney Docket No. 4093P2

ON PETITION

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 reply in a timely manner to the non-final Office action mailed June 11, 2001, which set a period for reply of ONE month or THIRTY DAYS (30) days from the mailing date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Accordingly, the application became abandoned on July 12, 2001.

This application is being forwarded to Technology Center AU 3713 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

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)
6905409	2005-06-14	09385520	1999-08-30	060810.00003

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	/Richard H. Newman/	Date (YYYY-MM-DD)	2009-12-03
Name	Richard H. Newman	Registration Number	41222

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

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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. 6905409
Issue Date: June 14,2005
Application No. 09385520
Filed: August 30,1999
Attorney Docket No. 5352.00001

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

This is a decision on the electronic petition, filed December 3,2009 ,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 December 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.

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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

In re Application of
James A. Parker et al.
Application No. 09/385,597
Filed: August 30, 1999
Attorney Docket No: 283_205CIP

ON PETITION

This is a decision on the petition filed July 24, 2006 under 37 CFR 1.182, for withdrawal of terminal disclaimer filed February 26, 2002.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed February 26, 2002, does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

Additionally, petitioner is advised that the fee for a petition under 37 CFR 1.182 is set at $400.00, not $130.00 as was submitted with the petition. In view thereof, per the authorization noted in the petition, deposit account no. 50-0289 has been charged in the amount of $270.00 to make up the difference between that which was paid and that which was due.

This matter is being referred to Technology Center 2876 to correct the records related to the terminal disclaimer filed February 26, 2002, consistent with this decision.

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

In re Patent No. 6198777
Issue Date: March 6,2001
Application No. 09385693
Filed: August 30,1999
Attorney Docket No. FeherKeying99set ULTRA

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

This is a decision on the electronic petition, filed April 7,2009 ,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 April 7,2009 .
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
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6198777	2001-03-06	09385693	1999-08-30	FeherKey99set

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	/Kamilo Feher/	Date (YYYY-MM-DD)	2009-04-07
Name	Kamilo Feher		

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

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

OCT 18 2001

Alan W. Cannon
Bozicevic, Field and Francis
200 Middlefield Road, Ste. 200
Menlo Park CA 94025

Paper No. 11

In re Application of Charles S. Taylor et al Serial No. : 09/385,812 Filed : August 30, 1999 For : Access Platform for Internal Mammary Dissection	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed August 9, 2001 to review the holding of abandonment mailed July 31, 2001 for failure to respond to the Office action mailed May 22, 2000. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated June 21, 2000.

In view of the above, the Notice of Abandonment mailed July 31, 2001 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed May 22, 2000.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/10/10/01

UNITED STATES 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. 6222422
Issue Date: April 24,2001
Application No. 09385916
Filed: August 30,1999
Attorney Docket No. 003486.P006

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

This is a decision on the electronic petition, filed February 17,2010 ,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 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

RONALD C. CARD
BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

OCT 2 1 2002

OFFICE OF PETITIONS

In re Application of
Gruner et al.
Application No. 09/385,927
Filed: August 30, 1999
Attorney Docket No. 42390.P7268

: DECISION GRANTING PETITIONS
: AND ACCORDING STATUS UNDER
: 37 CFR 1.47(a)

This decision concerns the 37 CFR 1.47(a) petition filed on July 22, 2002, and the October 29, 1999 "Request for Correction of Filing Receipt" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition under 37 CFR 1.47(a) is **GRANTED.**
The petition under 37 CFR 1.10(c) is **GRANTED.**

Petition under 37 CFR 1.47(a)

Three inventors are named in this application which, upon filing, included an un-executed declaration. The declaration subsequently submitted on February 22, 2000 was signed by only 2 inventors. A January 15, 2002 non-final Office Action provided a shortened statutory period for the submission of, *inter alia*, a proper oath/declaration. In response, the instant petition was filed, requesting that the 2 signing inventors be allowed to make this application on behalf of themselves and the remaining inventor, Mike Morrison ("Morrison"), who allegedly refuses to join in this application.

The 2 signing inventors may file this application on behalf of themselves as well as Morrison, provided that a *bona fide* attempt has been made to present to Morrison, for signature, a copy of the **entire application (specification including claims; drawings)**;[1] and that Morrison refuses to join in this application. To show that Morrison has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Morrison at his last known address,[2] and his subsequent refusal.[3]

---

[1] MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN.

[2] 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

[3] See MPEP section 409.03(d) (Aug. 2001) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

The instant petition is supported by a declaration of Ronald C. Card, counsel for the assignee-of-record for this application ("Card") ("Card Declaration"), in essence setting forth that:

(1) on numerous occasions, Card had left messages for Morrison at both his home and work telephone numbers, but Morrison never returned the calls;
(2) on February 9, 2000, Card sent Morrison a copy of the "patent application" for review; and that
(3) as of July 14, 2002, when the Card Declaration was executed, Card has not heard from Morrison regarding the application.

The Card Declaration indicates that counsel had made a reasonably diligent effort in reaching Morrison before concluding that Morrison refused to join in this application. The §1.47(a) petition is thus granted.[4] Receipt of the $130 petition fee is acknowledged.

The application is now complete.

Petition under 37 CFR 1.10(c)[5]

This petition requests that the application be accorded a filing date of August 30, 1999, on the basis that the application was deposited in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee "service ("Express Mail") on that day rather than on August 28, 1999, the presently accorded filing date.

In support, the petition encloses a copy of the "Express mail" mailing label bearing the number EL 431892167US and containing an official USPS date-stamp of August 30, 1999. Moreover, the transmittal form for the originally filed application, which itemizes the application papers being mailed on August 30, 1999, includes the same number. The petition is thus granted. No fee is required for petitions under 37 CFR 1.10.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Morrison at his last known address provided in the petition:

3131 Homestead Road, #10-J
Santa Clara, CA 95051

Notice of the filing of this application will also be published in the *Official Gazette*.

---

[4] This conclusion is based on the assumption that the copy of "patent application" sent to Morrison on 2/9/00 included the specification (with claims) and the drawings. **If this assumption is incorrect, counsel must notify this Office upon receipt of this Decision.**

[5] Under 37 CFR 1.10(c), any person filing correspondence that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, may petition the Commissioner if 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** (emphasis added); see also MPEP section 513 (Aug. 2001).

Finally, **Applicants are reminded of the outstanding final Office Action mailed on October 2, 2002, and the fact that the filing of the instant §1.47(a) petition will not toll the reply period set forth in that Office action to save the application from becoming abandoned otherwise.**

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 30, 1999, and for issuance of a corrected filing receipt reflecting this filing date. Thereafter, the application will be returned to Technology Center 2100 to await a response to the final Office action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RONALD C. CARD
BLAKLEY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD 7TH FL
LOS ANGELES, CA 90025

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NOV 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Fred Gruner, et al.	:	
Application No. 09/385,927	:	ON PETITION
Filed: August 30, 1999	:	
Attorney Docket No. 42390.P7268	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 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 September 23, 2004. A Notice of Abandonment was mailed on April 11, 2005.

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 2193, for further processing of the request for continued examination under 37 CFR 1.114 filed June 5, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5-3-10**

TO SPE OF : ART UNIT **2626**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09385975** Patent No.: **7117149**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

/Richemond Dorvil/
SPE

2626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 2 5 2007

TECHNOLOGY CENTER 3600

Grant K. Rowen
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

Paper No. 04242007

In re application of
Kenichi Miyazaki
Application No. 09/386,000
Filed: August 30, 1999
For: LARGE PRINTER

DECISION ON PETITION FOR SUPERVISORY REVIEW REGARDING REPLY BRIEF

This is a response to applicant's petition filed August 14, 2006 requesting supervisory review of the examiner's refusal to enter the reply brief of October 11, 2005. The delay in answering the petition is regretted.

The Petition is **DENIED**.

37 CFR 41.41(a)(2) states:
A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

The appeal was remanded by the Board instructing the Examiner to consider and respond to applicant's reply brief filed October 11, 2005 regarding new evidence presented by the applicant, i.e. the User Manual for the OCE 9400. After remand and upon further review it was determined that the Reply Brief was not in compliance with 37 CFR 41.41(a)(2) because it included new evidence, i.e. the User Manual for the OCE 9400, that was not under consideration during prosecution and hence should not have been entered. The Board's decision was based on the belief that the Reply Brief was compliant. The examiner sent a communication dated November 4, 2005, indicating the Reply Brief had been entered and considered. The Board remanded the case March 15, 2006. Examiner sent a supplemental answer dated June 13, 2006 vacating the previous communication dated November 4, 2005, denying entry of the reply brief because it presented new evidence. Applicant filed a petition for entry of the Reply Brief August 14, 2006.

Applicant argues the reply brief should be entered because applicant's first opportunity to respond to the details of the examiner's rejection on the OCE 9400

device was in the Reply Brief of October 11, 2005. However, applicant had the opportunity to respond to the rejection in his response dated November 1, 2004. Instead applicant failed to comply with 37 CFR 1.111(b) because the arguments presented with regard to the OCE 9400 rejection merely amounted to a general allegation that the claims defined a patentable invention without specifically pointing out how the language of the claims patentably distinguished them from the reference cited by the examiner. Applicant had the opportunity then when first cited the OCE 9400 device to do an Internet search to find the User Manual. Applicant instead made a general allegation of patentability and argued the date of the reference cited, arguing that the reference was not prior art (see Applicant Arguments/Remarks dated 11/1/2004: pages 15-16). For the forgoing reasons the reply brief will not be entered.

Applicant further requests that in the alternative the Reply Brief should be treated as a request to reopen prosecution, for consideration of the OCE 9400 manual, under 37 C.F.R. § 41.39(b)(1) and (2), if the U.S. Patent and Trademark Office (USPTO) believes the supplemental answer contains a new ground of rejection. However, the position of the USPTO is the same as the applicant's regarding the supplemental answer, that it does not contain new grounds of rejection. Hence, prosecution will not be reopened.

Accordingly, the reply brief will not be entered and prosecution will not be reopened and the case will be forwarded to the Board of Patent Appeals and Interferences for review on appeal.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Katherine Matecki

Katherine Matecki
Director
Technology Center 3600

[KD/GC: 4/23/07]

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 31

CRAWFORD PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST PAUL, MN 55120

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OFFICE OF PETITIONS

In re Application of :
Bruce, et al. :
Application No. 09/386,112 : ON PETITION
Filed: August 30, 1999 :
Attorney Docket No. AMDA.261PA :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 6, 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)."

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of March 16, 2004 by the Board of Patent Appeals and Interferences. The Notice of Abandonment, mailed June 18, 2004, states: "This application is abandoned in view of: The decision by the Board of Patent Appeals and Interference rendered on *16 March 2004* and because the period for seeking court review of the decision has expired and there are no allowed claims."

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 pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy requirements (1) and (3), as set forth above.

As to item (1):
The reply requirement has not been satisfied as a reply has not been submitted with the instant petition.

As to item (3):
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," or language that may be construed as such, has not been submitted.

Accordingly, the petition must be dismissed.

Please note, if petitioner wishes to assert that the instant abandonment is erroneous and claims were in fact allowed by the decision rendered by the Board of Patent Appeals and Interference on March 16, 2004, petitioner should submit a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required with a petition under 37 CFR 1.181.

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

By mail: Mail Stop Petition (or Mail Stop AF, if filing a petition under 37 CFR 1.181)
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should 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

021405

CRAWFORD PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST PAUL MN 55120

MAR 0 3 2005

In re Application of:
Bruce et al.
Serial No.: 09/386,112
Filed: August 30, 1999
Attorney Docket No.: **AMDA.261PA**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed September 28, 2004 to withdraw the holding of abandonment under 37 C.F.R. § 1.181 in the above identified application.

The petition is **GRANTED**.

On March 16, 2004 the Board of Patent Appeals and Interferences issued its decision affirming the rejection under 35 U.S.C. § 103 of claims 1, 2, 7, and 9 - 15 and reversing the rejections under 35 U.S.C. § 112, first and second paragraphs, of claims 1 - 16. A Notice of Abandonment was mailed on June 18, 2004 stating that the period for seeking court review of the decision has expired and there are no allowed claims.

Petitioner asserts that the application should have been returned to the examiner for further action by the examiner. In particular, petition asserts that the examiner should have mailed petitioner a notice that claims 3 - 6, 8, and 16 would be allowable if rewritten in independent form.

This argument is persuasive. When the Board affirms a rejection of an independent claim and reverses all rejections against a claim dependent thereon, the examiner should have either (1) converted the dependent claims into independent form by examiner's amendment, cancel the claims in which the rejection was affirmed, and issue the application or (2) set a 1-month time limit in which petitioner could rewrite the dependent claims in independent form. M.P.E.P. § 1214.06.

For the above-stated reason, 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 of record for consideration and prompt appropriate action.

Any inquiry concerning this petition should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

Mailed: 11/30/05

In re Patent No. 6,455,152	:	
Issue Date: Sept. 24, 2002	:	DECISION
Appl. No.: 09/386180	:	GRANTING
Filed: Aug. 31, 1999	:	PETITION 37CFR1.324

For: **ADHESIVE COATING METHOD AND ADHESIVE COATED ARTICLE**

This is a decision on the petition filed on May 13th 2005 to correct inventorship under 37 CFR 1.48(b). This petition is being treated under 37 CFR 1.324 since the patent has issued

The Petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate deleting the names of Bruce A. Sventek and Charles G. Carter as inventors.

James J. Seidleck, Supervisory Patent Examiner
Art Unit 1711
Technology Center 1700

Office of Intellectual Property Councel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

MAIL

MAR 0 5 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

L. Keith Stephens
Hickman Stephens & Coleman, LLP
P. O. Box 52037
Palo Alto, California 94303-0746

In re Application of:
Michel K. Bowman-Amuah
Application No. 09/386,239
Filed: August 31, 1999
For: A SYSTEM, METHOD AND ARTICLE FOR A REFRESHABLE PROXY POOL ON A COMMUNICATION SERVICES PATTERN ENVIRONMENT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed October 20, 1999 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, ...

(c) Submits a statement(s) that a pre - examination search was made, ***listing the field of search by class and subclass,*** publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely reproduces the Abstracts provided in each reference accompanied by a statement that the particular reference does not include the features of the claimed invention. Note that the *identical statement*, that the entirety of the independent claims are not taught or suggested by the reference, is presented for each of the seven references purported to be "most closely related". That is, there is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c). In addition, the statement regarding the search made does not list the field of search by class and subclass as required under section (c) above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OIPE JC176
OCT 0 3 2002
PATENT & TRADEMARK OFFICE

Paper No. 10

OPPENHEIMER WOLFF & DONNELLY LLP
1400 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED
JUL 0 8 2002
OFFICE OF PETITIONS

In re Application of
Amuah
Application No. 09/386,834
Filed: August 31, 1999
Attny Dckt No.: AND1P246:

ON PETITION

RECEIVED
OCT 0 7 2002
Technology Center 2100

This is a decision on the petition under 37 CFR § 1.183, filed November 27, 2001 requesting extraordinary relief with respect to the requirements pf 37 CFR 1.97 in all the applications listed in the accompanying appendix, which is being treated as a petition to waive the requirements of 37 CFR 1.98(a)(2) in any application containing a reference to the Information Disclosure Statement (IDS) submitted in above-identified application.

The petition is **GRANTED** to the extent indicated below.

Petitioner points to the logistic problems arising from complying with 37 CFR 1.98(a)(2) by submitting paper copies of some 136 references cited in the IDS of record herein (listed as appendix B to the petition) in each of approximately 45 other applications (listed as appendix B to the petition). Petitioner proposes to provide triplicate paper copies of the 136 references in the above-identified application, which is considered to be a "holding" application, for storage, and will reference the IDS herein in the other ("bulk") applications, such that the examiner(s) of the bulk applications may refer to the paper copies herein. Petitioner also asserts that each of the bulk filing applications will receive supplemental IDS submissions based on the specific relevancy of the information to a given application.

The USPTO desires to accommodate petitioner's request *vis-a-vis* the approximately 45 other applications mentioned in the petition to the extent that it is able The delay in treating the petition is regretted, and as such no additional fee for expedited processing is due.

Subject to the conditions set forth below, the copy requirement of 37 CFR 1.98(a)(2) is hereby waived with regard to any IDS listing only information submitted in compliance with 37 CFR 1.97 and 1.98 in the above-identified application for any application containing a reference to the IDS in the above-identified application. Petitioner must include a copy of this decision with the listing

of information (37 CFR 1.98(a)(1)) submitted in any application invoking the waiver granted by this decision.

If any application containing a reference to the IDS in the above-identified application becomes open to public inspection (37 CFR 1.14), confidentiality under 35 U.S.C. § 122 for the above-identified application is considered waived and the above-identified application will also become open to public inspection. Any petition to expunge information in the IDS in the above-identified application must be filed and granted before the above-identified application, or any application containing a reference to the IDS in the above-identified application, becomes open to public inspection.

The waiver granted by this decision terminates on October 1, 2004. The Patent and Trademark Office may also terminate the waiver granted by this decision earlier than October 1, 2004 on notice to petitioner.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-1820.

The application file is being returned to Technology Center AU 2756 for further processing.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
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 20231

7/24/08

Patent No. :6816819
Inventor(s) : James B. Loveland
Issued : 11/9/2004
Title : GRAPHICAL METHOD AND SYSTEM FOR MODELING AND ESTIMATING CONSTRUCTION PARAMETERS
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 item [63] 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

STEVEN E. HALPERN
C/O McCARTER & ENGLISH, LLP
100 MULBERRY STREET
NEWARK, NJ 07102

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Ryu Inada :
Application No. 09/386,341 : DECISION GRANTING PETITION
Filed: August 31, 1999 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 104116 :

This is a decision on the petition, filed April 7, 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 February 14, 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 the undersigned at (571) 272-3218.

This matter is being referred 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.

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

In re Patent No. 6318951
Issue Date: November 20,2001
Application No. 09386566
Filed: August 31,1999
Attorney Docket No. 291958118US

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

This is a decision on the electronic petition, filed January 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 January 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)
6318951	2001-11-20	09386566	1999-08-31	P99-0022

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	/craig e. bohn/	Date (YYYY-MM-DD)	2010-01-26
Name	Craig E. Bohn	Registration Number	52629

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Foley & Lardner
P. O. Box 80278
San Diego, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of :
Shiv Kumar, et al. :
Application No. 09/386,576 : ON PETITION
Filed: August 30, 1999 :
Attorney Docket No. 245/153 :

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**.

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 instant petition varies 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 contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 1600 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

In re Patent No. 6322119
Issue Date: November 27,2001
Application No. 09386590
Filed: August 31,1999
Attorney Docket No. 291958118US1

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

This is a decision on the electronic petition, filed January 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 January 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)
6322119	2001-11-27	09386590	1999-08-31	P99-0022US2

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	/craig e. bohn/	Date (YYYY-MM-DD)	2010-01-26
Name	Craig E. Bohn	Registration Number	52629

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.**

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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
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Paper No. 16

Polster, Lieder, Woodruff & Lucchesi
763 South New Ballas Road
St. Louis, MO 63141-8750

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Philip Needleman, et. al.
Application No. 09/386,591
Filed: August 31, 1999
Attorney Docket No. MON-103.OCON

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2002, to revive the above-identified application.

The petition is **GRANTED**.

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. However, in accordance with 37 CFR 1.34(a), the signature of Joseph Skerpon appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Joseph Skerpon desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application will be directed solely to the address of record until otherwise instructed.

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 $920.00 extension of time submitted with the petition on May 3, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 1600.

Telephone inquiries concerning this decision should be directed to Andrea Coram at (703) 308-6711.

Andrea Coram
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Joseph M. Skerpon
Banner & Witcoff, Ltd.
1001 G Street, NW - 11th Floor
Washington, DC 20001-4597

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)
6780397	2004-08-24	09386657	1999-08-31	0994-113

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 I. Kohn/	Date (YYYY-MM-DD)	2009-02-24
Name	Kenneth I. Kohn	Registration Number	30955

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. 6780397
Issue Date: August 24,2004
Application No. 09386657
Filed: August 31,1999
Attorney Docket No. 0994.00113

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

This is a decision on the electronic petition, filed February 24,2009 ,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 February 24,2009 . 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
DW Nov-07

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION ON PETITION
Application No. 09/386692	:	
Filing Date: 08/31/1999	:	
For: EXTENDED DURATION LIGHT	:	
ACTIVATED CANCER THERAPY	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.183 TO ACCEPT A PETITION TO CORRECT INVENTORSHIP WITHOUT A STATEMENT UNDER §1.48(a)(2)" and the "PETITION PURSUANT TO 37 C.F.R. §1.48(a)(2) TO CORRECT INVENTORSHIP," filed on August 10, 2006, which are being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the deletion of Anil Singhal as a named inventor and (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being deleted.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

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.

On August 31, 1999, the application was filed without an executed oath or declaration.

On March 17, 2000, a declaration pursuant to 37 CFR 1.63, was filed, naming James Chen and Anil Singhal as joint inventors.

On August, 10, 2006, the subject petition under 37 CFR 1.183 and 1.48(a) was filed. Petitioners seek to delete Singhal as a joint inventor. Petitioners further state that Singhal has refused to sign the statement of lack of deceptive intent required by 37 CFR

1.48(a). The petition is accompanied by consent of the assignee(s), and a declaration naming Chen as the sole inventor.

Petitioners' registered patent practitioner, Stephanie Seidman, states that a statement under 37 CFR 1.48(a)(2) was provided to Singhal for his review on August 4, 2006, but that Singhal failed to return the statement. Counsel further avers that her associate, Frank J. Miskeil, spoke by telephone to joint inventor Singhal, who stated that he refuses to sign the statement under 37 CFR 1.48(a)(2).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assginee, if any of the originally named inventors has executed an assignment

The petition of record does not comply with items (1). As petitioners also request consideration under 37 CFR 1.183, and the petition under 37 CFR 1.183 is not grantable for the reasons discussed *infra*.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventor is, notwithstanding the exercise of reasonable

[1] MPEP 201.03(B).

care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Petitioners may show proof that a copy of the statement was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration and, in this case, the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a)) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the statement of lack of deceptive intent can be alleged, petitioners must show that a copy of the statement was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

Petitioners should provide first-hand evidence that the statement of lack of deceptive intent was sent to Singhal. Petitioners may provide a copy of the cover letter transmitting the statement of lack of deceptive intent to Singhal or a declaration of facts by a person having first-hand knowledge of the statement being sent to Singhal. Additionally, petitioners should provide an affidavit or declaration of facts by counsel's associate, Frank J. Miskiel, concerning Dr. Singhal's oral refusal to sign the statement of lack of deceptive intent.

The petition is therefore dismissed without prejudice to reconsideration pending the submission of the documents listed above.

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

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.

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:

STEPHANIE SEIDMAN
FISH & RICHARDSON PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-21-06

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/386734 Patent No.: 7001471

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 check Ref. Cited

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. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1742

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. 6319387
Issue Date: November 20,2001
Application No. 09386772
Filed: August 31,1999
Attorney Docket No. SEM4492P0283

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

This is a decision on the electronic petition, filed January 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 January 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)
6319387	2001-11-20	09386772	1999-08-31	P99-0030US2

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	/craig e. bohn/	Date (YYYY-MM-DD)	2010-01-26
Name	Craig E. Bohn	Registration Number	52629

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

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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. 14

VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQE03H14
IRVING TX 75038

MAIL

APR 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Joseph Allen, et al.
Application No. 09/386,775
Filed: August 31, 1999
For: **TECHNIQUES FOR PROVIDING UNINTERRUPTED DIGITAL COMMUNICATIONS TO CUSTOMERS COUPLED TO LOCAL LOOP GENERATION EQUIPMENT**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed December 9, 2004, which is treated as pursuant to 37 CFR §1.181. No fee is required.

The application was held as abandoned for failure to timely respond to the non-final Office action mailed February 6, 2004. A Notice of Abandonment was mailed on October 4, 2004.

Petitioner states that they did not receive the non-final Office action mailed January 15, 2004, but that the Notice of Abandonment was forwarded to them by the Law firm of Morgan Lewis & Bockius LLP of Washington D.C.

In the 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 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.

Petitioner has not complied with the requirements as set forth above to show that the Office action was in fact, not received.

A review of the application record reveals that two requests for Change of Address/Power of Attorney were filed in the subject application, within 2 months of each other. The first Change of Address/Power of Attorney lists the correspondence address set forth above and appoints the attorneys associated with customer number 32127, filed March 28, 2003. The second Change of Address/Power of Attorney was for the Law firm of Morgan Lewis & Bockius LLP of Washington D.C. This second Change of Address/Power of Attorney was filed April 11, 2003.

In a similar decision for a another application, but regarding the same attorneys and situation as listed above, the petition was granted due to the fact that the change of power of attorneys were filed less than a week apart and the second power of attorney was processed first. It was held in the other application decision that given the order of processing the change of power of attorney, that clearly there was an irregularity in the mailing of the Office action. In the instant application we have a similar situation, but no change in order of processing.

With respect to the instant petition, the Office will accept Petitioner's statement that the law firm of Morgan Lewis & Bockius LLP forwarded the Notice of Abandonment to the above noted firm as though there was an error in entry of power of attorneys. However, any future petition will be required to provide sufficient evidence to show who is the appropriate power of attorney.

Accordingly, there was an obvious irregularity in mailing of the final Office action and thus the application was not abandoned in fact. Therefore, the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for re-mailing the final Office action. A new three month statutory period for response to the final Office action will be reset to begin as of the mailing date of the new final Office action.

Dwayne 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

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON, VA 22202-2909

COPY MAILED

FEB 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Laszlo ERDERLY, JR., et al	:	
Application No. 09/386,775	:	DECISION ON PETITION
Filed: August 31, 1999	:	
Attorney Docket No. VE13.51	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before January 3, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 4, 2008.

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 $1440 ; (2) the petition fee of $1540; and (3) and the required statement of unintentional delay.

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

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

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 24 2006
OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
Yasuji Ota et al	:	
Application No. 09/386,824	:	ON PETITION
Filed: August 31, 1999	:	
Attorney Docket No. FUJO-16.446	:	

This is a decision on the petition, filed February 13, 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 October 25, 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2654 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).

09 386878

Merchant & Gould

An Intellectual Property Law Firm

Merchant & Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

A Professional Corporation

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JUN 15 2009

Fax Transmission | June 15, 2009

TO:

Attn: Office of Petitions Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450	FROM: Karen A. Fitzsimmons OUR REF: 2316.2037US01 TELEPHONE: 612.371.5340

Total pages, including cover letter: 8

PTO FAX NUMBER 1-571-273-8300

If you do NOT receive all of the pages, please telephone us at 612.332.5300, or fax us at 612.332.9081.

Title of Document Transmitted: COMMUNICATION and 6 pages of papers previously filed

Patent No.: 6,566,606 B1
Issue Date: MAY 20, 2003
Patentee: HAZY ET AL.
Our Ref. No. 2316.2037US01

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: K. A. Fitz
Name: Karen A. Fitzsimmons
Reg. No.: 50,470

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Carla J. Catalano

Carla J Catalano
Signature

June 15, 2009
Date

GEN033.DOT

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JUN 15 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,566,606 B1	Docket:	2316.2037US01
Issue Date:	MAY 20, 2003	Patentee:	HAZY ET AL.
Title:	SHARED SHEATH DIGITAL TRANSPORT TERMINATION CABLE		

CERTIFICATE UNDER 37 CFR 1.6(d):
I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on June 15, 2009.
By Carla J. Catalano
Name: Carla J. Catalano

COMMUNICATION

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

23552
PATENT TRADEMARK OFFICE

Dear Sir:

A Notice denying a Request for a Certificate of Correction of April 29, 2009 has been received. The Notice indicates that a petition under 37 CFR 3.81 is not of record to consider the Request. The Notice further indicates that a request for a certificate of correction and 1.20(a) fee (item B), and a 1.17(i) processing fee (item C) were not included in the request.

It is respectfully noted that all items, including a petition under 37 CFR 3.81, a Request for Certification of Correction, and authorization to charge fees 1.20(a) and 1.17(i) to deposit account, were in fact included in the papers filed April 29, 2009. A copy of the papers (6 pages) is provided herewith.

Reconsideration of the papers filed April 29, 2009 is respectfully requested. The Examiner is invited to contact Applicants' below-listed representative if any questions should arise.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: June 15, 2009

Karen A. Fitzsimmons
Reg. No. 50,470

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
JUN 15 2009

Patentee:	HAZY ET AL.	Docket:	2316.2037US01
Patent No.:	6,566,606 B1		
Issued:	MAY 20, 2003		
Title:	SHARED SHEATH DIGITAL TRANSPORT TERMINATION CABLE		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 29, 2009.

By: Kristine A. Wacek
Name: Kristine A. Wacek

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

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Request Under 37 C.F.R. §3.81(b)
- ☒ Request for Certificate of Correction
- ☒ Certificate of Correction
- ☒ Please charge Deposit Account No. 13-2725 in the amount of $230.00 for Petition Fee Under 1.17(i) ($130) and Certificate of Correction Fee ($100)
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

Merchant & Gould P.C.
P.O. Box 2903 Minneapolis, MN 55402-0903
612.332.5300

By: Karen A. Fitzsimmons
Name: Karen A. Fitzsimmons
Reg. No.: 50,470
KFitzsimmons:PLSkaw

23552
PATENT TRADEMARK OFFICE

(PTO TRANSMITTAL - POST ISSUANCE)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
JUN 1 5 2009

Patentee:	HAZY ET AL.	Docket:	2316.2037US01
Patent No.:	6,566,606 B1		
Issued:	MAY 20, 2003		
Title:	SHARED SHEATH DIGITAL TRANSPORT TERMINATION CABLE		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 29, 2009.

By: Kristine A. Wacek
Name: Kristine A. Wacek

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

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Request Under 37 C.F.R. §3.81(b)
- ☒ Request for Certificate of Correction
- ☒ Certificate of Correction
- ☒ Please charge Deposit Account No. 13-2725 in the amount of $230.00 for Petition Fee Under 1.17(i) ($130) and Certificate of Correction Fee ($100)
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

Merchant & Gould P.C.,
P.O. Box 2903 Minneapolis, MN 55402-0903
612.332.5300

By: Karen A. Fitzsimmons
Name: Karen A. Fitzsimmons
Reg. No.: 50,470
KFitzsimmons:PLSkaw

23552
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(PTO TRANSMITTAL - POST ISSUANCE)

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,566,606 B1	Docket:	2316.2037US01
Issue Date:	MAY 20, 2003	Patentee:	HAZY ET AL.
Title:	SHARED SHEATH DIGITAL TRANSPORT TERMINATION CABLE		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 29, 2009

By: Kristine A. Wacek
Name: Kristine A. Wacek

REQUEST UNDER 37 C.F.R §3.81(b)

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

23552
PATENT TRADEMARK OFFICE

Dear Sir:

It is respectfully requested that U.S. Patent 6,566,606, issued May 20, 2003, be corrected to state the assignee name of Prestolite Wire Corporation. A recordation of assignment from the inventors to the Prestolite Corporation was submitted to the U.S. Patent Office as set forth in 37 C.F.R. §3.11 before the issuance of U.S. Patent 6,566,606. The assignment was recorded on August 31, 1999 at reel/frame 010219/0017. A fee pursuant to 37 C.F.R. §1.17(i) is submitted herewith.

A Request for Certificate of Correction, and fee under 37 C.F.R. §1.20(a), is also submitted herewith, which Request denotes the change of the assignee name to Prestolite Wire Corporation.

06/17/2009 JVONG1 00000015 132725 6566606
02 FC:1464 130.00 DA

The Examiner is invited to contact Applicants' below-listed representative if any questions should arise.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: April 29, 2009

Karen A. Fitzsimmons
Reg. No. 50,470

PAGE 6/8 * RCVD AT 6/15/2009 3:05:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/34 * DNIS:2738300 * CSID:6123329081 * DURATION (mm-ss):01-42

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JUN 1 5 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	6,566,606 B1	Docket:	2316.2037US01
Issue Date:	MAY 20, 2003	Patentee:	HAZY ET AL.
Title:	SHARED SHEATH DIGITAL TRANSPORT TERMINATION CABLE		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 29, 2009.

By: Kristine A. Wach
Name: Kristine A. Wach

REQUEST FOR CERTIFICATE OF CORRECTION

Mail Stop Petition
Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

23552
PATENT TRADEMARK OFFICE

Dear Sir:

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. One copy of the text of the Certificate in the suggested form is enclosed.

As some of the errors listed are due to Applicants' mistake, please charge Deposit Account No. 13-2725 in the amount of $100.00 to cover the Certificate fee.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims, and re-examination is not required.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: April 29, 2009

Karen A. Fitzsimmons
Reg. No. 50,470
KAF:PLSkaw

06/17/2009 JVONG1 00000015 132725 6566606
01 FC:1811 100.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,566,606 B1 PAGE 1 of 1

DATED : MAY 20, 2003

INVENTOR(S) : HAZY ET AL.

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

Front page, (73) Assignee: "**Krone, Inc.**, Centennial, CO (US)" should read –**Prestolite Wire Corporation**, Port Huron, MI (US)--

MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Karen A. Fitzsimmons
P.O. Box 2903
Minneapolis, MN 55402-0903

PATENT NO. 6,566,606 B1

Docket No. 2316.2037US01

No. of add'l copies 0

23552
PATENT TRADEMARK OFFICE

FORM 1050

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC176
OCT 0 3 2002
PATENT & TRADEMARK OFFICE

Paper No. 10

OPPENHEIMER WOLFF & DONNELLY LLP
1400 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED
JUL 0 8 2002
OFFICE OF PETITIONS

In re Application of
Amuah
Application No. 09/386,834
Filed: August 31, 1999
Attny Dckt No.: AND1P246:

ON PETITION

RECEIVED
OCT 0 7 2002
Technology Center 2100

This is a decision on the petition under 37 CFR § 1.183, filed November 27, 2001 requesting extraordinary relief with respect to the requirements pf 37 CFR 1.97 in all the applications listed in the accompanying appendix, which is being treated as a petition to waive the requirements of 37 CFR 1.98(a)(2) in any application containing a reference to the Information Disclosure Statement (IDS) submitted in above-identified application.

The petition is **GRANTED** to the extent indicated below.

Petitioner points to the logistic problems arising from complying with 37 CFR 1.98(a)(2) by submitting paper copies of some 136 references cited in the IDS of record herein (listed as appendix B to the petition) in each of approximately 45 other applications (listed as appendix B to the petition). Petitioner proposes to provide triplicate paper copies of the 136 references in the above-identified application, which is considered to be a "holding" application, for storage, and will reference the IDS herein in the other ("bulk") applications, such that the examiner(s) of the bulk applications may refer to the paper copies herein. Petitioner also asserts that each of the bulk filing applications will receive supplemental IDS submissions based on the specific relevancy of the information to a given application.

The USPTO desires to accommodate petitioner's request *vis-a-vis* the approximately 45 other applications mentioned in the petition to the extent that it is able The delay in treating the petition is regretted, and as such no additional fee for expedited processing is due.

Subject to the conditions set forth below, the copy requirement of 37 CFR 1.98(a)(2) is hereby waived with regard to any IDS listing only information submitted in compliance with 37 CFR 1.97 and 1.98 in the above-identified application for any application containing a reference to the IDS in the above-identified application. Petitioner must include a copy of this decision with the listing

of information (37 CFR 1.98(a)(1)) submitted in any application invoking the waiver granted by this decision.

If any application containing a reference to the IDS in the above-identified application becomes open to public inspection (37 CFR 1.14), confidentiality under 35 U.S.C. § 122 for the above-identified application is considered waived and the above-identified application will also become open to public inspection. Any petition to expunge information in the IDS in the above-identified application must be filed and granted before the above-identified application, or any application containing a reference to the IDS in the above-identified application, becomes open to public inspection.

The waiver granted by this decision terminates on October 1, 2004. The Patent and Trademark Office may also terminate the waiver granted by this decision earlier than October 1, 2004 on notice to petitioner.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-1820.

The application file is being returned to Technology Center AU 2756 for further processing.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	)
	)
Michel Bowman-Amuah	) Group Art Unit: 2756
	)
Application No. 09/386,834	) Examiner: Not Assigned
	)
	)
	)
	)
Filed: August 31, 1999	) Atty. Docket No. 60021-324601
	)
	) Date: November 27,2001
	)
	)
	)

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. (703) 308-6916 on November 27, 2001.

Signed: Yvonne Mock
Yvonne Mock

PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98(a)(2) AND PETITION FOR ACCELERATED REVIEW OF THIS PETITION

Commissioner for Patents
Office of Patent Legal Administration
Mr. Jay Lucas and Mr. Bob Spar
Washington, D.C. 20231

Dear Sirs:

This is a Petition Under 37 CFR 1.183, requesting relief from the current requirements for Information Disclosure Statements ("IDS") under 37 CFR 1.98(a)(2) in view of the need to file Information Disclosure Statements in multiple related applications. This petition under 37 CFR 1.183 is requesting relief from the §1.98(a)(2) provision which requires filing paper copies of patents, publications, applications, or other information ("references") in each of many related applications where the references are being cited by Petitioner. This is also a Petition for

Accelerated Review of this Petition. Because of the time sensitive nature of filing an IDS, Petitioners respectfully request expedited review and grant of this petition.

37 CFR 1.56(b)(1) requires disclosure to the Office of Information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim... ". Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98. 37 CFR 1.56(a). 37 CFR 1.98(a)(2) requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes.

The instant application filed under 35 U.S.C. 111 is one of about 45 related U.S. applications. A list of the 45 applications is attached as Appendix "A" of the petition. An Information Disclosure Citation List is being submitted herein as Appendix "B" that lists 112 US patent applications, references cited in 15 PCT searches, and 9 other non-patent references including two books, one 750 pages long, for a total of 136 citations.

It is respectfully submitted that it will be extremely burdensome for both Petitioners and the Office if Petitioners are required to comply with the section 37 CFR 1.98(a)(2) requiring that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. Each of the at least 45 related U.S. applications will require duplicate copies of at least 136 citations totaling at least 6,120 references. Of course additional related applications might be filed later and additional references might need to be sited resulting in a total of more than 6,120 references submitted to the Office. The submission of so many copies of references will be a great burden to Petitioners. Additionally, it will be a great burden to the Office to store and to keep track of so many copies of references.

Petitioners therefore request that the §1.98(a)(2) requirement for the submission of a copy of each IDS citation be waived in favor of the following conditions:

1) Application no. 09/386,834, entitled "SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LEGACY WRAPPER IN A COMMUNICATION SERVICE PATTERNS ENVIRONMENT" filed 08/31/1999, our client/matter number 60021-324601 (AND1P246) (or another of the related patent applications) will be designated by the Office as a "holding" application. Three separate paper copies (three "compendium") of all the references cited will be submitted by Petitioners to the Office and stored in the "holding" application.

2) The remaining related patent applications will be designated as "bulk filing" applications. Petitioners will, in each "bulk filing" application for which waiver of §1.98(a)(2) is desired, refer to the "holding" application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology. Petitioners will not have to provide separate paper copies of the IDS cited references for the "bulk filing" applications.

3) The information will also be cited in the "holding" application.

Note: Petitioners will not be required to cite in each "bulk filing" application every item of information that is cited in the "holding" application. Items will be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not requested (for the requirement to supply a paper copy of an IDS citation in another "bulk filing" application) where the citation is not, or has not been, made in the "holding" application.

4) A copy of the Decision on the instant Petition will be filed in each "bulk filing" application for which waiver is requested.

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under §1.98(a)(2), once submitted in the "holding" application will be supplied in each "bulk filing" application where the citation is made.

6) A copy of the Information Disclosure Statement and the Form 1449 (or equivalent) will be filed in each of the "bulk filing" and "holding" applications.

7) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to §1.98(a)(2) without provision of reasons but with 30 day notice. In such event, a two month period following the 30 day notice period will be given where the paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by Petitioner for any of the related applications may be made with formal notice and no transition/continuing period after termination is required.

8) The grant of the §1.183 petition re §1.98(a)(2) will not indicate that the Office would favorably treat a petition to suspend action under §1.103(a) should the "holding" application be allowed. Issuance of the "holding" application as a patent is not seen to terminate its usefulness either: (1) as a "holding" application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). For example, the patent file can be kept in the Technology Center for easy reference, or rather than rely upon the patent, either a reference set of paper copies (produced from the three sets of copies to be submitted) could be utilized, or the Office may decide to create Digests from the "compendium". Should the "holding" application become abandoned, the issue of continued introduction of paper copies of new citations would be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the "holding" application in the event the "holding" application is allowed, if it is in the best interest of the Office to do so.

9) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application. Submissions after allowance or final rejection must comply with all aspects 37 CFR 1.97 and 1.98 including providing copies of the submissions in the application in which consideration is desired. Alternatively, Petitioners can have the submission considered by filing an RCE or continuation application complying with the conditions of the

Decision resulting from this petition and adding the submission to the "compendium" of the "holding" application.

10) Further applications can be added to the "bulk filing" applications by including a copy of the Decision on the instant Petition and by referring to the "holding" application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology.

11) Information supplied via the compendium can be updated by filing in the "holding" application 3 copies of additional "compendium" sections including the additional information and by providing additional pages of Information Disclosure Statements and Form 1449 (or equivalent) listing the additional information.

Alternatively, Petitioners' hereby petition for a suspension of rules under 37 CFR. §1.183, in order to submit electronic copies of at least some of the references, in submitting each IDS. Petitioners' preferred electronic format is a CD ROM.

Alternatively, Petitioners hereby petition for a suspension of rules under 37 CFR. §1.183, in order to submit each IDS including only the first page of each cited US Patent reference.

If none of the above proposals are satisfactory, the Petitions Examiner is respectfully requested to approve an alternate plan that will lessen the burden on Petitioners and the Office resulting from the filings of so many references.

The Commissioner is hereby authorized to charge any fees due in connection with the filing of this petition to Deposit Account 02-3964 (Order No. 60021-324601). If any additional fees are due in connection with the filing of this petition, the Commissioner is hereby authorized to charge such fees to Deposit Account 02-3964 (Order No. 60021-324601). A copy of the transmittal is enclosed for these purposes.

Respectfully submitted,
Oppenheimer Wolff & Donnelly, LLP

Rambod Nader
Registration No. 47,262

1400 Page Mill Road
Palo Alto, CA 94304
Telephone: (650) 320-4000

Attachments: Appendix "A" – Form PTO-1449

Appendix "B" – List of Related Cases

APPENDIX B

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,653	31AU1999	AND1P236	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR BASE SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,831	31AU1999	AND1P237	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ABSTRACTION FACTORY IN A BASE SERVICES PATTERN ENVIRONMENT
09/387,086	31AU1999	AND1P238	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A BATCH JOB COMPONENT IN A BASE SERVICES PATTERN ENVIRONMENT
09/386,431	31AU1999	AND1P239	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A PROCESSING PIPELINE IN A BASE SERVICES PATTERN ENVIRONMENT
09/387,658	31AU1999	AND1P240	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR BUSINESS LOG IC SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/388,022	31AU1999	AND1P241	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ATTRIBUTE DICTIONARY IN A BUSINESS LOGIC SERVICES PATTERNS ENVIRONMENT
09/387,213	31AU1999	AND1P242	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A CONSTANT CLASS COMPONENT IN A BUSINESS LOGIC SERVICES ENVIRONMENT
09/387,642	01SE1999	AND1P243	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR COMMUNICATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,430	31AU1999	AND1P244	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A FIXED FORM AT STREAM IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,214	31AU1999	AND1P245	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A GLOBALLY ADDRESSABLE INTERFACE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,834	31AU1999	AND1P246	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LEGACY WRAPPER IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,064	31AU1999	AND1P247	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LOCALLY ADDRESSABLE INTERFACE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,321	31AU1999	AND1P248	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A NULL STRUCTURE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,874	31AU1999	AND1P249	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PAGING COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,239	31AU1999	AND1P250	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REFRESHABLE PROXY POOL IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,070	31AU1999	AND1P251	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A SELF-DESCRIBING STREAM IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,717	31AU1999	AND1P252	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR STREAM-BASED COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,430	31AU1999	AND1P253	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A STRUCTURE-BASED COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,072	31AU1999	AND1P254	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PRESENTATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/387,069	31AU1999	AND1P255	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ACTIVITY COMPONENT IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/386,988	31AU1999	AND1P256	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A USER INTERFACE VALIDATOR IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/387,580	31AU1999	AND1P257	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A VIEW CONFIGURER IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/386,716	31AU1999	AND1P258	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR ENVIRONMENT SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/388,021	31AU1999	AND1P259	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ASSERTION COMPONENT IN ENVIRONMENT SERVICES PATTERNS
09/386,435	31AU1999	AND1P260	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR DISTRIBUTED GARBAGE COLLECTION IN ENVIRONMENT SERVICES PATTERNS
09/386,434	31AU1999	AND1P261	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR EXCEPTION HIERARCHIES IN ENVIRONMENT SERVICES PATTERNS

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,873	31AU1999	AND1P262	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN EXCEPTION RESPONSE TABLE IN ENVIRONMENT SERVICES PATTERNS
09/387,576	31AU1999	AND1P263	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LOAD BALANCER IN ENVIRONMENT SERVICES PATTERNS
09/386,432	31AU1999	AND1P264	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A POLYMORPHIC EXCEPTION HANDLER IN ENVIRONMENT SERVICES PATTERNS
09/386,989	31AU1999	AND1P265	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A USER CONTEXT COMPONENT IN ENVIRONMENT SERVICES PATTERNS
09/387,071	31AU1999	AND1P266	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR INFORMATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,837	31AU1999	AND1P267	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ATTRIBUTE CONVERTER IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,888	31AU1999	AND1P268	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A DATA HANDLER IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/387,821	31AU1999	AND1P269	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR INDIVIDUAL PERSISTENCE COMPONENT IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,238	31AU1999	AND1P270	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A MULTI-OBJECT FETCH COMPONENT IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,714	31AU1999	AND1P271	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A MULTI-OBJECT IDENTIFIERS AS OBJECTS IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,322	31AU1999	AND1P272	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN OBJECT IDENTITY CACHE IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/388,911	31AU1999	AND1P273	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A PERSISTENT STATE AND PERSISTENT OBJECT SEPARATOR IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/386,433	31AU1999	AND1P274	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PIECEMEAL RETRIEVAL IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/387,654	31AU1999	AND1P275	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR TRANSACTION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/387,822	31AU1999	AND1P276	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A DEPENDENT REQUEST IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,101	31AU1999	AND1P277	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LUW CONTEXT COMPONENT IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,575	31AU1999	AND1P278	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REQUEST BATCHER IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/386,715	31AU1999	AND1P279	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REQUEST SORTER IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,085	31AU1999	AND1P280	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR SEPARATE MODELS IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT

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

Fish & Richardson PC
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

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OFFICE OF PETITIONS

In re Application of
Matthew J. Adiletta, et al.
Application No. 09/387,109
Filed: August 31, 1999
Attorney Docket No. 10559/079001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 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 Notice to File Missing Parts mailed September 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 November 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), it will be interpreted as the required statement. 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 Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

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

Retta Williams

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

Marianne Morgan for

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

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1480 FALMOUTH ROAD
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JUN 18 2008
OFFICE OF PETITIONS

In re Application of	:	
Dryja et al.	:	
Application No. 09/387,158	:	Petition for
Filing Date: August 31, 1999	:	Patent Term Extension
Docket No. 0300-005009	:	
For: Retinoblastoma Nucleic Acids	:	

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Petition for Adjustment of Patent Term Extension under 37 CFR 1.54(b) for an Application Filed Between June 8, 1995 and May 28, 2000," received on August 28, 2007.

The petition under 37 CFR 1.701 granted-in-part.

Petitioner notes that the above-identified application was filed on August 31, 1999, and allowed on August 10, 2007, but issuance was delayed due to suspensions in prosecution for a potential interference. Petitioner states that the USPTO failed to provide patent term extension for the second suspension (Letter of Suspension mailed November 18, 2002), third suspension (Letter of Suspension mailed August 12, 2003) and the "Order-Termination of Proceedings-Bd.R.8" issued by the Board of Patent Appeals and Interferences on October 12, 2006.

Petitioner asserts that the application was suspended for three periods from February 25, 2002 and ending on September 21, 2004, but only received patent term extension for the first period beginning on February 25, 2002 and ending November 17, 2002. Petitioner argues that the period of extension under 37 CFR 1.701(c)(1)(ii) should be for the entire period from February 25, 2002 to September 21, 2004 for an extension of 938 days.

Petitioner asserts that the period of extension under 37 CFR 1.701(c)(1)(i) should be for the entire period from September 22, 2004, the date of the declaration of the interference to October 12, 2006, the termination of proceedings for an extension of 750 days.

Petitioner request that the patent term extension information be changed in the PALM records and the patent be changed to reflect an extension of 1688 days.

On February 25, 2002, a first Letter of Suspension was mailed by the Office.

On November 18, 2002, a second Letter of Suspension was mailed by the Office.

On August 12, 2003, a third Letter of Suspension was mailed by the Office.

On September 22, 2004, a Declaration of Interference was mailed by the Office.

On December 7, 2005, a judgment was made, by a decision mailed by the Board of Patent Appeals and Interferences.

On October 12, 2006, a notice titled "Order-Termination of Proceedings-Bd.R.8" was faxed to Petitioner by a paralegal at the Board of Patent Appeals and Interferences.

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.

The above-identified application was filed on August 31, 1999. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

Petitioner asserts that under 37 CFR 1.701(c)(1)(ii); the patent term extension should be 938 days for the delay due to the suspension in prosecution due to the interference. While prosecution in the application was suspended three times, the suspensions were due to a potential interference with applicants' application with other application(s), not to await the result of interference in another application. As a result, the provision of 37 CFR 1.701(c)(1)(ii) does not apply. The provisions of 37 CFR 1.701(c)(1)(ii) apply to suspensions by the Office due to interference proceedings under 35 U.S.C. 135(a), however, in this instance there was no interference proceeding. Therefore, petitioners' argument that he is entitled to patent term extension for the period of suspension under 37 CFR 1.701(c)(1)(ii) is not persuasive. The application is not is entitled to the extension which was calculated based on the February 25, 2002 Letter of Suspension because the suspension was not to await the outcome of an interference, but due to a potential interference. The application is entitled to zero (0) days of patent term extension under 37 CFR 1.701(c)(1)(ii).

According to 37 CFR 1.701(c)(1)(i), the application is entitled to patent term extension for the number of days, in the period beginning on the date the interference was declared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application. The interference was declared on September 22, 2004, the date of the Declaration of

Interference. A final decision was entered in favor of the senior party on December 7, 2005, the date of the decision of decision by the Board of Patent Appeals and Interferences. According to 37 CFR 1.661, after a final decision by the Board is entered, interference is considered terminated when no appeal or other review has been or can be taken. As a result, the period of extension is 504 days, the period from September 22, 2004, the date of the declaration of interference to February 7, 2006, which is two months after the mailing of the decision by the Board including the beginning and end dates.

While Petitioner argues that additional patent term extension should be granted because the interference was not terminated until October 12, 2006, the date of receipt of the "Order-Termination of Proceeding-Bd. R. 8", the interference was terminated two months after the mail date of the decision by the Board, when no further appeal was taken. The paper that Petitioner argues should be considered the termination date is not a decision signed by a panel from the Board. After the Board entered the final decision, there were no further interference proceedings with respect to the application, thus the application is not entitled to additional patent term extension.

The delay in issuance of petitioner's patent is regretted. However, the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

The Office proposes to issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. Applicant is given THIRTY (30) DAYS to respond to this letter. If no objection is received from applicant, the Office will issue a certificate of correction indicating that the patent term is extended for **502 days** under 35 U.S.C. 154(b). This time limit is NOT extendible under 37 CFR 1.136

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized the $200 fee has been charged to Petitioners Deposit Account (50-1895).

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. 5

HICKMAN STEPHENS & COLEMAN
P O BOX 52037
PALO ALTO , CA 94303-0746

Mailed

APR 17 2000

Director's Office
Group 2700

In re Application of:
Kazuhiro Kozai
Application No.: 09/387,195
Filed: August 31, 1999
For: LSI DESIGN SYSTEM THROUGH MODEL CREATION FOR FUNCTIONAL BLOCK AND LSI DESIGN METHOD THEREFOR

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 December 13, 1999.

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 petition fee of $130.00 will be charged to the practitioner's deposit account as authorized. The application file will then be forwarded to the examiner for expedited prosecution.

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

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

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
St. John : LETTER REGARDING PTA
Application No. 09/387,195 :
Filed: August 31, 1999 (CPA filed July 1, 2002) :
Atty. Dkt. No.: 10022/111 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed March 16, 2009. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

Applicants indicate that while the Notice of Allowance sets forth a patent term adjustment of 494 days, applicant is of the belief that the application would not be entitled to any patent term adjustment given the terminal disclaimer recorded against the application.

As requested, the calculation of patent term adjustment has been reviewed and error has been found, as set forth herein.

The adjustment of 287 days in connection with the mailing of the September 10, 2004 non-final Office action was entered in error. In accordance with 37 CFR 1.702(a)(2), the non-final Office action was timely mailed September 10, 2004 within four months of date that the compliant appeal brief was filed on June 23, 2004.

Further review of the calculation of adjustment reflects an error in the reduction of 91 days in connection with the submission of the appeal brief on November 23, 2005. Notice of Appeal was filed August 24, 2005. Submission of the appeal brief in response to the Notice of Appeal is not grounds for reduction within the meaning of 37 CFR 1.704(c)(8).

The remaining adjustment and reductions have been reviewed and are not found to contain error.

As to applicant's contention that the application is not entitled to an adjustment because a terminal disclaimer has been recorded against it, applicant is advised that the filing of the terminal disclaimer has no effect on the determination of patent term adjustment *set forth* on any patent issuing from this application. It is true that 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

However, the provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Moreover, the Office does not undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 298 days (adjustments totaling 339 days less reductions totaling 41 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Division of Data Management for issuance of a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 8/16/2009

PALM INTRANET

Time: 13:47:20

PTA Calculations for Application: 09/387195			
Application Filing Date:	08/31/1999	PTO Delay (PTO):	626
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	132
Post-Issue Petitions:	0	Total PTA (days):	298
PTO Delay Adjustment:	-196		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
123	08/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		287	
122	08/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	91		
114	12/31/2008	MAIL NOTICE OF ALLOWANCE			
113	12/30/2008	ISSUE REVISION COMPLETED			
112	12/30/2008	DOCUMENT VERIFICATION			
111	12/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
110	12/22/2008	NOTICE OF ALLOWABILITY			
106	11/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
105	12/08/2008	FINISHED INITIAL DATA CAPTURE			
104	11/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
103	11/19/2008	REFERENCE CAPTURE ON IDS			
102	12/09/2008	DATE FORWARDED TO EXAMINER			
101	11/19/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
100	12/09/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
99	11/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
98	11/19/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
97	09/30/2008	EXPORT TO INITIAL DATA CAPTURE			
96	09/22/2008	MAIL NOTICE OF ALLOWANCE			
95	09/19/2008	ISSUE REVISION COMPLETED			
94	09/19/2008	DOCUMENT VERIFICATION			
93	09/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

92	09/15/2008	NOTICE OF ALLOWABILITY			
91	06/30/2008	DATE FORWARDED TO EXAMINER			
90	06/02/2008	RESPONSE AFTER NON-FINAL ACTION			
89	01/10/2008	REFERENCE CAPTURE ON IDS			
88	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	04/15/2008	MAIL NON-FINAL REJECTION			
86	04/14/2008	NON-FINAL REJECTION			
85	01/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	02/05/2008	PARALEGAL TD ACCEPTED			
83	01/16/2008	TERMINAL DISCLAIMER FILED		0	80
82	01/16/2008	TERMINAL DISCLAIMER FEE PAID			
81	02/02/2008	DATE FORWARDED TO EXAMINER			
80	01/16/2008	RESPONSE AFTER NON-FINAL ACTION			
79	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	10/17/2007	MAIL NON-FINAL REJECTION			
77	10/15/2007	NON-FINAL REJECTION			
76	07/30/2007	DATE FORWARDED TO EXAMINER			
75	07/23/2007	RESPONSE AFTER NON-FINAL ACTION			
74	04/23/2007	MAIL NON-FINAL REJECTION			
73	04/16/2007	NON-FINAL REJECTION			
72	02/02/2007	DATE FORWARDED TO EXAMINER			
71	01/08/2007	RESPONSE AFTER NON-FINAL ACTION		2	70
70	10/06/2006	MAIL NON-FINAL REJECTION	286		60
69	10/02/2006	NON-FINAL REJECTION			
68	07/21/2006	DATE FORWARDED TO EXAMINER			
67	11/23/2005	SUPPLEMENTAL APPEAL BRIEF		91	60
66	07/21/2006	DATE FORWARDED TO EXAMINER			
65	07/28/2003	APPEAL BRIEF FILED			
64	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
63	12/02/2005	DATE FORWARDED TO EXAMINER			
62	11/23/2005	SUPPLEMENTAL APPEAL BRIEF			
61	11/23/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
60	08/24/2005	NOTICE OF APPEAL FILED			
59	06/02/2005	MAIL FINAL REJECTION (PTOL - 326)	53		53

58	05/31/2005	FINAL REJECTION			
56	05/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
54	03/17/2005	DATE FORWARDED TO EXAMINER			
53	12/10/2004	RESPONSE AFTER NON-FINAL ACTION			
52	09/10/2004	MAIL NON-FINAL REJECTION	287		46
51	09/07/2004	NON-FINAL REJECTION			
50	07/02/2004	DATE FORWARDED TO EXAMINER			
49	06/23/2004	APPEAL BRIEF FILED			
48	06/04/2004	NOTICE -- DEFECTIVE APPEAL BRIEF			
47	02/21/2004	DATE FORWARDED TO EXAMINER			
46.1	07/28/2003	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
46	07/28/2003	APPEAL BRIEF FILED			
45	07/28/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	05/06/2003	NOTICE OF APPEAL FILED		6	39
43	04/18/2003	MAIL ADVISORY ACTION (PTOL - 303)			
42	04/18/2003	ADVISORY ACTION (PTOL-303)			
41	04/10/2003	DATE FORWARDED TO EXAMINER			
40	04/07/2003	AMENDMENT AFTER FINAL REJECTION			
39	01/30/2003	MAIL FINAL REJECTION (PTOL - 326)			
38	01/27/2003	FINAL REJECTION			
37	11/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
36	11/21/2002	DATE FORWARDED TO EXAMINER			
35	11/18/2002	RESPONSE AFTER NON-FINAL ACTION		33	33
34	11/18/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	07/16/2002	MAIL NON-FINAL REJECTION			
32	07/15/2002	NON-FINAL REJECTION			
31	08/01/2002	DATE FORWARDED TO EXAMINER			
30	07/01/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
29	08/01/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	07/01/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			
25	07/01/2002	MAIL ADVISORY ACTION (PTOL - 303)			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 12

EITAN, PEARL, LATZER & COHEN-ZEDEK
2011 CRYSTAL DRIVE
ONE CRYSTAL PARK SUITE 210
ARLINGTON VA 22202-3709

MAILED

FEB 2 7 2003

Technology Center 2600

In re Application of
Daniel Yellin et al
Application No. 09/387,310
Filed: August 31, 1999
For: **POWER SAVING IN COMMUNICATION TERMINALS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December9, 2002.

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.

Power of Attorney to petitioner was revoked by the applicant before the instant request was filed.

Accordingly, the instant request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being mailed to petitioner at the address on the petition, however, all future communications from the Office will be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: William H. Dippert, Esq.
Cowan, Licbowitz & Latman P.C.
113 Avenue of Americas
New York, NY 10036-6799

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Paper No. 16

WILLIAM H. DIPPERT, ESQ.
COWAN, LIEBOWITZ, AND LATMAN, PC
113 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-6799

MAIL

JUN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Yellin et al. :
Application No. 09/387,310 :
Filed: August 31, 1999 :
For: POWER SAVING IN COMMUNICATION TERMINALS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on June 1, 2003.

A grantable request to withdraw as attorney/agent of record must include the following:
(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.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the assignee on October 9, 2002.

Accordingly, the request is **DISMISSED AS MOOT**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

For Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: EITAN, PEARL, LATZER & COHEN-ZEDEK, LLP
10 ROCKERFELLER PLAZA
SUITE 1001
NEW YORK, NY 10020

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 28, 2002

Truong T. Dinh
Dinh & Associates
2506 Ash St.
Palo Alto, CA 94306

In re application of:
Feng Yang et al. DECISION ON PETITION
Serial No.: 09/387,389
Filed: September 2, 1999

For: MULTI-STANDARD VIDEO DECODER

This is a decision on the petition received on December 26, 2000, 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 August 21, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned November 22, 1999. A notice of abandonment was mailed on October 25, 2000.

On, December 26, 2000 a Notice to File Missing Part was received with two-month extension of time.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Application on December 26, 2000.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2713.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.

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ALEXANDRIA, VA 22313-1450
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Paper No. 21

Jay M. Cantor
Texas Instruments Incorporated
7839 Churchill Way
Dallas, Texas 75251

AUG 15 2003

In re Application of Manabu Tomita :
Application no. 09/387,477 : DECISION ON PETITION
Filed: 1 September 1999 :
Attorney Docket No. TI-26105 :

This is a decision on the petition filed under 37 C.F.R. §1.181 on June 11, 2002, to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **NOT GRANTED** to the extent indicated below.

A Final Office action was mailed April 5, 2002 rejecting the pending claims 1 and 3 through 7. The Petitioner filed an amendment under 37 C.F.R. §1.116 addressing the outstanding rejections on May 14, 2002. An Advisory Action denying entrance of the amendment was mailed on May 21, 2002. Petitioner requests that the amendment filed under 37 C.F.R. §1.116 be entered because it is merely for cosmetic purposes and does not raise new issues that would require further search and consideration.

In the Final Office action, the Examiner rejected the claims 1 and 3 through 7 under 35 U.S.C. §112, First Paragraph because the specification was not enabled for the following claim limitation -"the fluorocarbon gas having the lower ratio of carbon atoms to fluorine atoms forming at least one half of the mixed gas." Petitioner then attempted to address the discrepancy by amending the specification and claims.

The originally filed claims one and two did not contain the above claim limitation as asserted by the Petitioner. Any attempt to incorporate such subject matter within the specification would be considered to be new matter in accordance to 35 U.S.C. §132. See MPEP §706.03(o).

In view of the above, the amendment filed under 37 CFR §1.116 will not be entered for purposes of appeal.

Sharon Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and Optical Systems and Components

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Paper No. 11

Brian J. McNamara
Foley and Lardner
3000 K Street NW, Suite 500
P.O. Box 25696
Washington DC 20007-8696

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Technology Center 2100

In re Application of: David Wilkins	)	
Application No.: 09/387,502	)	**DECISION GRANTING PETITION**
Filed: September 1, 1999	)	**TO ACCEPT CORRESPONDENCE AS**
Attorney Docket No.: 017475-0113	)	**TIMELY FILED UNDER 37 CFR §1.8**
For: METHOD AND APPARATUS FOR	)	
CONTROLLING A GRAPHICS ENGINE	)	

This decision is in response to the request to reconsider and rescind abandonment of this application filed on July 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 respond to the Office action mailed October 17, 2002 (Paper No. 7).

In support of the petition, petitioners have provided (1) a copy of the post card receipt with a stamped date of April 17, 2003, (2) a copy of a Notice of Appeal accompanied by a petition for an extension of time, and (3) a photocopy of applicant's check for fees.

A postcard receipt that itemizes and properly identifies the items that are being filed serves as *prima facie* evidence of receipt in the USPTO as of the date stamped thereon (see MPEP §503). Therefore, petitioner's evidence establishes that a timely response was, in fact, filed on April 17, 2003. The abandonment was the result of Office error in not matching 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 central files to await further submission by applicant. Applicant is reminded the period for reply continues to run from the date of receipt of the Notice of Appeal which is April 17, 2003.

Josie A. Ballato

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

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TECHNOLOGY CENTER 2600

VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.
222 N. LASALLE STREET
CHICAGO, IL 60601

In re Application of
Feliks Dujmenovic et al.
Application No. 09/387,534
Filed: August 31, 1999
For: **METHOD AND SYSTEM FOR PROVIDING A VIDEO SIGNAL**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed March 8, 2005. The petition is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181. No fee is required.

The application is held as abandoned for failure to timely respond to the non-final Office action mailed April 8, 2004. A Notice of Abandonment was mailed February 28, 2005.

Petitioner states that they did not receive the Office action mailed April 8, 2004.

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.

Petitioner has not complied with the requirements set forth above. However, a review of the record indicates that a Change of Correspondence Address was received in the Office on February 12, 2004, which was entered incorrectly. The Office did in fact mail the non-final Office action to an incorrect correspondence address. In view thereof, there was an irregularity in the mailing of the non-final Office action on April 8, 2004, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to Petitioner. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for re-mailing of the Office action and its attachments originally mailed April 8, 2004 setting a new three month shortened statutory period for response.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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Group 2700

HICKMAN STEPHENS & COLEMAN, LLP
P. O. BOX 52037
PALO ALTO, CA. 94303-0746

Paper No.7

In re Application of Bowman-Amuah
Appl. No.: 09/387,654
Filed: August 31, 1999
For: SYSTEM,METHOD, AND ARTICLE OF MANUFACTURE FOR TRANSACTION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed December 10, 1999, to make the above-identified application special. The December 10, 1999 petition requests that this application be made special under the accelerated examination procedure set forth in MPEP 708.02, Section II: Infringement.

A grantable petition to make an application special under 37 CFR 1.102 and in accordance with MPEP 708.02, Section II, must be accompanied by the required fee pursuant to 37 CFR 1.17(i) and a statement by applicant(s) or assignee or a statement by an attorney/agent registered to practice before the PTO in support of the petition stating:

1. that there is an infringing device or product on the market or method in use,
2. that a rigid comparison of the alleged infringing device, product or method with the claims of the application was made,
3. that some of the claims are unquestionably infringed, and
4. that a careful search of the prior art was made or that applicant(s) have good knowledge of the pertinent prior art.

The petition meets the requirements for special status. Authorization to charge the petition fee was included in the first petition.

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

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Paper No. 10

OPPENHEIMER WOLFF & DONNELLY LLP
1400 PAGE MILL ROAD
PALO ALTO CA 94304

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In re Application of
Amuah
Application No. 09/386,834
Filed: August 31, 1999
Attny Dckt No.: AND1P246:

This is a decision on the petition under 37 CFR § 1.183, filed November 27, 2001 requesting extraordinary relief with respect to the requirements pf 37 CFR 1.97 in all the applications listed in the accompanying appendix, which is being treated as a petition to waive the requirements of 37 CFR 1.98(a)(2) in any application containing a reference to the Information Disclosure Statement (IDS) submitted in above-identified application.

The petition is **GRANTED** to the extent indicated below.

Petitioner points to the logistic problems arising from complying with 37 CFR 1.98(a)(2) by submitting paper copies of some 136 references cited in the IDS of record herein (listed as appendix B to the petition) in each of approximately 45 other applications (listed as appendix B to the petition). Petitioner proposes to provide triplicate paper copies of the 136 references in the above-identified application, which is considered to be a "holding" application, for storage, and will reference the IDS herein in the other ("bulk") applications, such that the examiner(s) of the bulk applications may refer to the paper copies herein. Petitioner also asserts that each of the bulk filing applications will receive supplemental IDS submissions based on the specific relevancy of the information to a given application.

The USPTO desires to accommodate petitioner's request *vis-a-vis* the approximately 45 other applications mentioned in the petition to the extent that it is able The delay in treating the petition is regretted, and as such no additional fee for expedited processing is due.

Subject to the conditions set forth below, the copy requirement of 37 CFR 1.98(a)(2) is hereby waived with regard to any IDS listing only information submitted in compliance with 37 CFR 1.97 and 1.98 in the above-identified application for any application containing a reference to the IDS in the above-identified application. Petitioner must include a copy of this decision with the listing

of information (37 CFR 1.98(a)(1)) submitted in any application invoking the waiver granted by this decision.

If any application containing a reference to the IDS in the above-identified application becomes open to public inspection (37 CFR 1.14), confidentiality under 35 U.S.C. § 122 for the above-identified application is considered waived and the above-identified application will also become open to public inspection. Any petition to expunge information in the IDS in the above-identified application must be filed and granted before the above-identified application, or any application containing a reference to the IDS in the above-identified application, becomes open to public inspection.

The waiver granted by this decision terminates on October 1, 2004. The Patent and Trademark Office may also terminate the waiver granted by this decision earlier than October 1, 2004 on notice to petitioner.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-1820.

The application file is being returned to Technology Center AU 2756 for further processing.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	)
	)
Michel Bowman-Amuah	) Group Art Unit: 2756
	)
Application No. 09/386,834	) Examiner: Not Assigned
	)
	)
	)
	)
Filed: August 31, 1999	) Atty. Docket No. 60021-324601
	)
	) Date: November 27,2001
	)
	)
	)

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GROUP 3600

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. (703) 308-6916 on November 27, 2001.

Signed: Yvonne Mock
Yvonne Mock

PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98(a)(2) AND PETITION FOR ACCELERATED REVIEW OF THIS PETITION

Commissioner for Patents
Office of Patent Legal Administration
Mr. Jay Lucas and Mr. Bob Spar
Washington, D.C. 20231

Dear Sirs:

This is a Petition Under 37 CFR 1.183, requesting relief from the current requirements for Information Disclosure Statements ("IDS") under 37 CFR 1.98(a)(2) in view of the need to file Information Disclosure Statements in multiple related applications. This petition under 37 CFR 1.183 is requesting relief from the §1.98(a)(2) provision which requires filing paper copies of patents, publications, applications, or other information ("references") in each of many related applications where the references are being cited by Petitioner. This is also a Petition for

Accelerated Review of this Petition. Because of the time sensitive nature of filing an IDS, Petitioners respectfully request expedited review and grant of this petition.

37 CFR 1.56(b)(1) requires disclosure to the Office of Information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim... ". Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98. 37 CFR 1.56(a). 37 CFR 1.98(a)(2) requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes.

The instant application filed under 35 U.S.C. 111 is one of about 45 related U.S. applications. A list of the 45 applications is attached as Appendix "A" of the petition. An Information Disclosure Citation List is being submitted herein as Appendix "B" that lists 112 US patent applications, references cited in 15 PCT searches, and 9 other non-patent references including two books, one 750 pages long, for a total of 136 citations.

It is respectfully submitted that it will be extremely burdensome for both Petitioners and the Office if Petitioners are required to comply with the section 37 CFR 1.98(a)(2) requiring that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. Each of the at least 45 related U.S. applications will require duplicate copies of at least 136 citations totaling at least 6,120 references. Of course additional related applications might be filed later and additional references might need to be sited resulting in a total of more than 6,120 references submitted to the Office. The submission of so many copies of references will be a great burden to Petitioners. Additionally, it will be a great burden to the Office to store and to keep track of so many copies of references.

Petitioners therefore request that the §1.98(a)(2) requirement for the submission of a copy of each IDS citation be waived in favor of the following conditions:

1) Application no. 09/386,834, entitled "SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LEGACY WRAPPER IN A COMMUNICATION SERVICE PATTERNS ENVIRONMENT" filed 08/31/1999, our client/matter number 60021-324601 (AND1P246) (or another of the related patent applications) will be designated by the Office as a "holding" application. Three separate paper copies (three "compendium") of all the references cited will be submitted by Petitioners to the Office and stored in the "holding" application.

2) The remaining related patent applications will be designated as "bulk filing" applications. Petitioners will, in each "bulk filing" application for which waiver of §1.98(a)(2) is desired, refer to the "holding" application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology. Petitioners will not have to provide separate paper copies of the IDS cited references for the "bulk filing" applications.

3) The information will also be cited in the "holding" application.

Note: Petitioners will not be required to cite in each "bulk filing" application every item of information that is cited in the "holding" application. Items will be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not requested (for the requirement to supply a paper copy of an IDS citation in another "bulk filing" application) where the citation is not, or has not been, made in the "holding" application.

4) A copy of the Decision on the instant Petition will be filed in each "bulk filing" application for which waiver is requested.

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under §1.98(a)(2), once submitted in the "holding" application will be supplied in each "bulk filing" application where the citation is made.

6) A copy of the Information Disclosure Statement and the Form 1449 (or equivalent) will be filed in each of the "bulk filing" and "holding" applications.

7) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to §1.98(a)(2) without provision of reasons but with 30 day notice. In such event, a two month period following the 30 day notice period will be given where the paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by Petitioner for any of the related applications may be made with formal notice and no transition/continuing period after termination is required.

8) The grant of the §1.183 petition re §1.98(a)(2) will <u>not</u> indicate that the Office would favorably treat a petition to suspend action under §1.103(a) should the "holding" application be allowed. Issuance of the "holding" application as a patent is not seen to terminate its usefulness either: (1) as a "holding" application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). For example, the patent file can be kept in the Technology Center for easy reference, or rather than rely upon the patent, either a reference set of paper copies (produced from the three sets of copies to be submitted) could be utilized, or the Office may decide to create Digests from the "compendium". Should the "holding" application become abandoned, the issue of continued introduction of paper copies of new citations would be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the "holding" application in the event the "holding" application is allowed, if it is in the best interest of the Office to do so.

9) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application. Submissions after allowance or final rejection must comply with all aspects 37 CFR 1.97 and 1.98 including providing copies of the submissions in the application in which consideration is desired. Alternatively, Petitioners can have the submission considered by filing an RCE or continuation application complying with the conditions of the

Decision resulting from this petition and adding the submission to the "compendium" of the "holding" application.

10) Further applications can be added to the "bulk filing" applications by including a copy of the Decision on the instant Petition and by referring to the "holding" application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology.

11) Information supplied via the compendium can be updated by filing in the "holding" application 3 copies of additional "compendium" sections including the additional information and by providing additional pages of Information Disclosure Statements and Form 1449 (or equivalent) listing the additional information.

Alternatively, Petitioners' hereby petition for a suspension of rules under 37 CFR. §1.183, in order to submit electronic copies of at least some of the references, in submitting each IDS. Petitioners' preferred electronic format is a CD ROM.

Alternatively, Petitioners hereby petition for a suspension of rules under 37 CFR. §1.183, in order to submit each IDS including only the first page of each cited US Patent reference.

If none of the above proposals are satisfactory, the Petitions Examiner is respectfully requested to approve an alternate plan that will lessen the burden on Petitioners and the Office resulting from the filings of so many references.

The Commissioner is hereby authorized to charge any fees due in connection with the filing of this petition to Deposit Account 02-3964 (Order No. 60021-324601). If any additional fees are due in connection with the filing of this petition, the Commissioner is hereby authorized to charge such fees to Deposit Account 02-3964 (Order No. 60021-324601). A copy of the transmittal is enclosed for these purposes.

Respectfully submitted,
Oppenheimer Wolff & Donnelly, LLP

Rambod Nader
Registration No. 47,262

1400 Page Mill Road
Palo Alto, CA 94304
Telephone: (650) 320-4000

Attachments: Appendix "A" – Form PTO-1449

Appendix "B" – List of Related Cases

APPENDIX B

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,653	31AU1999	AND1P236	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR BASE SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,831	31AU1999	AND1P237	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ABSTRACTION FACTORY IN A BASE SERVICES PATTERN ENVIRONMENT
09/387,086	31AU1999	AND1P238	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A BATCH JOB COMPONENT IN A BASE SERVICES PATTERN ENVIRONMENT
09/386,431	31AU1999	AND1P239	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A PROCESSING PIPELINE IN A BASE SERVICES PATTERN ENVIRONMENT
09/387,658	31AU1999	AND1P240	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR BUSINESS LOG IC SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/388,022	31AU1999	AND1P241	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ATTRIBUTE DICTIONARY IN A BUSINESS LOGIC SERVICES PATTERNS ENVIRONMENT
09/387,213	31AU1999	AND1P242	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A CONSTANT CLASS COMPONENT IN A BUSINESS LOGIC SERVICES ENVIRONMENT
09/387,642	01SE1999	AND1P243	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR COMMUNICATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,430	31AU1999	AND1P244	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A FIXED FORM AT STREAM IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,214	31AU1999	AND1P245	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A GLOBALLY ADDRESSABLE INTERFACE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,834	31AU1999	AND1P246	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LEGACY WRAPPER IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,064	31AU1999	AND1P247	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LOCALLY ADDRESSABLE INTERFACE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,321	31AU1999	AND1P248	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A NULL STRUCTURE IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,874	31AU1999	AND1P249	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PAGING COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,239	31AU1999	AND1P250	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REFRESHABLE PROXY POOL IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,070	31AU1999	AND1P251	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A SELF-DESCRIBING STREAM IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/386,717	31AU1999	AND1P252	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR STREAM-BASED COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,430	31AU1999	AND1P253	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A STRUCTURE-BASED COMMUNICATION IN A COMMUNICATION SERVICES PATTERNS ENVIRONMENT
09/387,072	31AU1999	AND1P254	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PRESENTATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/387,069	31AU1999	AND1P255	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ACTIVITY COMPONENT IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/386,988	31AU1999	AND1P256	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A USER INTERFACE VALIDATOR IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/387,580	31AU1999	AND1P257	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A VIEW CONFIGURER IN A PRESENTATION SERVICES PATTERNS ENVIRONMENT
09/386,716	31AU1999	AND1P258	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR ENVIRONMENT SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/388,021	31AU1999	AND1P259	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ASSERTION COMPONENT IN ENVIRONMENT SERVICES PATTERNS
09/386,435	31AU1999	AND1P260	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR DISTRIBUTED GARBAGE COLLECTION IN ENVIRONMENT SERVICES PATTERNS
09/386,434	31AU1999	AND1P261	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR EXCEPTION HIERARCHIES IN ENVIRONMENT SERVICES PATTERNS

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/387,873	31AU1999	AND1P262	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN EXCEPTION RESPONSE TABLE IN ENVIRONMENT SERVICES PATTERNS
09/387,576	31AU1999	AND1P263	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LOAD BALANCER IN ENVIRONMENT SERVICES PATTERNS
09/386,432	31AU1999	AND1P264	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A POLYMORPHIC EXCEPTION HANDLER IN ENVIRONMENT SERVICES PATTERNS
09/386,989	31AU1999	AND1P265	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A USER CONTEXT COMPONENT IN ENVIRONMENT SERVICES PATTERNS
09/387,071	31AU1999	AND1P266	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR INFORMATION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/386,837	31AU1999	AND1P267	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN ATTRIBUTE CONVERTER IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,888	31AU1999	AND1P268	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A DATA HANDLER IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/387,821	31AU1999	AND1P269	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR INDIVIDUAL PERSISTENCE COMPONENT IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,238	31AU1999	AND1P270	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A MULTI-OBJECT FETCH COMPONENT IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,714	31AU1999	AND1P271	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A MULTI-OBJECT IDENTIFIERS AS OBJECTS IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/386,322	31AU1999	AND1P272	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR AN OBJECT IDENTITY CACHE IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/388,911	31AU1999	AND1P273	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A PERSISTENT STATE AND PERSISTENT OBJECT SEPARATOR IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT

APP. NO.	FILING DATE	DOCKET NO.	TITLE
09/386,433	31AU1999	AND1P274	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR PIECEMEAL RETRIEVAL IN AN INFORMATION SERVICES PATTERNS ENVIRONMENT
09/387,654	31AU1999	AND1P275	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR TRANSACTION SERVICES PATTERNS IN A NETCENTRIC ENVIRONMENT
09/387,822	31AU1999	AND1P276	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A DEPENDENT REQUEST IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,101	31AU1999	AND1P277	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A LUW CONTEXT COMPONENT IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,575	31AU1999	AND1P278	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REQUEST BATCHER IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/386,715	31AU1999	AND1P279	SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A REQUEST SORTER IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT
09/387,085	31AU1999	AND1P280	A SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR SEPARATE MODELS IN A TRANSACTION SERVICES PATTERNS ENVIRONMENT

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OPPENHEIMER WOLFF & DONNELLY
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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DEC 1 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Michel K. Bowman-Amuah	:	
Application No. 09/387,654	:	ON PETITION
Filed: August 31, 1999	:	
Attorney Docket No. AND1P275	:	

This is a decision on the petition filed November 2, 2006, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on August 23, 2006, with the issue fee being due on or before November 24, 2006. The petition states that the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of August 23, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 3629.

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
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Paper No. 17

Oppenheimer Wolff & Donnelly, LLP (ACCENTURE)
Plaza VII, Suite 3300
45 South Seventh Street
Minneapolis, Minnesota 55402-1609

MAIL

MAR 3 1 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: M. K. Bowman-Amuah	)	
Application No.: 09/387,747	)	
Filed: August 31, 1999	)	**DECISION ON PETITION UNDER 37**
For: SYSTEM, METHOD AND ARTICLE	)	**C.F.R. § 1.181 TO WITHDRAW**
OF MANUFACTURE FOR A	)	**HOLDING OF ABANDONMENT**
DEVELOPMENT ARCHITURE	)	
FRAMEWORK	)	

This is a decision on the petition filed on July 16, 2002, (resubmitted September 25, 2003) requesting the withdrawal of the holding of abandonment of the above-identified application because the applicant did not receive the Notice of Allowance and Issue Fee Due of mail date November 23, 2001 at the correspondence address of record.

The petition is **GRANTED**.

Petitioner provided a statement that the Office communication in question was not received at the correspondence address of record. The Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the application is not abandoned in fact because the applicant did not receive the Office communication, The Notice of Abandonment is hereby vacated and the holding of abandonment **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for **REMAILING** of the Notice of Allowability and the Notice of Allowance and Issue Fee Due. The statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied notices.

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

2122

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

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DEC 1 8 1999

Director's Office
Group 2700

Paper No. 6

HICKMAN STEPHENS & COLEMAN, LLP
P. O. BOX 52037
PALO ALTO, CA. 94303-0746

In re Application of BOWMAN-AMUAH
Appl. No.: 09/387,747
Filed: August 31, 1999
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR INFORMATION SERVICE MANAGEMENT IN A HYBRID COMMUNICATION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

RECEIVED
MAY 1 0 2004
Technology Center 2100

This is a decision on the renewed petition under 37 CFR 1.102, filed December 10, 1999, to make the above-identified application special. A petition was originally filed on October 20, 1999 under MPEP 708.02, Section VIII: Accelerated Examination. Petitioner now requests that this application be made special under the accelerated examination procedure set forth in MPEP 708.02, Section II: Infringement.

A grantable petition to make an application special under 37 CFR 1.102 and in accordance with MPEP 708.02, Section II, must be accompanied by the required fee pursuant to 37 CFR 1.17(i) and a statement by applicant(s) or assignee or a statement by an attorney/agent registered to practice before the PTO in support of the petition stating:

1. that there is an infringing device or product on the market or method in use,

2. that a rigid comparison of the alleged infringing device, product or method with the claims of the application was made,

3. that some of the claims are unquestionably infringed, and

4. that a careful search of the prior art was made or that applicant(s) have good knowledge of the pertinent prior art.

The petition meets the requirements for special status. Authorization to charge the petition fee was included in the first petition.

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

James J. Groody (703) 308-5461
Special Program Examiner
Technology Center 2700
Communications and Information Processing

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr.:10-02

Paper 13

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

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NOV 2 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Christensen, et al	:	DECISION ON PETITION
Application No. 09/387,796	:	
Filed: 1 September, 1999	:	
Attorney Docket No. ST9-99-084	:	

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 13 November and supplemented on 27, 2002.

Petitioner has shown that, while all other inventors have signed the oath/declaration, the non-signing inventor **Ricardo L. Gonzalez (Mr. Gonzalez)** has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Randy Lacasse (Reg. 34,368) and Ingrid M. Foerster (Reg. No. 36,511) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

---

[1] The regulations at 37 C.F.R. §1.47 provide:
§1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).
[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.[2]

As provided under 37 C.F.R. §1.47(a), the 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 also will be published in the Official Gazette.

This file is being returned to Technology Center 2100 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] Pursuant to Petitioner's authorization, the petition fee ($130.00) for this renewed petition is charged to Deposit Account 11-0855.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 19

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA, VA 22314

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of
Catherine Christensen, et al
Application No. 09/387,796
Filed: September 1, 1999
Attorney Docket No. ST9-99-084

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 5, 2003.

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to a final Office action mailed July 8, 2002. A Notice of Abandonment was mailed March 25, 2003.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed May 5, 2003.

The application is being forwarded to Technology Center AU 2173 for further processing of the CPA.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No: 18

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

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DEC 0 9 2003

Director's Office
Office of Patent Publication

In re Application of	:	
Amitava Guha, et al.	:	
Application No. 09/387,894	:	DECISION ON PETITION
Filed: September 1, 1999	:	
Attorney Docket No. 20721/04404	:	

This is a decision on the Petition Under C.F.R. § 1.181 To Withdraw Erroneous Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on June 5, 2003.

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.

The application was held abandoned for failure to timely respond to the Notice To File Corrected Application Papers (copy attached herewith) mailed on March 11, 2003, which set a two months time period to reply. However, the Notice of Abandonment indicated that the application was abandoned for failure to timely file new formal drawings as required in the Notice of Allowability.

The Office has no record of any form of response to the Notice To File Corrected Application Papers; therefore, the application was properly abandoned.

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.

Case Number	Ctry	Sub Case	Action Due	Due Date
2072104404	US		REQ RECONSIDERATION	09-Jan-2004
			REQ RECONSIDERATION	09-Feb-2004

Action Type: REQ RECONSIDERATION

DOCKETED
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T.L.B. IP. Dept.

RECEIVED
DEC 1 1 2003
DBC IP. DEPT.

Verified _____

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- 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.

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

By mail:	Mail Stop Petitions Commissioner for Patents P. O. Box 1450 Alexandria, Va 22313-1450
By facsimile:	703-308-6916 Attn.: Office of Petitions
By hand:	Crystal Plaza Four, Rm. 3C23 2201 South Park Place Arlington, VA

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STA. ; PATENT AND TRADEMARK OFFICE

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

#15

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

Serial No. : 09/387,894
Applicant : AMITAVA
Filing Date : 09/01/1999
Date Mailed : 03/11/2003

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136 (a) or (b).

- **PLEASE SUBMIT A NEW BRIEF DESCRIPTION FOR FIGURE 4**

A copy of this notice MUST be returned with the reply. Please address response to "Box Issue Fee".

Name MICHEL C THOMPSON
Data Query 12/04/2002
Phone (703) 308-9551

UNITED STATES PATENT AND TRADEMARK OFFICE Pet. Dec.

Technology Center 1700

JUL 1 4 2005
Mailed:_____

meb
Paper Number: _____

In re application of
Guha et al.

Serial No. 09/387,894
Filed: September 1, 1999
For: Dies For Die Casting Aluminum And Other Metals

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed September 9, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 21, 2003 for failure to timely respond to the requirement mailed by the Office on March 11, 2003, be withdrawn. The petitioner asserts that said requirement, mailed March 11, 2003 was not received by the applicants.

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)(I).

The evidence presented is sufficient to establish that the Office's requirement, mailed March 11, 2003, was not received by the petitioner. The evidence provided includes a statement by the petitioner that said requirement was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the requirement mailed March 11, 2003 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the requirement would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the Publications

Branch for consideration of the applicant's response to the requirement, which was filed on January 10, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John E. Miller
Calfee, Halter and Griswold, LLP
800 Superior Ave.
1400 McDonald Investment Ctr.
Cleveland, OH 44114

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

May 9, 2001

Silvy A. Murphy
Corning Incorporated SP TI 03 1
Corning NJ 14831

In re application of:
Paul A. Jakobson DECISION ON PETITION
Serial No.: 09/387,961
Filed: August 1, 1999
For: AN APPARATUS AND METHOD FOR MAKING AN OPTICAL FIBER AMPLIFIER

This is a decision on the documents filed by fax January 19, 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 August 21, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned November 22, 1999. A notice of abandonment was mailed on October 25, 2000.

On January 19, 200l, the office received a communication from the attorney of record. Enclosed was an acknowledgment that counsel had responded to the Notice to File Missing Parts on November 22, 1999.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Application on November 22, 1999.

The petition is hereby GRANTED.

The filing receipt is enclosed.

The application has been completed for release to Technology Center 2872.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/8/09

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: 09388031
Patent No.: 7071557

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

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: _____

Kenneth Parker 2815

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

Paper No. 15

Stephen L. Pollard
27703-14 Ortega Hwy
San Juan Capistrano, CA 92675

COPY MAILED

AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Stephen L. Pollard	:	
Application No. 09/388,069	:	ON PETITION
Filed: September 1, 1999	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2003, 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 2800.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#26

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 14 2003

UNDER SECRETARY F C MMERCE F R INTELLECTUAL PR PERTY
AND DIRECT R OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

In re Application of
W. James Jackson et al
Serial No.: 09/388,090
Filed: August 31, 1999
Attorney Docket No.: 7969-082-999

: WITHDRAWAL OF ABANDONMENT

This is in response to the petition under 37 CFR 1.181, filed January 23, 2003, requesting withdrawal of the holding of abandonment of the above identified application.

A review of the file history shows that the Office mailed an Office action to applicants on June 20, 2002, setting a three month shortened statutory period for reply. Applicants replied on December 20, 2002 (Express Mail date) and the reply was received by the Office as evidenced by an Office date stamped return postcard. The reply, consisting of a request for a three month extension of time and fee therefor and other papers, has not been located. The examiner mailed a Notice of Abandonment to applicants on January 8, 2003, indicating no reply had been received. The copies of the reply supplied with the petition will be entered in the file In view the timely reply the Notice of Abandonment mailed January 8, 2003, is considered to have been mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Jasemine C. 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
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IP STRATEGIES PC
12 1/2 WALL STREET
SUITE 1
ASHEVILLE, NC 28801

COPY MAILED

AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward M. Scheidt	:	
Application No. 09/388,195	:	ON PETITION
Filed: September 1, 1999	:	
Attorney Docket No. STS-127	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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 October 14, 2004, and no 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 1.197(b). As no claim was allowed, the application became abandoned on December 15, 2004. See MPEP 1215.04.

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 a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received.

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

The application matter is being forwarded to Technology Center 2100, Art Unit 2131 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2007

TO SPE OF : ART UNIT 2185

SUBJECT : Request for Certificate of Correction on Patent No.: **6742164 B2 – 09/388329**

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE | 2185 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 13

Banner & Witcoff Ltd.
Attorneys for Microsoft
1001 G Street, N.W.
Eleventh Street
Washington D.C. 20001-4597

MAILED

OCT 2 0 2003

Technology Center 2100

In re Application of: Erik J. Snapper et al.	)	
Application No. 09/388,351	)	**DECISION ON PETITION**
Filed: September 1, 1999	)	**UNDER 37 CFR § 1.181 TO**
For: SYSTEM AND METHOD FOR	)	**INVOKE SUPERVISORY**
POPULATING FORMS WITH	)	**AUTHORITY**
PREVIOUSLY USED DATA	)	
VALUES	)	

This is a decision on the petition under 37 CFR §1.181, filed September 16, 2003, requesting withdrawal of the finality of the Office action (Paper No. 11) mailed on July 16, 2003.

The Petition is **GRANTED**.

RELEVANT CASE HISTORY

Petitioners filed an affidavit under 37 CFR §1.131 on June 16, 2003 in an attempt to antedate a reference applied by the Examiner in a rejection under 35 U.S.C. §103 in the Office action of mail date December 19, 2002. In response, the Examiner issued a Final rejection (mail date July 16, 2003) in which, *inter alia*, new grounds were used to reject independent unamended claims 16 and 21. The Examiner indicated that the filing of a declaration necessitated the new grounds of rejection, thus allowing the Examiner to issue a Final rejection.

Petitioner filed the instant petition on September 16, 2003 contending that the final rejection issued by the Examiner in Paper No. 11 was premature because a declaration under 37 C.F.R. 1.131 is not a reply which justifies making the subsequent action final despite new grounds of rejection.

RELIEF REQUESTED

The instant petition treated under 37 CFR §§ 1.181 requests the withdrawal of the Finality of the rejection of claims 3-28 and 31-55 contained in Paper No. 11.

BASIS OF OPINION

M.P.E.P. §706.07(a) Final Rejection, When Proper on Second Action

...

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

...

> When applying any 35 U.S.C. 102(e)/103 references against the claims of an application filed on or after November 29, 1999, the examiner should anticipate that a statement averring common ownership at the time the invention was made may disqualify any patent or application applied in a rejection under 35 U.S.C. 103 based on 35 U.S.C. 102(e). If such a statement is filed in reply to the 35 U.S.C. 102(e)/103 rejection and the claims are not amended, the examiner may not make the next Office action final if a new rejection is made. See MPEP § 706.02(l)(3).

OPINION

The first cited paragraph implies that the application of new grounds of rejection prevent an action from being made final except in the two specific situations provided therein. The second cited paragraph addresses the recently added practice of removal of a reference based on a statement of common ownership. The examiner is advised not to rely on solely on the possibly commonly owned art as it can reasonably be anticipated that the commonly assigned reference will be removed by the filing of an appropriate statement.

In the instant case, the 102(e) date of the Atlas reference was June 19, 1998. Despite the fact that the effective date of the application under examination (September 1, 1999) is more than 1 year after the effective filing date of the reference, (in analogy to the situation with respect to a statement of common ownership) it is reasonable for the examiner to anticipate the filing of an affidavit to antedate the Atlas reference. Furthermore, as the Examiner had cited the Capps reference, which qualifies as prior art under 35 U.S.C. §102(b) and is therefore not subject to being antedated by affidavit, the prudent course would have been to apply this rejection in the first Office action. This would be consistent with the goal of compact prosecution and would have avoided putting Applicant to the expense and trouble of producing an affidavit.

The new grounds of rejection applied to unamended claims 16 and 21 were not necessitated by ***amendment of the claims***, but rather on the Examiner's decision not to rely on the Atlas reference. Accordingly, the examiner's holding of Finality with respect to the rejections of record in Paper No. 11, is premature.

CONCLUSION

The petition is **GRANTED**. The finality of the Office action is withdrawn. Office records will be corrected to reflect that the Office action of mail date July 16, 2003 is Non-Final.

The undersigned notes that the Office action of July 16, 2003 does not address the sufficiency of the affidavit.[1] The next Office action should clarify whether (and on what basis) the affidavit has been deemed effective to establish a date of invention[2] or whether the Examiner has merely chosen to apply new art and thereby avoid evaluating the affidavit as being no longer relevant.

The application is being forwarded to the technology center support staff to enter the response filed September 16, 2003 (concurrent with the petition). After processing, the application 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

---

[1] The Examiner's attention is directed to MPEP §§ 715- 715.07 as to the proper manner in which to evaluate the sufficiency of an affidavit to establish prior invention.

[2] The examiner's indication that applicants' amendment changed "the effective filing date" is not correct. An affidavit under 37 C.F.R. §1.131 can be used to establish prior invention thus removing from the category of prior art references which only qualify as being "before the invention by applicant ". (See., 35 U.S.C. § 102(a) and(e)). The effective filing date of the application remains unchanged.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6281775
Issue Date: August 28,2001
Application No. 09388836
Filed: September 1,1999
Attorney Docket No. 10144-2-6

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

This is a decision on the electronic petition, filed July 29,2010 ,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 29,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,281,775	2001-08-28	09/388,836	1999-09-01	085881/00002

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	/Michael David/	Date (YYYY-MM-DD)	2010-07-29
Name	Michael David	Registration Number	44642

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Luan C. Tran	:	
Application No. 09/388,857	:	DECISION GRANTING PETITION
Filed: September 1, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MI22-878	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 23, 2007, 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 31, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2813 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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 18 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of
Claus Skaanning
Application No. 09/388,891
Filed: September 2, 1999
For: **AUTHORING TOOL FOR BAYESIAN NETWORK TROUBLESHOOTERS**

DECISION ON PETITION

This is a decision on the petition filed May 2, 2005 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a).

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office action mailed June 3, 2004. A Notice of Abandonment was mailed April 14, 2005.

Petitioner alleges to have timely filed a response to said Office action on August 12, 2004. In support thereof, Petitioner provided evidence in the way of a copy of the response. The petition also includes a date stamped post card receipt itemizing the receipt of an amendment and a transmittal letter with a certificate of mailing. The date-stamp receipt indicates receipt on August 16, 2004 within the U.S. Patent and Trademark Office.

A review of the file records reveals that the original amendment filed on August 12, 2004has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The application file is being forwarded to the examiner for further action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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

Paper No. 5

HICKMAN STEPHENS & COLEMAN LLP
P O BOX 52037
PALO ALTO , CA 94303-0746

Mailed

MAR 15 2000

Director's Office
Group 2700

In re Application of:	
Valery A. Pertrushin	
Application No.: 09/388,909	
Filed: August 31, 1999	
For: SYSTEM METHOD AND ARTICLE OF MANUFACTURE FOR DETECTING EMOTION IN VOICE SIGNALS BY UTILIZING STATISTICS FOR VOICE SIGNAL PARAMETERS	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 December 13, 1999.

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 petition fee of $130.00 will be charged to the practitioner's deposit account as authorized. The application file will then be forwarded to the examiner for expedited prosecution.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 5/28/09

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/388909 Patent No.: 6275806 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 (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

/Richemond Dorvil/ — **SPE**

2626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

PATENT COUNSEL
APPLIED MATERIALS INC
P O BOX 450-A
SANTA CLARA CA 95052

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SEP 7 2001

OFFICE OF PETITIONS

In re Application of
Cohen, et al.
Application No. 09/388,989
Filed: September 2, 1999
Attorney Docket No. AMAT/3191.03

DECISION ON PETITION

This is a decision on the petition filed on August 27, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action, mailed October 27, 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. No response having been received, the above-identified application became abandoned on January 28, 2001. A Notice of Abandonment was mailed on June 5, 2001.

The petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The application file is being forwarded to Technology Center 1700 for consideration of petitioner's amendment, filed August 27, 2001.

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

Nancy Johnson 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
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Paper No. 21

Godbey Griffiths Reiss
1001 Bishop Street
2300 Pauahi Tower
Honolulu, HAWAII 96813

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Joe H. Mullins	:	
Application No. 09/389,085	:	ON PETITION
Filed: September 2, 1999	:	
Attorney Docket No. UNM-480	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on August 26, 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 September 16, 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 after midnight December 16, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an Amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2644, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Office

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JAN 1 2 2006

Director's Office
Office of Patent Publication

JOHN E BECK
XEROX CORPORATION
XEROX SQUARE 20A
ROCHESTER, NY 14644

In re Application of
BELKHIR, LOTFI
Application No. 09/389,271
Filed: September 2, 1999
Attorney Docket No. D/98235

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on June 14, 2004.

The petition is **GRANTED**.

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 13, 2004, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on May 26, 2004.

Petitioner has submitted a copy of Part B – Fee(s) Transmittal (Transmittal), and a copy of the USPTO Auto-Reply Facsimile Transmission, which acknowledges receipt of the Transmittal on January 21, 2004, and of which contains a proper executed Certificate of Facsimile Transmission, signed and dated on same day.

Petitioner has demonstrated that the Transmittal was timely submitted via certificate of mailing or transmission on January 21, 2004 in compliance with 37 CFR § 1.8.

In view of the above, the holding of abandonment is hereby withdrawn.

Petitioner further notes that the use of a new centralized facsimile number published in a USPTO Notice may have caused or was part of the problem resulting in the abandonment of the above-identified application.

Since the Transmittal was timely received in the USPTO, it should have been properly associated with the patent application file and the issue fee charged to the Deposit Account as authorized. Petitioner statement is correct in that if the Transmittal was received at an incorrect facsimile number it should have been forwarded to the appropriate office. See MPEP 508.03

As authorized, the issue fee in the amount of $1330 will be charged to the Deposit Account. No. 24-0025.

The application file will be forwarded to the Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-9050 Ext. 137.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6193067	2001-02-27	09389608	1999-09-03	DUFF

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	/Rick B. Yeager/	Date (YYYY-MM-DD)	2009-08-13
Name	Rick B. Yeager, Attorney	Registration Number	39434

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. 6193067
Issue Date: February 27,2001
Application No. 09389608
Filed: September 3,1999
Attorney Docket No. 131/134

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

This is a decision on the electronic petition, filed August 13,2009 ,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 13,2009 .
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

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ALEXANDRIA, VA 22313-1450
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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of	:	
DUNSTAN et al	:	
Application No.: 09/389,782	:	DECISION ON PETITION
Filing Date: September 3, 1999	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: A-604	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The 2-month period for filing the appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 5, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on March 6, 2006.

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 notice of appeal and the requisite fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed December 5, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1643.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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Group 2700

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United States Patent and Trademark Office
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Paper No. 3

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK , NY 10036-8403

In re Application of:	:	
Robert Barritz	:	
Application No.: 09/389,858	:	
Filed: September 2, 1999	:	DECISION ON PETITION
For: HARDWARE/SOFTWARE	:	TO MAKE SPECIAL
MANAGEMENT, PURCHASING AND	:	
OPTIMIZATION SYSTEM	:	

This is a decision on the petition filed July 3, 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.

Kenneth A. Wieder

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 14

Robert H. Rines
RINES and RINES
81 North State Street
Concord, NH 03301

In re Application of:
Thomas W. MEYER et al.
Application No. 09/389,942
Filed: September 3, 1999
For: PROCESS OF AND SYSTEM FOR SEAMLESSLY EMBEDDING EXECUTABLE PROGRAM CODE INTO MEDIA FILE FORMATS SUCH AS Mp3 AND THE LIKE FOR EXECUTION BY DIGITAL MEDIA PLAYER AND VIEWING SYSTEMS

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed February 05, 2004, requesting acceptance of color photographs.

The petition requests that the color photographs identified as figures 1A, 1B and 1C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color photographs in question where the color photographs must either be developed on double weight photographic paper or be permanently mounted on Bristol board, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and three sets of color photographs on double weight photographic paper or permanently mounted on Bristol board. However, the specification failed to contain or amend to contain the language "*the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration.

The application file is being forwarded to the Technology Center support staff for processing the Request for Continued Examination (RCE) dated April 02, 2004 and will then be forwarded to the Examiner for appropriate action.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

October 1, 2002

#8

John W. Carpenter
Crosby, Heafey, Roach & May
Two Embarcadero Center, Suite 2000
PO Box 7936
San Francisco, CA 94120-7936

In re application of:
Ellen M. Sentovich et al. DECISION ON PETITION
Serial No.: 09/390,141
Filed: September 3, 1999

For: METHOD AND SYSTEM FOR SPLIT-COMPLILING GYBRID LANGUAGE PROGRAMS

This is a decision on the petition received on April 10, 2002, 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 September 24, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 28, 1999. A notice of abandonment was mailed on December 3, 2001.

On April 10, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed September 24, 1999.

The evidence submitted is sufficient to establish that the petitioners did not receive the Notice to File Missing Parts of Application on September 24, 1999.

The petition is hereby GRANTED.

A new Notice to File Missing Parts is enclosed with the Decision setting forth a new response period of two months from the date of the notice.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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In re Application of	:	
Easwar et al.	:	DECISION ON PETITION
Application No. 09/390,241	:	TO WITHDRAW
Filed: September 3, 1999	:	FROM RECORD
Attorney Docket No. 1552-012-02	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 00996 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.

There is an outstanding Office action mailed April 6, 2006 that requires a reply.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other questions and concerns should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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

C. Irvin McClelland
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

MAILED

JUL 23 2001

Technology Center 2100

In re Application of:	)	
Atle HEDLOY	)	
Application No. 09/390,303	)	
Filed: September 3, 1999	)	**DECISION ON REQUEST FOR**
For: METHOD, SYSTEM AND	)	**WITHDRAWAL AS ATTORNEY**
COMPUER READABLE MEDIUM	)	
FOR ADDRESSING HANDLING	)	
FROM AN OPERATING SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed May 03, 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 deficient in the following aspects: (1) there is no statement that Mr. C. Irvin McClelland is ***authorized*** to sign on behalf of the other attorneys; (2) there is no indication that the applicant has been notified of the request for withdrawal.

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.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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OCT 12 2001

Technology Center 2100

ARENDI AS
SKOVVN 2
0257 OSLO, NORWAY

In re Application of:	)	
Atle HEDLOY	)	
Application No. 09/390,303	)	
Filed: September 3, 1999	)	**DECISION ON REQUEST FOR**
For: METHOD, SYSTEM AND	)	**WITHDRAWAL AS ATTORNEY**
COMPUTER READABLE MEDIUM	)	
FOR ADDRESSING HANDLING	)	
FROM AN OPERATING SYSTEM	)	

This is a decision on the renewed Request To Withdraw from Representation filed September 19, 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 renewed request meets the criteria set forth above. Accordingly, the request is **GRANTED**.

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 withdrawing attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office. A courtesy copy is being forwarded to the withdrawing attorney(s).

Robert A. Weinhardt
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: C. Irvin McClelland
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

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Technology Center 2100

Duane H. Dreger
Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210

In re Application of: Atle HEDLOY Application No. 09/390,303 Attorney Docket No. 9877-0003-20 Filed: September 3, 1999 For: METHOD, SYSTEM AND COMPUTER READABLE MEDIUM FOR ADDRESSING HANDLING FROM AN OPERATING SYSTEM	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT, *UNDER 37 CFR §1.181*

This is a decision on the petition to withdraw the holding of abandonment, treated under 37 CFR §1.181, filed on August 17, 2004.

Although a Notice of Abandonment has not yet been mailed, the instant application became abandoned for failure to timely respond to the Notice of Allowance and Issue Fee Due, mailed on April 6, 2004. The issue fee was due on July 6, 2004. The original Notice of Allowability (PTOL-37) and Notice of Allowance and Issue Fee(s) Due (PTOL-85) was mailed to the correct address of record, however, as evidence by the returned Notice received by the USPTO on April 16, 2004, Applicant never received the Notice of Allowability and Notice of Allowance.

In view of these facts, the abandonment of the application was clearly in error and is hereby **WITHDRAWN**.

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 **REDATE/REMAIL** the Notice of Allowability, Examiner's Remarks and Notice of Allowance and Issue Fee(s) Due, resetting the three-month date for payment of the Issue Fee. The application will then be forwarded to the Examiner of record for consideration of the Information Disclosure Statement filed June 30, 2004.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 16

ROBERT B. POLIT
POLIT & ASSOCIATES, LLC
3333 WARRENVILLE ROAD
SUITE 520
LISLE IL 60532

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MAR 2 6 2003

Director's Office
Office of Patent Publication

In re Application of	:	
Robert W. Batz Jr., et al.	:	**DECISION ON PETITION**
Application No. 09/390,501	:	
Filed: September 3, 1999	:	
Docket Number: SEM4492P1072	:	

This is a decision on the Correspondence received January 23, 2002, which is being treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181(a).

The petition is **Granted**.

The petitioner has provided supporting evidence that the issue fee was timely submitted via Certificate of Transmission on June 27, 2001 and is in compliance with 37 CFR 1.8(b) in that (1) the Patent and Trademark Office (PTO) was promptly informed of the previous timely transmission, (2) a copy of the previously faxed Issue Fee Transmittal Letter, with certificate of transmission thereon has been submitted, and (3) affidavits which attest to the previous timely transmission have been submitted.

In view of the above, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn. Accordingly, the issue fee will be accepted as having been timely mailed via Certificate of Transmission on June 27, 2001.

Application No. 09/390,501 will be forwarded to the Publishing Division to be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-5340.

Frederick E. Briscoe

Frederick E. Briscoe
Legal Instruments Examiner
Office of the Director
Office of Patent Publication

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Paper No. 21

ROBERT B. POLIT
POLIT & ASSOCIATES LLC
3333 WARRENVILLE ROAD, SUITE 520
LISLE, IL 60532

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OFFICE OF PETITIONS

In re Application of :
Robert W. Batz, Jr. et al :
Application No. 09/390,501 : ON PETITION
Filed: September 3, 1999 :
Attorney Docket No. 29195-8176US02 :

This is a decision on the petition, filed April 7, 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 June 13, 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 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.

---

[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 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 1741 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

cc:

Paul T. Parker
Perkins Coie LLP
P O Box 1247
Seattle, WA 98111-1247

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

Pillsbury Madison & Sutro LLP
Intellectual Property Group
1100 New York Avenue, NW
Ninth Floor East Tower
Washington, DC 20005-3918

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AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of :
Brock Walker :
Application No. 09/390,625 : ON PETITION
Filed: September 7, 1999 :
Attorney Docket No. PM-223529 :

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**.

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 April 10, 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 July 11, 2001.

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 $920.00 extension of time submitted with the petition on July 22, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 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 3700, Art Unit 3764.

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

Sherry Brinkley
Petitions Examiner

cc: Peter W. Gowdey
SHOOK, HARDY & BACON, LLP
600 14th Street, N.W., Suite 800
Washington, DC 20005-2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 29

Hewlett-Packard Company
Intellectual Property Administration
PO Box 272400
Fort Collins, CO 80527

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NOV 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Hannsjorg Obermaier :
Application No. 09/390,824 :
Filed: September 7, 1999 :
Attorney Docket No. 10981400-7 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2003, 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 May 28, 2003, and no 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 July 29, 2003. See MPEP 1215.04.

Petitioner has appointed a representative to conduct all business before the Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications should be mailed.

The application file is being forwarded to Technology Center AU 2833 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

cc: Obermaier, Hannsjorg
703 Pier Avenue, Suite B #657
Hermosa Beach, CA 90254

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERVET INC.
PATENT DEPARTMENT
PO BOX 318
MILLSBORO DE 19966-0318

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MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Kok et al	:	
Application No. 09/390,846	:	DECISION GRANTING PETITION
Filed: September 14, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. I/95150-US/D	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 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 RCE and an Amendment(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Office action of April 29, 2005, 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 1645.

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. 6252196
Issue Date: June 26,2001
Application No. 09390956
Filed: September 7,1999
Attorney Docket No. 09008/003002

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

This is a decision on the electronic petition, filed March 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 March 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.

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)
6252196	2001-06-26	09390956	1999-09-07	TL3002

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	/Scott C Harris/	Date (YYYY-MM-DD)	2007-03-15
Name	Scott C. Harris	Registration Number	32030

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.

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DERRICK M REID
PATENT ATTORNEY
THE AEROSPACE CORPORATION
P O BOX 92957 M 1040
LOS ANGELES, CA 90009-2957

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OCT 2 6 2005
OFFICE OF PETITIONS

In re Application of	:	
Gee L. Lui et al	:	
Application No. 09/390,966	:	ON PETITION
Filed: September 7, 1999	:	
Attorney Docket No. D-349	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, 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 10, 2004, 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 11, 2004.

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 $1,530 extension of time filed on December 6, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2631.

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
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BAKER & HOSTETLER, LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE., NW
WASHINGTON, DC 20036-5304

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OFFICE OF PETITIONS

In re Application of	:	
Douglas W. King	:	
Application No. 09/391,285	:	LETTER
Filed: September 7, 1999	:	
Attorney Docket No. 5932.1	:	

This is in response to the paper filed January 24, 2005, which is being treated as a request under 37 CFR 1.27(g)(1) to accord status as a Small Entity.

Status as a Small Entity has been accorded.

This file is being referred to Technology Center Art Unit 3628.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO, M5G1R-7 CA CANADA

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OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Murdin et al.	:	
Application No. 09/391,606	:	DECISION ON PETITION
Filed: September 7, 1999	:	
Attorney Docket Number:	:	
1038-971-MIS	:	

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

This above-identified application became abandoned for failure to timely and properly reply to the non-final Office Action mailed on February 22, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time having been obtained, the above identified application became abandoned on August 23, 2002. An amendment and request for a three (3) month extension of time were filed on August 23, 2002, however the maximum extendable period for a reply had expired. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Having found that all requirements for the filing of a grantable petition under 37 CFR 1.137(b) have been met, this Petition is hereby **granted**.

Because the extension of time request was received after the maximum extendable period for reply had expired, a refund of the extension of time fee, $920.00, has been scheduled.

This application is being forwarded to Technology Center AU 1632 for processing of the Amendment filed August 23, 2002.

Telephone inquiries concerning this matter should be directed to The undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

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ALEXANDRIA, VA 22313-1450
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Paper No. 14

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of: WINTHROP L. SAVILLE, ET AL. Application No.: 09/391,647 Filed: September 07, 1999 For: **METHOD FOR FORMING VARIABLE LENGTH INSTRUCTIONS IN A PROCESSING SYSTEM**	**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

This is in reply to Petitioner's petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 30, 2004. No fee is required.

The Petition is **GRANTED**.

A review of the file record reveals that Petitioner, on December 02, 2002, filed a response to the final Office Action dated September 26, 2002. The Examiner, on December 11, 2002 issued an Advisory Action, indicating that Petitioner's response to the final Office Action filed December 02, 2002 was not entered. Petitioner, on February 06, 2003, filed a Petition for Extension of Time under 37 CFR 1.136(a) and a Notice of Appeal. On April 30, 2003, Petitioner submitted by facsimile transmission 16 copies of cover sheet "Official Cardinal Law Group." There was no indication on these copies of cover sheet that the facsimile transmission was Petitioner's Appeal Brief. These copies of the cover sheet were not entered. The application was held abandoned on December 15, 2003 for failure to file the Appeal Brief within the permissible time.

A further review of the file record and the facsimile database reveals that the 16 copies of the cover sheet received in the USPTO on April 30, 2003 were the result of unknown technical problems. Subsequently, the USPTO was able to retrieve from the facsimile database Petitioner's Appeal Brief transmitted by facsimile on April 30, 2003.

Petitioner, on January 30, 2004, submitted by facsimile transmission a copy of the Appeal Brief filed April 30, 2003 and a copy of USPTO Auto-Reply Facsimile Transmission.

Since a timely Appeal Brief was filed, the holding of abandonment dated December 15, 2003 is hereby withdrawn. The application will be forwarded to the Examiner of Record for prompt action on the merits of the application.

Bot LeDynh, J.D., Ph.D.

Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

In re Application of :
John J. Baldwin, et al. :
Application No. 09/391,783 : ON PETITION
Filed: September 8, 1999 :
Attorney Docket No. 1073.008H :

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**.

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

The application matter is being referred to the Files Repository.

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
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MAIL

OCT 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL MN 55120

In re Application of:
CHRISSAN, DOUGLAS A., et al.
Application Serial No.: 09/392,124
Filed: September 8, 1999
For: **VARYING PULSE AMPLITUDE MULTI-PULSE ANALYSIS SPEECH PROCESSOR AND METHOD**

DECISION
ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181 filed September 12, 2005.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Office letter mailed September 13, 2004. A Notice of Abandonment was mailed on August 25, 2005.

A review of the file record reveals that no Office letter was mailed on September 13, 2004.

Accordingly, the application is restored to pending status.

The application file will be forwarded to the examiner for treatment of Appellant's brief in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 9

Lawrence W. Granatelli
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

AUG 1 5 2003

Technology Center 2100

In re Application of:	)	
Monika R. Henzinger, et al.	)	
Application No. 09/392,170	)	**DECISION ON REQUEST FOR**
Filed: September 8, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: RANKING SEARCH ENGINE RESULTS	)	

This is a decision on the Request To Withdraw from Representation filed August 7, 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 filed August 7, 2003 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: Richard Lange
Hewlett-Packard Company
Intellectual Property Section
1501 Page Mill Road
Mail Stop 4U-1197
Palo Alto, CA 94304

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

JUL 10 2001

#8

HOVEY WILLIAMS TIMMONS AND COLLINS
SUITE 400
2405 GRAND
KANSAS CITY , MO 64108

In re Application of	:
John H. Lee et al	:
Serial No.: 09/392,243	: PETITION TO SUSPEND ACTION
Filed: September 9, 1999	:
Attorney Docket No.: 27338	:

This is in reply to applicants' request for a six month suspension of prosecution under 37 CFR 1.103(a), filed June 13, 2001, concurrently with a CPA request.

37 CFR 1.103(a) permits suspension of action in an application on request of applicant when there is a good and sufficient cause for suspension and when accompanied by the appropriate fee. Applicants allude to unavailability of the inventors and potential corporate restructuring and/or reassignment to another party. However, no details of these broad allegations are set forth so as to substantiate a "good and sufficient cause for suspension" as required by the rule.

However, 37 CFR 1.103(b) permits a limited three month suspension of prosecution when the request therefor is filed with a CPA request as has been done herein. The request for a limited suspension of action which accompanied the CPA papers filed June 13, 2001, is granted and runs three months from the date of filing of the CPA papers.

William R. Dixon, Jr.
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
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FROM DIRECTORS OFFICE

JAN 21 2005

TECHNOLOGY CENTER 3600

MacMillan, Sobanski & Todd, LLC
One Maritime Plaza – Fourth Floor
720 Water Street
Toledo, OH 43604

In re Application of
Jason A. Poirier, et al.
Application No. 09/392,270
Filed: September 9, 1999
For: APPARATUS AND METHOD OF MANUFACTURING A VEHICLE FRAME ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on December 21, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed December 13, 2004.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

SNM/rwg: 1/11/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6187519
Issue Date: February 13,2001
Application No. 09392433
Filed: September 9,1999
Attorney Docket No. MIURA-212-KG

:

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

:

This is a decision on the electronic petition, filed February 20,2009 ,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 20,2009 . 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)
6187519	2001-02-13	09392433	1999-09-09	Mirua 212 KGB

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	/Kurt G. Briscoe/	Date (YYYY-MM-DD)	2009-02-20
Name	Kurt G. Briscoe	Registration Number	33141

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.

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Paper No. 18

MARTIN D. MOYNIHAN
C/O ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY
SUITE 207
ARLINGTON, VA 22202

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Shimon Shnitzer et al	:	
Application No. 09/392,668	:	ON PETITION
Filed: September 7, 1999	:	
Attorney Docket No. 28428	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 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 December 4, 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 March 5, 2003.

The power of attorney filed September 29, 2004 is entered and made of record.

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

The application file is being forwarded to Technology Center AU 2664.

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

Attachment: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES 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

NIXON PEABODY, LLP
401 9TH STREET,N.W.
SUITE 900
WASHINGTON DC 20004-2128

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OCT 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph B. Sainton et al :
Application No. 09/392,676 :
Filed: September 8, 1999 :
Attorney Docket No. 0357-20 :

This is a decision on the petition, filed October 12, 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 4, 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 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 2685 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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

THEODORE NACCARELLA ESQIRE
SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :
Stayt :
Application No. 09/392,817 :
Filed: September 9, 1999 :
Attorney Docket No. STAYT-26 :
For: TRANSMISSION METHOD AND APPARATUS FOR OPTICAL FIBER TELEVISION NETWORK

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed May 21, 2007, to withdraw the holding of abandonment in the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to submit a timely reply to the June 18, 2004 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on September 19, 2004. A Notice of Abandonment was mailed on March 21, 2007.

Petitioner alleges that the June 18, 2004 non-final Office action was incomplete when received and therefore, petitioner was unable to properly respond to it until a complete Office action was transmitted via facsimile to petitioner on October 18, 2004. Petitioner asserts his January 21, 2005 amendment (certificate of mailing date January 18, 2005), was filed within three months of the October 18, 2004 facsimile transmission of the non-final Office action and was therefore timely filed.

Petitioner has provided evidence that the examiner of record transmitted via facsmilie a copy of the June 18, 2004 to petitioner on October 18, 2004. The cover sheet to the facsimile transmission states in the examiners hand, " ..here is a copy of the office action, the date will be reset accordingly(.)"

The failure to receive an entire Office action may justify resetting the period of response. It is noted that petitioner did not comply with MPEP 710.06 Situations When Reply Period Is Reset

or Restarted, in that petitioner did not inform the Office that the June 18, 2004 Office action was incomplete in a timely manner. However, the examiner *sua sponte* reset the period for response in the cover sheet of the October 18, 2004 facsimile copy of the June 18, 2004 non-final Office action.

Therefore, applicant had three months from October 18, 2004 to reply to the non-final Office action. Applicant replied on certificate of mailing date January 18, 2005.

The petition is **granted** and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2623 for consideration of the amendment filed on January 21, 2005 (certificate of mailing date January 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper 34

OCT 18 2003

#34

HOGAN & HARTSON L.L.P.
500 South Grand Avenue, Suite 1900
Los Angeles, CA 90071

In re Application of	)	
Shota Kitamura et al.	)	
Application No. 09/392,865	)	DECISION ON PETITION
Filed: September 9, 1999	)	
Attorney Docket No. 005702-20035	)	

This is a decision on the petition, filed June 27, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of November 29, 2002. A Notice of Abandonment was mailed on June 3, 2003.

Petitioner asserts that a response was timely filed. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment Under 37 C.F.R. 1.111" which bears a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated May 28, 2003, 2) a copy of a request for an extension of time of three months along with an authorization to charge the requisite fee to petitioner's Deposit Account, and 3) a postcard receipt as evidence that the response was received by the US Patent and Trademark Office on June 2, 2003. A copy of the response was submitted with the petition.[1]

The response was not of record in the application file at the time the Notice of Abandonment was mailed but has since been matched with the application file. The response was timely filed in

[1]It is noted that the petition asserts that the issue fee payment was timely transmitted. The assertion should properly be a timely submission of a response to the non-final Office action of November 29, 2002. This is of no consequence since the timely filed response has now been associated with the application file.

view of the Certificate of Mailing and the extension of time of three months. The application is not abandoned in fact.

In view of the above stated reasons, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. Inconvenience to petitioner is regretted.

The application file is being returned to the examiner for further examination.

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
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WASHINGTON, D.C. 20231
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Paper No. 12

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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FEB 23 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Steven P. Nolan, et al
Application No. 09/392,869
Filed: September 9, 1999
Attorney Docket No.11112-002001

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee, filed by facsimile transmission on February 23, 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 December 22, 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 February 23, 2001.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 1700 for processing of the CPA.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 32

MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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APR 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Steven P. Nolan et al	:	
Application No. 09/392,869	:	NOTICE
Filed: September 9, 1999	:	
Attorney Docket No. 515622000100	:	

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 Publishing Division via Technology Center AU 1621.

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
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KING & SCHICKLI PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

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NOV 16 2005

OFFICE OF PETITIONS

In re	:	
John Humphries Parkes	:	DECISION ON PETITION
Application No. 09/392,925	:	
Filed: September 9, 1999	:	
Patent No. 6,359,188	:	
Issued: March 19, 2002		

This is a decision on the "Petition Under 37 CFR 1.181", filed August 25, 2004.

The petition under 37 CFR 1.181 is **GRANTED** to the extent indicated herein.

Petitioner requests that the Office record a British court order in the instant patent. The order prohibits inventor Parkes from "in any way" disposing of his assets, including "all UK, US, and other patents held".

MPEP 313 states that "other documents" not affecting title may be recorded with the Assignment Division, at the discretion of the Director. As further set forth in MPEP 313, any document returned unrecorded may be submitted to the Office of Petitions for recordation.

Petitioner is directed to use the enclosed "Recordation Form Cover Sheet - Patents Only". In Box 3, petitioner should check "Other" and write in "court order prohibiting transfer". In Boxes 1 and 2, petitioner should fill in the name and address for Parkes. The remaining boxes should be completed as usual. After that time, if the form is still returned to petitioner unrecorded, petitioner may re-petition to the Office of Petitions. Petitioner would need to file a separate petition for each patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Recordation Form Cover Sheet - Patents Only (2 pages)
Privacy Act Statement (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 12

BJORN J HOLUBAR
GUNNIGLE JOHNSON PC
1 REEVES ROAD
PORT JEFFERSON NY 11777

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MAR 0 2 2004
OFFICE OF PETITIONS

In re Application of
Don A. Pantino
Application No. 09/392,999
Filed: September 9, 1999
Attorney Docket No.: PAN-004
Title: METHODS AND APPARATUS FOR IMPROVED INTEROCCLUSAL MANDIBULAR REPOSITIONING WITH ADJUSTABLE RELATIONAL MEMBERS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1], filed February 18, 2004, 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 (Notice), mailed March 6, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. No fees were received, and accordingly, the above-identified application became abandoned on June 7, 2001. A Notice of Abandonment was mailed on July 6, 2001.

On February 18, 2004, petitioner filed the instant petition. Petitioner has included the petition fee, the issue fee, and a statement of facts from the inventor.

The instant petition lacks item (3) above.

---

1 A grantable petition pursuant to 37 CFR 1.137(a) 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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8]

---

3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

4 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

5 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

6 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

7 Id.

8 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Nonawareness of a PTO rule will not constitute unavoidable delay[9]

The burden of showing the cause of the delay is on the person seeking to revive the application[10].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[11].

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[12]. Specifically, petitioner's delay caused by the mistakes of negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133[13].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[14]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[15]."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[16].

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9 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.
10 Id.

11 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
12 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
13 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
14 Link at 633-634.
15 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
16 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[17]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[18]."

The portions of the MPEP relevant to the abandonment of this application

MPEP 1306 states, in part:

The issue fee is due 3 months from the date of the Notice of Allowance. The amount of the issue fee is shown on the Notice of Allowance. However, because the amount of the issue fee due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the issue fee, the amount due may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the issue fee, to determine whether the amount of the issue fee due has changed. The amounts due under 35 U.S.C. 41(a) are reduced by 50 per centum for small entities

MPEP 711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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17 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
18 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

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).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances that led to the abandonment of the application meet the aforementioned unavoidable standard and, therefore; petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner contends that the issue fee was rendered to his attorney, who failed to send it to the Office.

The declaration of facts alleges that his attorney informed him that the attorney never received the Notice. The attorney purportedly changed addresses, and filed a change of correspondence address with the Office, which was not effectuated. The inventor then inquired as to the status of the application, but apparently was not satisfied with the answers given to him by his chosen counsel. When the inventor contacted the Patent Office directly, he learned that the application had gone abandoned. The inventor then contacted the attorney, and was told that he would file a petition to revive. After two months had elapsed, the inventor decided to file the petition himself.

In regards to the alleged failure to receive the Notice, the petition must be dismissed as the petitioner has failed to include a statement from one having firsthand knowledge that a search of the file jacket, the docket records, and the file was completed, and the results indicate that the Office communication was not received. Furthermore, copies of the file jacket and docket report where the non-received Office communication would have been entered had it been received and docketed have not been provided. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period.

On renewed petition, Petitioner may wish to have the attorney: conduct these three searches; submit an attestation that these searches were performed; attest that the search did not result in the location of the Notice; submit a copy of the file jacket, and; submit a copy of the docket report.

As to the alleged failures of the attorney to diligently prosecute this application, it is unfortunate that patentees are bound by the actions of their chosen counsel.

The showing in the instant petition is not sufficient to constitute unavoidable delay.

On the facts presented, this situation fails to constitute unavoidable delay. These facts might constitute an unintentional delay in prosecution, but it certainly does not rise to the level of unavoidable. Therefore, it is determined that the petitioner cannot establish that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable which is required in order for relief to be granted under 37 CFR 1.137(a).

Consequently, the petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)[19].

The reply to this letter may be submitted by mail[20], hand-delivery[21], or facsimile[22].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Don A. Pantino, DDS
309 Main Street PO Box 435
Islip, New York 11751

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19 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.

20 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

21 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

22 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

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www.uspto.gov

Paper No. 12

VENABLE, BAETJER, HOWARD & CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, D.C. 20043

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APR 2 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Healy, et al. :
Application No. 09/393,024 :
Filed: September 9, 1999 :
Attorney Docket No. 02543-128329 :

This is a decision on the petition under 37 CFR 1.182, filed February 13, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. JOSEPH P. HEALY
2. SUZANNE S. ALLISON
3. PHILLIP LIEBES
4. JAMES M. SURGUINE

This application is being forwarded to Technology Center 3600 for review of the response filed March 31, 2003, via the Office of Initial Patent Examination, Customer Corrections, to change the order of inventorship.

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

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

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Paper No. 11

MAIL

AUG 1 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PETER R. MARTINEZ, ESQ.
LUCE, FORWARD, HAMILTON, & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

In re Application of:
Gehring et al.
Application No. 09/393,122
Filed: September 10, 1999
For: **APPARATUS AND METHOD FOR MANAGING VARIABLE-SIZED DATA SLOTS WITHIN A TIME DIVISION MULTIPLE ACCESS FRAME**

DECISION ON PETITION

This is a decision on the Petition filed June 26, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

A Notice of Abandonment was mailed June 3, 2003 for failure to timely respond to the non-final Office action mailed July 3, 2002.

Petitioner alleges to have timely submitted a response to the Office action. In support of the petition, Petitioner has provided a copy of a date-stamped return postcard acknowledging receipt of the response in the U.S. Patent and Trademark Office on October 7, 2002. Petitioner has submitted a copy of the response with the petition.

The original response is not of record in the file 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 items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the amendment was received in the Office but was not matched with the application file.

The date stamped on the post-card, October 7, 2002, is beyond the due date for the response. However, under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d): and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The correspondence documents bear a proper certificate of mailing with a deposit date of October 2, 2002 in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. 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 being forwarded to the Technology Center's technical support staff for entry of the copy of the response and the Substitute Power of Attorney, which includes a change of address. From there, the file will be forwarded to the examiner for further action in due course.

Jin F. Ng, Director
Technology Center 2600
Communications

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAIL

JAN 29 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
JAKOB HOEPELMAN
Application Serial No.: 09/393,274
Filed: September 10, 1999
For: AUTHORIZATION CONTROL SYSTEM

DECISION
ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed August 19, 2003.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to a final Office action mailed on November 25, 2002. A shortened statutory period of three (3) months was set for applicant to respond. On February 25, 2003, applicant filed a response in the form of a Request for Continued Examination (RCE) and entry of the after final amendment previously filed on January 29, 2003 (paper No. 8). However, in an advisory action dated July 30, 2003 (paper No. 9), the Office notified Applicant that the amendment would be entered upon the filing of an appeal. No further response was entered into the record within the period mentioned above and thus, the application was considered abandoned as of February 25, 2003.

Petitioner alleges to have timely filed a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the RCE transmittal and USPTO receipt that is date stamped February 25, 2003, indicating PTO receipt of said reply before the expiration of the period for response.

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 were timely filed in the Patent and Trademark Office but not matched with the application file.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to Technology Center's technical support staff for processing the RCE. From there, the file will be forwarded to the examiner for further consideration in due course.

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

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250 PARK AVENUE
NEW YORK, NY 10177

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Wayne Cohen
Application No. 09/393,473
Filed: September 10, 1999
Attorney Docket No. A32636-07270

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowability mailed March 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 19, 2004.

The drawings filed on November 16, 2004 have been approved by the Draftsperson. A copy of the Notice of Draftsperson's Patent Drawing Review (PTO-948) is attached.

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

This matter is being referred to Publishing Division.

Wan Laymon

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

Attachment: PTO-948

cc: MICHAEL MCNAMARA
BAKER BOTTS
30 ROCKEFELLER PL
NEW YORK, NY 10112

Form PTO-948 (Rev. 06/03)
Application No. 09/393,473

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 11/16/04 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. ____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)____

___ Poor quality (half-tone). Fig(s)____

3. TYPE OF PAPER. 37 CFR 1.84(c)

___ Paper not flexible, strong, white, and durable. Fig(s)____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)____

____ Top (T) ____ Left (L)

____ Right (R) ____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___ Views not labeled separately or properly. Fig(s)____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so. that the top becomes the right side, except for graphs. Fig(s)____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s)____

___ Solid black shading not permitted. Fig(s)____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)____

___ Figure legends are poor. Fig(s)____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)____

COMMENTS:

Reviewer SON LAM

Date 04/27/05

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT 133)

Attachment to Paper No. ____

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SHELBY TOWNSHIP MI 48316-4447

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OFFICE OF PETITIONS

In re Application of	:
Chisnell	:
Application No. 09/393,482	: Decision on Petition for
Filing Date: September 10, 1999	: Patent Term Extension
For: REINFORCEMENT FOR A HOSE	:
COUPLING	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR 1.181," received on March 26, 2007. The petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181 and a petition under 37 CFR 1.705 as Petitioner has argued patent term adjustment provisions. See 35 U.S.C. § 154(b)[1] and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that the Notice of Allowance mailed on January 22, 2007, for the above-identified application did not contain an indication of paten term extension under 35 U.S.C. §154(b).

Petitioner contends that the instant application is entitled to 516 days of patent term extension as compensation for the delay due to the file being from October 21, 2004 to March 21, 2006. Petitioner contends that application is entitled to another 268 days of patent term extension due to the delay in receiving a response to the rehearing. Petitioner asserts that the application should be eligible for 784 days of patent term extension under the prior provisions of 35 U.S.C. 154(b).

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

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 above-identified application was filed on September 10, 1999. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

With respect to Petitioner's argument that patent term extension should be awarded to the above-identified application because the file was lost by the Office and that the Office should embrace the policy goals embraced by the Office and reflected in the patent term extension and adjustment rules. 35 U.S.C. 154(b) and 37 CFR 1.701 require a successful appellate review, interference or a secrecy order delays as set forth in the statute to be eligible for patent term extension. Delays due to a lost file and not are not listed as one of the enumerated statutory grounds for patent term extension in the statute.

The delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b). It is noted that Congress did not make the patent term adjustment provisions in current 35 U.S.C. 154 retroactively available to the instant application. Since Congress failed to make the provisions applicable in the instant application, the Office cannot either.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The required $200 fee for the petition under 37 CFR 1.705(b) has been paid. Any request for reconsideration of this decision must be submitted as a petition under either 37 CFR 1.182 or 37 CFR 1.183 with the required 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 PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/393,590	09/09/1999	ELIZABETH MOYER	00211-US-NEW	2967

21971 7590 08/21/2006
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

EXAMINER
DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
1645	

DATE MAILED: 08/21/2006

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

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WILSON SONSINI GOODRICH &ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:	
Moyer et al	:	Decision on Petition
Serial No.: 09/393,590	:	
Filed : 9 September 1999	:	
Attorney Docket No.: 31242.701.201	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 6 June 2006 requesting withdrawal of the Finality of the last Office action.

The petition requests review the finality of the rejection mailed 8 June 2005. Before a final petition decision had been drafted and signed, and concurrent with the petition review, the examiner obtained permission from Applicant's representative Mr. Albert Halluin on 13 August 2006 to prepare an Notice of allowance canceling claims 1-53, and adding new product claims 54-55 and claim 56, drawn to a rejoined invention, a method of using the product. The Notice of Allowance, examiner's amendment and this petition decision will be mailed out concurrently.

Accordingly, the petition filed under 37 CFR 1.181 is considered moot and **DISMISSED**.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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AUG 25 2006

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:
Elizabeth Moyer et al	:
Serial No.: 09/393,590	: PETITION DECISION
Filed: September 9, 1999	:
Attorney Docket No.: 31242.701.201	:

This is in response to the petition under 37 CFR 1.181, filed June 6, 2006, requesting withdrawal of the Finality of the last Office action. This decision takes the place of a decision improperly mailed to applicants on August 21, 2006, which decision is hereby vacated.

BACKGROUND

A review of the recent file history of this application shows that following the filing of RCE papers on February 23, 2004, the examiner mailed to applicants a non-Final Office action on June 1, 2004. Applicants replied on December 1, 2004, and an interview with the examiner was held on April 1, 2005.

The examiner mailed another non-Final Office action to applicants on July 21, 2005. The Office action included a discussion of affidavits filed for the purpose of overcoming certain rejections and those rejections were indicated as withdrawn. The examiner then rejected claims 1-8 and 16-21 under 35 U.S.C. 102(b) as anticipated by Schwarz (of record). Claims 1-8 and 16-21 were also rejected under 35 U.S.C. 102(b) as anticipated by Saprykina et al (of record). Claims 1-8 and 16-21 were further rejected under 35 U.S.C. 102(b) as anticipated by Sacks et al (of record). Claims 1-8, 12-21 and 25-25 were rejected under 35 U.S.C. 102(b) as anticipated by Schantz et al (of record). Claims 14-15 and 27-28 were rejected under 35 U.S.C. 103(a) as unpatentable over Schwarz or Saprykina et al or Sacks et al in view of Schantz et al. Claims 9-11 and 22-24 were also rejected under 35 U.S.C. 103(a) as unpatentable over Schwarz or Saprykina et al in view of Melling et al. Lastly, claims 12-13 and 25-26 were found unpatentable under 35 U.S.C. 103(a) over Sacks et al. Each of the rejections was clearly and concisely explained.

Applicants replied on September 13, 2005, amending claims 1, 4, 6-7, 16, 18-20, 29 and 40-41 (claims 29-53 are withdrawn from consideration). The amendments served to generally clarify the claim scope and place the claims in better condition for examination.

The examiner mailed a Final Office action to applicants on December 8, 2005, referencing the interview of 9/30/05 (sic 9/07/05) and discussing claim interpretation as to certain terms. The

examiner then withdrew specifically every rejection made in the previous Office action indicating, however, for certain rejections that they were being restated in modified form. The examiner then rejected claims 1 and 16 under 35 U.S.C. 112, first paragraph, for containing subject matter not described in the specification (lack of written description) for such terms as "stabilized" liquid or "capable of being" stable or "buffered saline" or certain pH ranges, etc. Claims 6 and 19 were rejected under 35 U.S.C. 112, first paragraph, for including new matter. Claims 7 and 20 were rejected under 35 U.S.C. 112, first paragraph, for new matter. Claims 1-14 and 16-27 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Claims 1-28 were then rejected under 35 U.S.C. 112, second paragraph, as indefinite with specific terms identified as indefinite. Claims 1-3, 5-8, 16-17 and 19-21 were rejected under 35 U.S.C. 102(b) as anticipated by Sacks et al (of record). Claims 1-8, 12-21 and 25-28 were rejected under 35 U.S.C. 102(b) as anticipated by Schantz et al (of record). Lastly, claims 1-9, 11 16-22 and 24 were rejected under 35 U.S.C. 103(a) as unpatentable over Schwarz in view of Schantz et al. Each rejection was properly and carefully explained. The art rejections applied are similar in nature to those previously applied, but have some substantial differences included. The examiner made the action Final stating that the new grounds of rejection were necessitated by applicants' amendments to the claims.

Applicants filed an amendment after Final rejection on May 5, 2006, requesting that the examiner withdraw the Finality of the previous Office action and presenting substantial amendments to the claims in response to the rejections set forth in the Office action. Concurrently applicants filed a Notice of Appeal.

The examiner mailed an Advisory Action to applicants on May 12, 2006, denying entry of the amendment as raising new issues requiring further search, new matter and not placing the application in better condition for appeal. The examiner explained the reasons for non-entry.

Applicants then engaged the examiner in telephonic interviews seeking to hold a personal interview with the examiner. Based on applicants' proposed points of discussion as not likely leading to progress or disposition of the application, the request for a personal interview was denied with reasons set forth by the examiner.

This petition was then filed on June 6, 2006, requesting Supervisory review of the Final Office action or alternately as a petition to review the finality of the rejection. As a petition is considered a Supervisory review, this request is being treated as a petition.

DISCUSSION

Initially it is noted that this application has been pending for nearly six years and has received at least five substantive Office actions (including one previous Final Office action) following an initial restriction requirement and it is desirable to bring the prosecution to a close as speedily as possible. It is presumed that the examiner made the last Office action Final for that purpose.

However, a review of the last two Office actions shows that they are markedly different. As noted above the examiner set forth numerous rejections over prior art in the Office action mailed July 21, 2005, and then specifically withdrew each of those rejections in the next Office action

and presented new prior art rejections. The examiner stated that the new rejections were in consequence of applicants' amendments to the claims. However a review of those amendments fails to show that they were of significant substance so as to cause new rejections over prior art to be made. A summary of some the changes is as follows:

"stable liquid" changed to "stabilized liquid;
"providing a buffered pH range to the formulation between" (underlined part added);
"a therapeutic concentration suitable for use in humans of purified botulinum toxin";
"and [wherein said] the formulation is capable of being stable as a liquid when stored for at least a year" (deleted matted in brackets); and
"buffered saline [buffer]".

As can be seen these amendments do not materially affect the scope of the claims, but generally amend terms in dependent claims to agree with independent claims, narrow or clarify specific claim limitations or express implied limitations.

Rather the examiner in reporting the substance of the interview in the Office action devotes most of a page to explaining claim interpretation to applicants, focusing on such terms as "buffered saline" as opposed to "saline buffer", for instance, and how the Office interpretation of claim terms may differ from that of the courts. The examiner then sets forth rejections under 35 U.S.C. 112, first paragraph, of these and other terms designating them as new matter and/or lacking written description or enablement in the specification. Clearly these rejections were not necessitated by applicants' amendments, but should have been raised in a previous Office action so that applicants could properly respond to them.

The examiner then restates three rejections of record in light of the claim interpretations set forth. The rejection under 35 U.S.C. 102(b) over Sacks et al is significantly different from the previous rejection over Sacks et al. Portions of the rejections are directed to claim interpretation, as noted above, but other parts are significantly different arguments not previously presented. The rejection under 35 U.S.C. 103(a) is also different in that only Schwarz and Schantz et al are used rather than the previous combinations.

In view of the significant change in the prior art rejections as well as the new rejections under 35 U.S.C. 112, first paragraph, which were not necessitated by applicants' amendments the making of the Office action mailed December 8, 2005, was improper and the finality thereof is hereby withdrawn.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for entry and further consideration of the amendment filed May 5, 2006, in response to the Office action of December 8, 2005, which is now considered to be a non-Final Office action. As a consequence of withdrawal of finality of the last Office action the Notice of Appeal is considered premature and is withdrawn. Applicants are not under obligation to file an Appeal Brief. Applicants may

reinstate the Notice of Appeal in response to any subsequent Final Office Action or may request refund of the Appeal Fee.

OTHER MATTERS

Applicants' comments on requests for an interview and denial thereof by the examiner are noted, but have no effect on this decision. Whether an examiner grants an interview to applicants after a Final Office action is discretionary with the examiner. In this particular instance it is noted that applicants have had at least two previous personal interviews with the examiner and some progress towards disposition of this application is presumed to have occurred. Here, the examiner indicated that progress towards disposition of the application would not likely occur and declined an interview. Such is within the examiner's prerogative.

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 571-273-8300.

John L. LeGuyader
Director, Technology Center 1600

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APR 1 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Nazem et al.	:	DECISION ON PETITION
Application No. 09/393,718	:	TO WITHDRAW
Filed: September 10, 1999	:	FROM RECORD
Attorney Docket No. 324212009101	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agent associated with Customer Number 20350 was been revoked by the assignee of the patent application on February 23, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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NOV 2 4 2000

Technology Center 2100

Paper No. 7

Richard L. Hughes
Sheridan Ross PC
Suite 1200
1560 Broadway
Denver, Colorado 80202-5141

In re Application of: Michael Braitberg et al. Application No. 09/393,899 Filed: September 10, 1999 For: CONTENT DISTRIBUTION METHOD AND APPARATUS	)))))	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed November 3, 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 **GRANTED**. Note that only Richard L. Hughes has withdrawn as Attorney. All other attorneys appointed in the power of attorney filed December 2, 1999 are still of record.

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

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

cc: David E. Steuber
Skjerven, Morrill, MacPherson, Franklin and Friel LLP
Suite 700
25 Metro Drive
San Jose, California 95110

#20
DW

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN - 8 2003

Office of the Director
Group 3600

Skjerven Morrill LLP
25 Metro Drive, Suite 700
San Jose, Ca 95110

In re application of :
Michael F. Braitberg et al. :
Application No. 09/393,899 :
Filed: September 10, 1999 :
For: CONTENT DISTRIBUTION METHOD :
AND APPARATUS :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on November 6, 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 is not accepted in the above-identified application because the request lacks condition (B) above.

As to condition (B), No reason for withdrawal has been provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

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OFFICE OF PETITIONS

In re Application of	:	
Paul Charles Turgeon	:	
Application No. 09/394,143	:	DECISION GRANTING PETITION
Filed: September 10, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 044624-15-NP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2007, 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 and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice Of Allowance mailed April 26, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Patent Publication to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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GODWIN PAPPAS
LANGLEY RONQUILLO LLP
1201 Elm Street, Renaissance Tower
DALLAS, TX 75270

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Underbrink et al.	:	
Application No. 09/394,189	:	DECISION
Filed: September 13, 1999	:	ON PETITION
Atty Docket No.:	:	
13629.0023	:	

This is a decision on the Petition to Withdraw Holding of Abandonment, filed January 13, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Drawing Inconsistency with Specification ("Notice"), mailed August 30, 2005. The Notice set a non-extendable 30-day period for reply. No reply having been received, this application became abandoned on October 1, 2005.

The instant petition

Applicant responds with the instant petition wherein Applicant avers that a timely reply to the Notice was filed on September 13, 2005 (Certificate of Mailing dated September 8, 2005), and was received by this Office as evidenced by Applicant's return-receipt postcard.

A review of the drawing and return-receipt postcard reveal that the serial number placed on the correspondence is 09/384,189, and not 09/394,189. The attorney docket number placed on the correspondence also does not match that filed with the above-identified application.

A further review of the correspondence filed September 13, 2005 reveal that the correct applicant, filing date of the application, Art Unit and Examiner were included on the correspondence.

In view of the above, it is apparent that the Response to Notice was filed in this Office on September 13, 2005, and due to errors on the part of applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Publishing Division for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN P WHITE
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Stern, et al.	:	
Application No. 09/394,204	:	ON PETITION
Filed: September 10, 1999	:	
Attorney Docket No. 52209-A-PCT-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

On January 13, 2005, the Office mailed a Notice of Abandonment. The Notice indicated that the application became abandoned for failure to timely reply to the "Notice of Draftperson's Patent Drawing Review" mailed on April 10, 2002.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of a Request for Continued Examination (RCE) and the submission in the form of an Amendment (and drawings).

The application file is being forwarded to Group Art Unit 1647 for consideration of the RCE and the Amendment, both filed March 14, 2005.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Frederick W. Gibb, III
GIBB & RAHMAN, LLC
2568-A Riva Road
Suite 304
Annapolis, MD 21401

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MAY 16 2007

TECHNOLOGY CENTER 2100

In re Application of: DEAN, et al.	)	
Application No. 09/394,302	)	*SUA SPONTE*
Attorney Docket No. BU9-98-062	)	WITHDRAWAL OF HOLDING OF
Filed: September 10, 1999	)	ABANDONMENT *under 37 CFR § 1.181*
For: TEST SYSTEM FOR INTEGRATED	)	
CIRCUITS	)	

A review of the application reveals that a Notice of Abandonment was mailed to the Applicant on March 16, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Decision on Appeal mailed on December 21, 2004. Applicant timely filed a Request for Continued Examination on January 19, 2005 that had been overlooked. The Request for Continued Examination transmittal, amendment and remarks are currently located in the file.

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 and to **ENTER** the Request for Continued Examination, amendment and remarks filed January 19, 2005. 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 Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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ON PETITION

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

10/29/04

In re Application of
Ichiro Takayama et al
Application No. 09/394,345
Filed: September 13, 1999
Attorney Docket No. 0756-2028

This is a decision on the petition, filed October 26, 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 September 13, 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 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 2673 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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 at the top of the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

ON PETITION

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

PJJ 10/29/04

In re Application of
Ichiro Takayama et al
Application No. 09/394,345
Filed: September 13, 1999
Attorney Docket No. 0756-2028

This is a decision on the petition, filed October 26, 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 September 13, 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 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 2673 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 27 2004

OFFICE OF PETITIONS

ON PETITION

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of :
Ichiro Takayama et al :
Application No. 09/394,345 :
Filed: September 13, 1999 :
Attorney Docket No. 0756-2028 :

This is a decision on the petition, filed October 26, 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 September 13, 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 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 2673 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

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)
6,604,203	2003-08-05	09/394,376	1999-09-10	22272-01000

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 W. Farn/	Date (YYYY-MM-DD)	2009-02-09
Name	Michael W. Farn	Registration Number	41015

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
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www.uspto.gov

In re Patent No. 6604203
Issue Date: August 5,2003
Application No. 09394376
Filed: September 10,1999
Attorney Docket No. 3964-04(6563

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

This is a decision on the electronic petition, filed February 9,2009 ,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 February 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/09

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 09394728 Patent No.: 6311568 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.

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

Comments: _____

[signature] AU285 5/15/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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AUG 07 2008

OFFICE OF PETITIONS

CLIFFORD CHANCE US LLP
31 WEST 52ND STREET
NEW YORK NY 10019-6131

In re Application of :
Chin, et al. : DECISION ON PETITION
Application No. 09/394,824 :
Filed: September 13, 1999 :
Atty. Dkt. No.: SOM-01601 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 21, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 1.181." This is not a final agency decision.

This application became abandoned December 12, 2007 for failure to timely submit a proper reply to the Notice to File Correct Application Papers (Notice) mailed October 11, 2007. The Notice set a two month non-extendible shortened statutory period of time for reply.

The Notice advised that the specification filed March 13, 1999 referred to Figures 1-20 and that the original drawings filed March 13, 1999 included Figures 1-20 only. The Notice further advised that the replacement drawings filed June 5, 2007 included Figs. 1-20 plus 12 additional figures, Figs. 21-32. The Notice required the submission of corrected drawings, i.e., Figures 1-20.

The reply filed December 14, 2007 was deemed non-compliant because the reply contained drawing figures 1-32.

Notice of Abandonment was mailed February 8, 2008.

Petitioners argue that while the specification described Figures 1-20, "as a result of a USPTO administrative error, Figs. 1-32 where accepted in an Office action dated May 11, 2005." Petitioners

further indicate that without any deceptive intent, and relying on the May 11 Office Action, applicants resubmitted on June 1, 2007 Figs. 1-32 in response to the Notice of Allowance dated March 9, 2007.

Petitioners arguments have been carefully considered, but are not found convincing. While petitioners relied on the Office action mailed May 11, 2005, petitioners were advised during the March 1, 2007 interview that the drawings were not compliant, as indicated in the examiner's interview summary mailed March 9, 2007. Further, the Notice of Allowance mailed March 9, 2007 also advised applicants that corrected drawings were required. In addition, the Notice to File Corrected Application Papers mailed October 11, 2007 advised applicants that the drawings submitted June 5, 2007 were not accepted due to the fact that 20 drawing figures were originally filed and applicants had submitted 32 drawing figures in response to the Notice of Allowance.

Accordingly, petitioners' improper reliance on the May 11, 2005 non-final Office action insofar as the drawings are concerned is not grounds for withdrawal of the holding of abandonment given applicants were given notice of three occasions that corrected drawings were required.

In view thereof, the petition to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 1.181." This is not a final agency decision.

ALTERNATE VENUE

It is noted that the petition states that "[i]f a withdrawal of the Notice of Abandonment is not granted, in the interest of expediting the issuance of this allowed patent application, the Commissioner is hereby authorized to charge the amount of $1,540.00 to cover the Petition fee as set forth in 37 C.F.R. §1.17(m)."

The statement in and of itself is not a bona fide petition pursuant to 37 CFR 1.137(b).

Thus, petitions are urged to consider filing a petition stating that the entire delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of

an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply, if not previously submitted.

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

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer 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) 272-3205.

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

CLIFFORD CHANCE US LLP
31 WEST 52ND STREET
NEW YORK NY 10019-6131

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DEC 16 2008

In re Application of	:
Chin, et al.	: DECISION ON PETITION
Application No. 09/394,824	:
Filed: September 13, 1999	:
Atty. Dkt. No.: SOM-01601	:

This decision is in response to the petition renewed under 37 CFR 1.137(b) filed August 22, 2008.

The petition under 37 CFR 1.137(b) is hereby **GRANTED**.

This application became abandoned December 12, 2007 for failure to timely submit a proper reply to the Notice to File Corrected Application Papers (Notice) mailed October 11, 2007. The Notice set a two month non-extendible shortened statutory period of time for reply. A petition under 37 CFR 1.181 was filed March 21, 2008 and dismissed August 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

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

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

Paper No. 26

THOMAS Q. HENRY
WOODARD EMHARDT NAUGHTON MORIARTY
AND MCNETT BANK ONE CENTER TOWER
111 MONUMENT CIRCLE SUITE 3700
INDIANAPOLIS, IN 46204-5137

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FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of
Williams, David A.
Application No. 09/394,867
Filed: September 13, 1999
Attorney Docket No. 077037-000377.KAG
/sjd262342

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 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 January 27, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on July 28, 2003. A Notice of Abandonment was mailed on November 4, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

As petitioner stated in the petition, the Notice of Appeal filed on July 30, 2003 was incomplete due to the missing signature.

The Notice of Appeal filed January 30, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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

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. 7

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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AUG 1 7 2001

OFFICE OF PETITIONS

In re Application of
Steven L. Stice, Jose Cibelli,
James Robl and Paul Golueke
Application No. 09/394,902
Filed: September 13, 1999
Title of Invention: CLONING PIGS USING DONOR CELLS OR NUCLEI FROM DEFFERENTIATED CELLS (SOMATIC OR GERM CELLS) AND PRODUCTION OF PLURIPOTENT PORCINE CELLS BY NUCLEAR TRANSFER

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47(a), filed April 6, 2000, to proceed with the above-identified patent application. A four (4) month extension of time was requested and is hereby granted.

The petition is **granted**.

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.

Petitioner has shown that the non-signing inventors, Steven L. Stice and Paul Golueke, refuse to sign the declaration after being presented with the above-identified application and declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses 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 Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Y. Tartera 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

Steven L. Stice, PhD.
Associate Professor, Animal Science Research
Animal Diary Science Complex
UNIVERSITY OF GEORGIA
Athens, GA 30602

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AUG 17 2001

OFFICE OF PETITIONS

In re Application of Steven L. Stice, Jose Cibelli, James Robl and Paul Golueke Application No. 09/394,902 Filed: September 13, 1999 Title of Invention: CLONING PIGS USING DONOR CELLS OR NUCLEI FROM DEFFERENTIATED CELLS (SOMATIC OR GERM CELLS) AND PRODUCTION OF PLURIPOTENT PORCINE CELLS BY NUCLEAR TRANSFER	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

Dear Dr. Stice:

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 Derek L. Woods at (703) 305-0014. 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).

Christina Tartera 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

Mr. Paul Golueke
620 Constitution Avenue
DeForest, WI 53532

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AUG 17 2001

OFFICE OF PETITIONS

In re Application of Steven L. Stice, Jose Cibelli, James Robl and Paul Golueke Application No. 09/394,902 Filed: September 13, 1999 Title of Invention: CLONING PIGS USING DONOR CELLS OR NUCLEI FROM DEFFERENTIATED CELLS (SOMATIC OR GERM CELLS) AND PRODUCTION OF PLURIPOTENT PORCINE CELLS BY NUCLEAR TRANSFER	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Golueke:

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 Derek L. Woods at (703) 305-0014. 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).

Christina L. Tartera for

Beverly M. Flanagan
Supervisory Petitions Examiner
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)
6826237	2004-11-30	09395013	1999-09-13	

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.

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In re Patent No. 6826237
Issue Date: November 30,2004
Application No. 09395013
Filed: September 13,1999
Attorney Docket No. PHB-34.286

:
: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 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 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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 8-26-02 Paper No.: 18

TO : Supervisor, Art Unit 1646

SUBJECT : Certificate of Correction Request in Patent No.: 6375944

A response to the following question is requested with respect to the accompanying request for a certific 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 th scope or meaning of the claims be changed.

Ron Zandveld

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, l placing a check mark (+) in the box that reflects your decision, which corresponds to the question checke above.

☒ YES ☐ NO ☐ Comments below

☐ Comments:

Yvonne Eyler
Yvonne Eyler
Supervisor

1646
Art Unit

PTOL-306 (REV. 2/02) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offi

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Mark V. Muller
1445 Ross Avenue
Suite 3200
Dallas, TX 75202-2799

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Eduardo Teodoro Sanchez	:	
Application No. 09/395,078	:	DECISION ON REQUEST TO
Filed: September 13 1999	:	WITHDRAW AS ATTORNEY
For: A SYSTEM AND METHOD FOR MESSAGE TRANSPORT AND SEGMENTATION	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record received April 14, 2005.

A grantable request to withdraw as attorney/agent of record must do the following:
(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.

Attorney/Agent requesting the withdrawal is not of record.

For the reason stated above the request is **DISMISSED AS MOOT.**

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 22

KEATING & BENNETT, LLP
10400 EATON PLACE
SUITE 312
FAIRFAX VA 22030

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

In re Application of
Kenichi Funamoto, et al.
Application No. 09/395,179
Filed: September 14, 1999
Attorney Docket No. P7459-9002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 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 final Office action mailed July 16, 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 October 17, 2002.

Petitioner submitted a Request for Continued Examination (RCE), without the proper submission on October 25, 2002, (certificate of mailing dated October 16, 2002). Accordingly, the Request for Continued Examination (RCE) was improper under 37 CFR 1.114. Since the proper submission has been filed with the instant petition, the application will be revived solely for purposes of continuity with the Request for Continuation Examination (RCE) filed on October 25, 2002.

Receipt is acknowledged of the Information Disclosure Statement filed with the instant petition on January 13, 2004.

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 1775, for processing the Request for Continued Examination under 37 CFR 1.114.

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
WASHINGTON, D.C. 20231
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Paper No. 13

Texas Instruments Incorporated
P. O. Box 655474, M/S 3999
Dallas, TX 75265

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NOV 12 2002

OFFICE OF PETITIONS

In re Application of :
Ruben P. Madrid :
Application No. 09/395,254 :
Filed: September 13, 1999 :
Attorney Docket No. TI-20922.1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 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 final Office action mailed February 11, 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 May 12, 2002.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1734 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

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NOV 0 5 2004

Technology Center 2100

Paper No. 7

Patricia A. Sheehan
Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210

In re Application of: Weng Application No. 09/395,845 Attorney Docket No. 101058-0042 Filed: September 14, 1999 For: RANDOMIZER SYSTEMS FOR PRODUCING MULTIPLE-SYMBOL RANDOMIZING SEQUENCES	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition to withdraw the holding of abandonment of the instant application, filed on May 11, 2004, under 37 CFR §1.181.

The Petition is **GRANTED**.

The instant application became abandoned for failure to timely respond to the non-final Office action mailed September 10, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith, in accordance with MPEP § 203.08 and § 508, is acceptable. No fee is required.

A review of the file record shows that a non-final Office action was mailed on September 10, 2003, setting a three month shortened statutory period for response. Applicant's response, acknowledged as having been received in the PTO on November 13, 2003, is not of record in the application file and cannot be located.

Applicant has provided evidence on March 26, 2004 and in the petition of May 11, 2004 that includes: a copy of the response with express certificate of mailing; as well as a post card receipt identifying the response and which includes a USPTO receipt date of November 13, 2003.

MPEP § 203.08 states in relevant part:

> < A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive.

In addition, MPEP § 503 states in part:

> The identifying data on the postcard should be so complete as to clearly identify the item for which >a< receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify **the**

> **type of paper being filed**, e.g., new application, affidavit, **amendment**, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted**. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

Since all of the criteria set forth above have been met, the petition is **GRANTED.**

Applicant is reminded of the requirements of MPEP § 503 to ensure future submissions of proof of filing are complete with all available information of the identifying data on the postcard as outlined above, to ensure a complete and proper *prima facie* showing of proof of filing of such papers.

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), to enter the response (copy, filed with the instant petition, dated November 13, 2003). The application will then be forwarded to the examiner for prompt action on the merits.

11/2/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6079729
Issue Date: June 27,2000
Application No. 09395977
Filed: September 15,1999
Attorney Docket No. 125599

:

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

:

This is a decision on the electronic petition, filed January 13,2010 ,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 January 13,2010 . 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)
6079729	2000-06-27	09395977	1999-09-15	4727-00006

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	/William L. Falk/	Date (YYYY-MM-DD)	2010-01-13
Name	William L. Falk	Registration Number	27709

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

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MATTHEW E. CONNORS
SAMUELS GAUTHIER & STEVENS LLP
225 FRANKLIN STREET SUITE 3300
BOSTON MA 02110

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION
Joseph G. DESLOGE	:
Application No.: 09/396,175	: UNDER 37 CFR 1.137(b)
Filed: September 19, 1999	:
Attorney Docket No.: MIT.7238	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 04, 2005 to revive the above-identified application.

The petition is **DISMISSED**.

The petition does not satisfy the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). It satisfies conditions (1) a declaration and substitute specification; and (2) the petition fee has been provided.

With respect to condition (3) under 37 CFR 1.137(b), in view that the patent application has been abandoned for extended period of time, petitioner's language for this section is required to track the language specifically set forth therein.

In this application, no terminal disclaimer is required. As a result, it is recommended that petitioner submit a request for a refund of the terminal disclaimer fee of $110.00. This request must be addressed to:

Mail Stop 16
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Consequently, the petition is deemed to not to satisfy condition (3) under 37 CFR 1.137(b).

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

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

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.

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.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

PATRICK J O'SHEA ESQ
SAMUELS GAUTHIER & STEVENS LLP
225 FRANKLIN STREET SUITE 3300
BOSTON MA 02110

In re Application of	: DECISION ON
Joseph G. DESLOGE	:
Application No.: 09/396,175	: RENEWED PETITION
Filed: September 19, 1999	:
Attorney Docket No.: MIT.7238	: UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 18, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b).

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.

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
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In re Patent No. 6105455
Issue Date: August 22,2000
Application No. 09396191
Filed: September 14,1999
Attorney Docket No. R193.12-0013

: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 24 2006

OFFICE OF PETITIONS

MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of	:	
Masatoshi Nagano	:	
Application No. 09/396,244	:	ON PETITION
Filed: September 15, 1999	:	
Attorney Docket No. 1232-4566	:	

This is a decision on the petition, filed January 23, 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 March 3, 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2622 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

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

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Elsa Keller, Legal Administrator
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Joseph Urbano, et. al.	:	
Application No. 09/396,486	:	DECISION ON PETITION
Filed: September 14, 1999	:	
Attorney Docket No. 9994-8US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 August 8, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that prima facie places the application in condition for allowance, a terminal disclaimer and the required fee; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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

APR 18 2000

Paper No. 4

In re Application of Randall A. Addington et al. Serial No. 09/396,530 Filed: September 15, 1999 For: METHOD FOR IMPROVING A BOWLER'S CONTROL OVER THE RELEASE OF A BALL FROM THE BOWLING BALL FINGER HOLE	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed February 15, 1999, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Joel I. Rosenblatt
445 11th Avenue
Indialantic, FL 32903

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 19 2002

Paper No. 25

In re Application of
Randall A. Addington *et al*
Application No. 09/396,530
Filed: September 15, 1999
Attorney Docket No. 99-1002

DECISION ON PETITION

This is a decision on the petition filed on February 19, 2002 as a substitute for the petition originally filed on February 18, 2002 which petitioners had feared was incomplete as filed. Both petitions have been treated as though they constitute a single petition.

The petition is granted.

A review of the record shows that this application has been remanded to the examiner by the Board of Patent Appeals and Interferences ("Board") . The Board's direction to the examiner reads:

> "On remand, the examiner is directed to take appropriate action, in accordance with the relevant statutes, regulations and Office practices, to resolve the foregoing problems."

Reference to the Board's remand shows that the "foregoing problems" consist of a whole host of issues upon which the Board held that the examiner's treatment of both procedure issues and the merits of the appealed issues of patentability was ambiguous and incomplete.

The present petition reiterates what the Board held. It seems to the undersigned that based upon what the Board stated in its remand, the present petition is clearly grantable to the extent that follows. The examiner is directed to consult with, and to act in accordance with the directions of, the Supervisory Patent Examiner of Art Unit 3711 to resolve all of the issues raised by the Board and by petitioner. To the extent that issues remain that would preclude allowance of the application and which would require a new action to clarify the examiner's objections/rejections in order to satisfy the Board's concerns, the examiner and the Supervisory Patent Examiner should consider reopening prosecution in order to give petitioner an opportunity to respond.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Joel I. Rosenblatt
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AUG 12 2002

Paper No. 29

In re Application of
Randall A. Addington *et al*
Application No. 09/396,530
Filed: September 15, 1999
Attorney Docket No. 99-1002

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on July 8, 2002 by which petitioners request supervisory review of the examiner's objection to the drawings under 37 CFR 1.83. No fee is required for the petition, and a refund of the $130.00 petition fee will be scheduled.

The petition is denied.

The examiner has promulgated a requirement that petitioners illustrate certain features of the claimed invention, and certain other features. The examiner has adhered to this requirement after reconsideration thereof. Petitioners have presented arguments that the examiner's requirement conflicts with MPEP § 601.01(f), constitutes disparate treatment of petitioners, is frivolous, and without foundation on the merits.

Petitioners' arguments and analysis are wholly unpersuasive. Petitioners' citation of MPEP § 601.01(f) is inapt. That section deals with applications filed without drawings, and merely sets up an initial test by which the Office of Initial Patent Examination (a technical support branch which processes newly filed applications) may determine whether to initially grant a filing date to an application that is filed without drawings. Reading further in MPEP § 601.01 reveals that an examiner may "reverse" this initial determination whenever drawings are required because such drawings are deemed necessary for the understanding of the subject matter sought to be patented under 35 USC 113, first sentence. This application was not filed without drawings, and no requirement under 35 USC 113, first sentence has been promulgated.

Rather, the objection in this application has been made pursuant to 37 CFR 1.83(a) and 37 CFR 1.81(c), and it is those regulations, which require that all claimed features of the invention be illustrated, and that other features that admit of illustration must be illustrated in accord with 35 USC 113, second sentence (subject matter admits of illustration), which applies even where 35 USC 113, first sentence (drawings **necessary** for understanding the invention) does not apply. The principles underlying these regulations are discussed at MPEP § 608.02(d) with reference to the decision in *Ex Parte Good*, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911). That decision indicates that any detail of the invention that is of sufficient importance to be described should be shown in the drawing. Indeed, the *Good* case states that:

> "The question is not whether one skilled in the art can decipher the invention, but whether the drawing is so clearly and artistically executed as to facilitate a ready understanding of the invention both at the time of examination **and in searches afterward in which reference to the patent must be made**." (Emphasis supplied.)

37 CFR 1.83(a) requires that every feature claimed must be illustrated, and is completely in accorded with the decision in *Good*.

To the same effect is *Ex Parte Sturtevant et al,* 1904 C.D. 26, 108 O.G. 563 (Comm'r Pat. 1904) in which it is stated:

> "It is a great desideratum of Patent Office drawings that they should tell their story to the eye without making it necessary to go into the specification for explanation, which should be apparent upon inspection. ...
>
> The suggestion by the applicants that the Examiner's objection should not be insisted upon, simply because one skilled in the art could make the invention from the present disclosure, does not overcome this necessity for such representation of the invention in the drawings **as will make it intelligible for the purposes of search.**" (Emphasis supplied.)

The examiner has insisted that the drawings be amended to illustrate certain claimed method steps. This is perfectly proper pursuant to 37 CFR 1.83(a). Other features have also been required to be illustrated. This is perfectly proper under 37 CFR 1.81(c). Petitioners have not demonstrated that the examiner has abused his discretion, or acted in an arbitrary or capricious manner, in so requiring. Petitioners have not proffered any evidence at all that this requirement was applied to them unequally Petitioners have also not demonstrated any impropriety in withholding an allowance of this application until the examiner's objections have been satisfied, so long as the objections are in accordance with the regulations. Therefore, it does not appear that petitioners are entitled to relief.

Petitioners may file a request for reconsideration of this decision, provided that the request is filed within two months of the date of this decision. Petitioner should note that the time for filing a proper reply to the outstanding Office letter dated March 12, 2002, paper No. 33, continues to run as set therein and is not stayed by the filing of the instant petition. See 37 CFR 1.181(f) with respect to the time for filing a request for reconsideration and filing a proper reply. See 37 CFR 1.113 and 1.116 as to a reply which constitutes a proper reply to a final rejection.

The application is being forwarded to the Supervisory Patent Examiner in Art Unit 3711 for immediate action on the paper filed by facsimile transmission on July 12, 2002. Thereafter the application will be forwarded to the Head Supervisory Applications Examiner to refund the $130.00 petition fee which accompanied the instant petition.

PETITION DENIED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Joel I. Rosenblatt
445 11th Avenue
Indialantic, FL 32903

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 11 2003

Paper No. 33

In re Application of
Randall A. Addington *et al*
Application No. 09/396,530
Filed: September 15, 1999
Attorney Docket No. 99-1002

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission requesting withdrawal of the holding that this application stands abandoned for failure to file a proper reply to the final rejection dated June 24, 2002. In addition, petitioner also requests the return of certain appeal fees. No fee is required for the petition.

The petition is granted.

Petitioner alleges that the holding of abandonment is in error because petitioner filed, by facsimile transmission on September 3, 2002, a notice of appeal, an appeal brief in triplicate, the requisite fees, and a petition requesting return of those fees. In support of this allegation, petitioner has included copies of the papers, and a copy of a facsimile auto-reply receipt for the papers showing that they were in fact filed on September 3, 2002.

With respect to the request for refund of the appeal fee, the fee for filing the brief, and waiver of the oral hearing fee, it is noted that MPEP § 1208.02 indicates that petitioner does not in fact have to pay these fees a second time. However, Office financial records do not indicate that these fees were ever received. Accordingly, no refund of these fees will be made at this time. In the event that petitioner is in fact charged for these fees, then petitioner may request a refund, attaching a copy of this decision.

On the other hand, Office financial records also show that petitioner has not received a refund of a $130.00 petition fee paid on February 19, 2002, or a refund of a second $130.00 petition fee paid on July 8, 2002. Neither of those petition fees were required, and a refund of those fees will be scheduled.

Based upon the showing described above, it is clear 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 carry out the refunds discussed in the immediately preceding paragraph. Thereafter, the application will be forwarded to the examiner, via the Supervisory Patent Examiner, for action on the appeal brief filed on September 3, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Joel I. Rosenblatt
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JAN 28 2000

Paper No. 4

In re Application of	:	
Randall A. Addington et al.	:	
Serial No. 09/396,531	:	DECISION ON PETITION
Filed: September 15, 1999	:	TO MAKE SPECIAL
For: BOWLERS FINGER PAD SHIELD	:	

Applicant's petition, filed September 15, 1999, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Joel I. Rosenblatt
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JUN 26 2003

Paper No. 35

In re Application of
Randall Addington *et al;*
Application No. 09/396,531
Filed: September 15, 1999
Attorney Docket No. 99-1001

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on June 6, 2003. The petition requests confirmation that this application is being examined in a timely manner. The petition is considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed as moot.

The record shows that a final rejection was mailed in this application on June 18, 2003, and properly addressed to the correspondence address of record.

The application is being returned to the Technology Center 3700 Central Files pending appropriate action by petitioner on the outstanding Office action.

PETITION DISMISSED.

E. Rollins Cross, Director, Patent
Examining Groups 3710 and 3720

Joel I. Rosenblatt
445 11th Avenue
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OCT - 2 2003

Paper No. 39

In re Application of
Randall A. Addington *et al*
Application No. 09/396,531
Filed: September 15, 1999
Attorney Docket No. 99-1001

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on June 26, 2003 by which petitioners that this application be removed from examination by personnel within or related to Group 3700. Petitioners also request that the Office action dated June 18, 2003 be removed and expunged in favor of a new action. The petition, having been filed under 37 CFR 1.181, does not require a fee and no fee has been charged.

The petition is granted-in-part.

With respect to the second grounds of relief, a review of the Office letter in question shows that it in fact contains improvident and improper comments regarding the familiarity of "applicant" with Office practice. There is no place for such commentary in an Office action, and it is agreed that the presence of such comments dictates that the Office letter dated June 18, 2003 be vacated and expunged from the record.

With respect to the first grounds of relief, a thorough review of the prosecution history of this application fails to reveal any bias or prejudice on the part of the examiner against petitioners or counsel. The examiner has consistently applied a primary reference, Fowble, and has not demonstrated that any prejudice against anyone prosecuting this application. Rather, the examiner has simply indicated that he feels that the claims are not patentable over this primary reference, alone and in combination with other prior art, and also in view of technical "non-prior art grounds." It is clear that both petitioners and the examiner each feel a certain degree of frustration over their respective inabilities to convince the other party of the correctness of their respective positions. However, the examiner's actions have been formulated in accordance with, the provisions of MPEP §§ 706 and 707 and the subsections thereof, and have made use of "form paragraphs" as found therein. That counsel and petitioners disagree with the merits of these actions is no more indicative of bias on the part of the examiner (or any other personnel in Technology Center 3700) than the examiner's disagreement with petitioners' position is indicative of the degree of patent prosecution expertise possessed by petitioners and counsel.

This application is being forwarded to the Supervisory Patent Examiner (SPE) of Art Unit 3711 who will see that the following items are accomplished:

1. The Office letter dated June 18, 2003 will be vacated and expunged from the record. The contents entry for paper No. 33 will show that the action has been expunged, and the action will be physically removed from the file.

2. The SPE will discuss this application with the examiner, and will counsel the examiner with respect to the manner in which Office actions will be written without the inclusion of any sort of personal comments directed to either applicants or their counsel.

3. A new Office action containing the substantive matters set forth in the June 18, 2003, but omitting any personal comments directed to either applicants or their counsel will be promulgated, and will set a new three month shortened statutory period for reply.

4. The Notice of Appeal filed on September 17, 2003 will be entered. Counsel will have the option of filing a reply to the new Office letter, or pursuing the appeal. As the appeal was not necessary to forestall abandonment, because the June 18, 2003 Office letter has been vacated and expunged, petitioners will be entitled to a refund of the appeal fee in the event that an appeal is not perfected by petitioners.

After mailing of the new Office letter and entry of the Notice of Appeal, the application will be returned to storage in the Technology Center 3700 Central Files pending a reply to the Office letter.

PETITION GRANTED-IN-PART

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Joel I. Rosenblatt
445 11TH Avenue
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Paper No. 42

JOEL ROSENBLATT
445 11TH AVE
INDIALANTIC FLORIDA 32903

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OFFICE OF PETITIONS

In re Application of:
Addington et al.
Application No.: 09/396,531
Filed: September 15, 1999
Attorney Docket No.: 99-1001

DECISION DENYING PETITION

This is a decision on the petition filed by facsimile transmission October 8, 2003, which is being treated as a petition under 37 CFR 1.181(a)(3) requesting *inter alia* that the decision of the Director of Technology Center 3700 (Technology Center Director) mailed on October 2, 2003 be vacated.

The petition to vacate the decision of the Technology Center Director dated October 3, 2003, is **denied**.

OPINION

Petitioners seek vacatur of the Technology Center Director's decision of October 2, 2003, on the ground that the decision demonstrates unfair bias and prejudice towards applicants, such that they did not receive a fair and impartial review of their petition of June 26, 2003.[1]

Petitioners assert that because the Technology Center Director's decision failed to address, directly or indirectly, the examiner's improper remarks that had been made in the final Office action, the decision lacks adequate grounding in the facts of record and an adequate explanation or reasons in support of the decision. Inspection of applicants' petition of June 26, 2003, reveals that petitioners (at 2-3) quoted 11 statements made by the examiner of which petitioners complained and specifically identified where in the examiner's final office action the statements were located, in support of their request for expungement of that action. Both the contents of the petition and the actual statements made in the final Office action were part of the contents of this file when the Technology Center Director rendered her decision. As the record shows that the Technology Center Director agreed with petitioners' complaint about the contents of the final Office action and concluded that those statements could not properly remain part of the administrative record of this file, it is not seen how the Technology Center Director did not, directly, or indirectly, address the examiner's

[1] In accordance with petitioners' request in paragraph 7 of the instant petition, review will be limited to this ground and will exclude from review the merits of patent examination by the examiner, and the alleged bias and prejudice demonstrated by the examiner, as asserted in connection with the asserted prejudice by the Technology Center Director.

statements of which petitioners complained. Furthermore, as the Technology Center Director favorably considered the remedy requested by petitioners, it is not seen that the Technology Center Director's decision should have further burdened the record with a more specific mention of the content or nature of the examiner's statements, particularly given petitioners' specific request to expunge the record of such statements.

Petitioners further assert that as the examiner's prejudicial statements are inextricably part of the examiner's rejections of the claims, it is not possible to separate any of the prejudicial statements from the facts or reasons given for the rejections of the claims. This contention is unpersuasive inasmuch as the Technology Center Director has vacated the former Office action with a directive to expunge that Office action from the record and has further instructed the examiner to issue an Office action "containing the substantive matters set forth in the June 18, 2003, [Office action] but omitting any personal comments directed to either applicants or their counsel." Moreover, the record shows that the Technology Center Director considered whether the outstanding rejection of the claims was improperly influenced by any alleged bias or prejudice by the examiner and concluded that it was not. In this regard, the record shows that the Technology Center Director, after conducting a thorough review of the prosecution history of the instant application, relied upon the fact that the primary reference applied in the office action (Fowble) has been consistently applied throughout the prosecution history.

Petitioners further point to several statements in the Technology Center Director's decision that petitioners assert lack "record fact" and demonstrate the Technology Center Director's "hostility and bias towards petitioners." The use of the term "frustration" on the part of the Technology Center Director in the decision of June 26, 2003, is not an indication of hostility or bias on the part of the Technology Center Director. See Novomax Technologies, Inc. v. Southern Industrial Chemicals, Inc., 199 U.S. App. LEXIS 5800 at *7 (Fed. Cir. March 31, 1999) (Federal Circuit description of district court judge as "frustrated" not intended as either hostile or derogatory). Nothing in the record suggests that the Technology Center Director's use of the term "frustration" was meant to be hostile or derogatory.

Furthermore, the Technology Center Director has granted petitioners' request that Office action of which petitioners complained be vacated and expunged from the record, and has further directed that action be replaced with an Office action lacking any personal comments directed either to applicants or counsel of record. Such does not support petitioners' contention that the Technology Center Director has hostility or bias towards petitioners. While the Technology Center Director did not also favorably consider petitioners' request that the examination of this application be removed from Technology Center 3700, that does not demonstrate that petitioners did not receive a fair and impartial review of their petition. The Technology Center Director has required counseling of the examiner by his supervisor with respect to the proper content of Office actions, and has also indicated that applicants have the option of filing a reply to the forthcoming Office action or of further pursuing their appeal.

As noted in In re Ovshinsky, 24 USPQ2d 1241, 1251-2 (Comm'r Pats.1992), the issue is not whether the perceptions of an applicant and his representative regarding alleged bias are reasonable; rather the issue is: whether an applicant has demonstrated improper conduct, including bias or the appearance of bias, on the part of the Technology Center Director. For the reasons set forth above, the record does not demonstrate bias or the appearance of bias towards applicants or their representative by the Technology Center Director.

The petition is granted to the extent that the decision of the Technology Center Director

dated October 2, 2003, has been reviewed, but is **denied** as to the request that the aforementioned decision be vacated.

This application is being returned to Technology Center 3700 for further processing.

Telephone inquiries related to this decision should be addressed to Petitions Examiner Brian Hearn at (703) 305-1820.

Stephen G. Kunin
Deputy Commissioner for
Patent Examination Policy

cp

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JUN 0 4 2007

In re Application of:
ADDINGTON, RANDALL A. et al.
Serial No.: 09/396,531
Filed: Sep. 15, 1999
Docket: 99-1001
Title: BOWLERS FINGER PAD SHIELD

DECISION ON PETITION

This is a decision on the petition filed on Mar. 7, 2005 to cancel the final Office action of Jan. 26, 2005 and for the applicant's Appeal Brief be sent to the examiner for completion of an examiner's answer. The petition is being considered pursuant to 37 CFR 1.181. No fee is required. The applicant may file a request for refund of the $400.00 petition fee. The delay of this decision on petition is regretted.

The petition is **DISMISSED as moot**.

In the petition, the applicant requested that the final Office action of Jan. 26, 2005 be canceled, the appeal brief be immediately sent to the examiner for immediate completion of an examiner's answer and that the petition fee be refunded.

The record shows that:

1) In response to the final Office action of Jun. 18, 2003, the applicant filed an after final response under 37 CFR 1.116 on Jun. 25, 2003.
2) On Jun. 26, 2003, the applicant filed a petition under 37 CFR 1.181 requesting that the application be removed from examination within Group 3700 and that the final Office action dated Jun. 18, 2003 be expunged from the record and a new action be prepared in its place.
3) On Oct. 2, 2003, a decision on petition was rendered. In the decision on petition, the petition of Jun. 26, 2003 was granted-in-part. The decision on petition of Oct. 2, 2003 granted the applicant's request to expunge and vacate from the record the Office letter dated Jun.18, 2003. The petition decision of Oct. 2, 2003 denied the request to remove the application from Group 3700.
4) On Oct. 8, 2003, the applicant filed a petition under 37 CFR 1.181 requesting that the decision on petition filed Jun. 26, 2003 be vacated.
5) On Oct. 24, 2003, the applicant filed an appeal brief.
6) On Oct. 27, 2003, the applicant filed an supplemental appeal brief of a claim appendix

which was not included with the appeal brief filed Oct. 24, 2003.

7) On Jul. 30, 2004, a decision on petition was rendered on the petition request dated Oct. 8, 2003. The decision on petition denied the applicant's request to vacate the decision of the Technology Center Director dated Oct. 2, 2003.
8) On Jan. 26, 2005, the examiner issued a final Office action which replaced the final Office action dated Jun. 18, 2003 which had been expunged from the record.
9) On Mar. 7, 2005, the applicant filed the current request to cancel the final Office action of Jan. 26, 2005 and for the applicant's Appeal Brief be sent to the examiner for completion of an examiner's answer.
10) In response to the final Office action of Jan. 26, 2005, the applicant filed an after final response under 37 CFR 1.116 on Mar. 15, 2005. In the after final response, the applicant acknowledged that the Jan. 26, 2005 final Office action was the same as the Office action of Jun. 18, 2003 except for non-substantive remarks which has been removed (the June 18, 2003 Office action has been expunged from the record). In the after final response the applicant requested that the final Office action of Jan. 26, 2005 be withdrawn and that the appeal brief be answered.
11) On Jun. 8, 2005, the examiner issued an advisory action and for purposes of appeal agreed to enter the after final response filed Mar. 15, 2005.
12) On Aug. 4, 2005, the applicant filed an appeal brief.
13) On Mar. 14, 2007, the examiner issued an examiner's answer in response to the appeal brief filed Aug. 4, 2005.

In view of the prosecution history, the relief the applicant requested, namely the canceling of the final Office action of Jan. 18, 2003 and the applicant's appeal brief be immediately sent to the examiner for immediate completion of an examiner's answer has already occurred. The examiner's answer dated Mar. 14, 2007 in effect was based on the new final Office action of Jan. 26, 2005. In addition, the examiner's answer of Mar. 14, 2007 has considered the applicant's appeal brief. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

Karen M. Young

Karen Young, Director
Technology Center 3700

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Paper No: __

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OFFICE OF PETITIONS

In re Application of	:	
Palese, et al	:	
Application No. 09/396,539	:	ON PETITION
Filed: 14 September, 1999	:	
Attorney Docket No. 26-003700US	:	

This is a decision on the petition filed on 2 May, 2005, under 37 C.F.R. §1.48, requesting correction of the inventorship of the application, and for authority to prosecute the application with a non-signing inventor under 37 C.F.R. §1.47–but more properly considered as a waiver under 37 C.F.R. §1.183 of the requirements of 37 C.F.R. §1.67 for a supplemental oath.

For the reasons set forth below the petition under:

- the petition under 37 C.F.R. §1.48 is **DISMISSED**;
- the consideration of the matter as a request for waiver under 37 C.F.R. §1.183 of the 37 C.F.R. §1.67 is **DISMISSED** and as authorized the fee is charged to Deposit Account 50-0893; and
- the petition under 37 C.F.R. §1.47 is **DISMISSED**.

BACKGROUND

Accompanying the 2 May, 2005 petition under 37 C.F.R. §1.48(a) and/or §1.47 are:

- the declarations of Jeffrey D. Parvin and Mark Krystal that their names were excluded in error in the application data sheet; the error was without deceptive intent;

- the statements by Paul Littlepage (Reg. No. 48,581) and Jonathan Klein-Evans (Mr. Klein-Evans) as to their discussions with non-signing inventor Peter Palese (Dr. Palese) and/or his legal representatives and to the basis for deleting Adolpho Garcia-Sastre from the inventive entity;

- a certificate under 37 C.F.R. §3.73(b) attesting to the assignment lineage of the instant application and the statement by Mr. Klein-Evans as to the agreement by the assignee (100 percent interest) as to the requested changes in the inventive entity;

- evidence of the attempt (made in the context of 37 C.F.R. §1.47 but more appropriately considered herein as a request for waiver under 37 C.F.R. §1.183 of the provisions of 37 C.F.R. §1.67) to contact Dr. Palese and present him with a copy of the entire application (specification and drawings) along with a copy of the supplemental oath/declaration and obtain his signature and that he has failed to comply.

Notably, Office records reflect that Application No. 09/396,539 issued as Patent No. 6,887,699 on 3 May, 2005–a day after the instant petition was filed.

That event placed the instant matter under the statutory control of 35 U.S.C. 256:

> **35 U.S.C. 256 Correction of named inventor.**
> Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Director may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error.
>
> The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Director shall issue a certificate accordingly.[1]

[1] Amended Aug. 27, 1982, Public Law 97-247, sec. 6(b), 96 Stat. 320; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

As indicated at the commentary at MPEP §1481:

> The statutory basis for correction of inventorship in a patent under 37 C.F.R. §1.324 is 35 U.S.C. §256. It is important to recognize that 35 U.S.C. §256 is stricter than 35 U.S.C. §116, the statutory basis for corrections of inventorship in applications under 37 C.F.R. §1.48. 35 U.S.C. §256 requires "on application of all the parties and assignees," while 35 U.S.C. §116 does not have the same requirement. Under 35 U.S.C. §116 and 37 C.F.R. §1.48, waiver requests under 37 C.F.R. 1.183 may be submitted (see, e.g., MPEP §201.03, under the heading "Statement of Lack of Deceptive Intention"). This is not possible under 35 U.S.C. §256 and 37 C.F.R. §1.324. In correction of inventorship in a nonprovisional application under 37 C.F.R. §1.48(a), the requirement for a statement by each originally named inventor may be waived pursuant to 37 C.F.R. §1.183; however, correction of inventorship in a patent under 37 C.F.R. §1.324 requires petition of all the parties, i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. §256) and thus the requirement cannot be waived.

Accordingly, the petition under (or considered under) 37 C.F.R. §1.47, §1.148 and the §1.183 waiver of §1.67 hereby is **dismissed**.

The application is released to Files Repository.

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

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

In re Patent No. 6379391
Issue Date: April 30,2002
Application No. 09396576
Filed: September 15,1999
Attorney Docket No. DPY-10003/29

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

This is a decision on the electronic petition, filed May 9,2007 ,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 May 9,2007 . 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.

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)
6,379,391	2002-04-30	09/396,576	1999-09-15	DPY-10003/29

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	/John G. Posa/	Date (YYYY-MM-DD)	2007-05-09
Name	John G. Posa	Registration Number	37424

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.

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 12

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Director's Office
Office of Patent Publication

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320-0190

In re Application of :
Hideki Komatsuda, et al. :
Application No. 09/396,582 :
Filed: September 15, 1999 :
Attorney Docket No. 105203 :

DECISION ON PETITION

This is a decision on the Petition Under 37 CFR § 1.181(a) Requesting Withdrawal Of Holding Of Abandonment, received in the Patent and Trademark Office (PTO) on April 24, 2002.

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 for Withdrawal of Holding of Abandonment."

Applicant submits that the Notice of Abandonment was erroneously issued by the Patent Office. Further, that rather than paying the Issue Fee, Applicants filed a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS), including a PTO-1449.

The Office acknowledges the timely receipt of the RCE, IDS, and PTO-1449, of which are present in the application file. The Office's PALM system indicates that the afore-mentioned correspondence was received via certificate of mailing on June 13, 2001. The PTO's Revenue Accounting and Management (RAM) system indicates that the fee for the RCE in the amount of $740 was received on June 13, 2001.

In response to the applicants compliance with the conditions in filing the Request For Continued Examination under 37 CFR § 1.114, a new Notice of Allowance and Issue Fee Due was eventually mailed on September 25, 2001.

The application was held abandoned for failure to timely pay the issue fee as required in the new Notice of Allowance and Issue Fee Due, which set a three (3) month statutory period for reply.

Since, the Office has no record of a response to the Notice—payment of the issue fee—, the abandonment cannot be withdrawn at this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available.

The petitioner should consider petitioning the Commissioner as follows:

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must include the following:

  (1) The reply required 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 (d) of this section.

or

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be:

  (1) The reply required to the outstanding Office action or notice, unless previously filed;
  (2) Accompanied by the petition fee as set forth in § 1.17(m);
  (3) A statement that the entire delay in filing the required 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 (d) of this section.

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 relating to 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
WASHINGTON, D.C. 20231
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Paper No. 14

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OFFICE OF PETITIONS

ON PETITION

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of :
Komatsuda, et al. :
Application No. 09/396,582 :
Filed: September 15, 1999 :
Atty. Dkt. No. 105203 :

This is a decision on the renewed petition filed July 16, 2002 under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned December 26, 2001 for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due ("Notice") mailed September 25, 2001. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed April 11, 2002.

Petitioner argues that in response to the Notice, a Request for Continued Examination ("RCE")along with submission and required fee were filed December 17, 2001.

A review of the official application file indicates that the requirements of 37 CFR 1.114 were timely met on December 14, 2001.

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 2800 for consideration of the submission under 37 CFR 1.114 filed December 17, 2001.

No fee is due in connection with this matter.

Telephone inquiries regarding the status of this application should be directed to Technology Center at (703) 308-0956.

Telephone inquiries concerning the content of this decision on petition may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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
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Paper No. 9

Timothy J. Keefer
Wildman Harrold Allen & Dixon
225 West Wacker
Chicago, IL 60606

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APR 0 3 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Tong
Application No. 09/396,715
Filed: September 15, 1999
Attorney Docket No. 5619-NEEC

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 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 June 20, 2000, which set a shortened statutory period for reply of three 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 21, 2000.

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 $890 extension of time submitted with the petition on February 12, 2001 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by U.S. Treasury Check in due course.

The application file is being forwarded to Technology Center 1700.

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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 24

Wildman Harrold Allen & Dixon
225 West Wacker Drive
Chicago, IL 60606

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JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Youdong Tong	:	
Application No. 09/396,715	:	ON PETITION
Filed: September 15, 1999	:	
Attorney Docket No. 5619-NEEC	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 15, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(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) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22313-1450

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

Attachment: "Courtesy Copy of Advisory Action"

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 28

Wildman Harrold Allen & Dixon LLP
225 W. Wacker Drive
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Y. Tong :
Application No. 09/396,715 : ON PETITION
Filed: September 15, 1999 :
Attorney Docket No. 5619-NEEC :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 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 1764 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

#18

03500.013834. PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of:	)	
	:	Examiner: S.M. Brinich
HIROYUKI SHINBATA ET AL.	)	
	:	Group Art Unit: 2624
Application No.: 09/396,740	)	
	:	
Filed: September 15, 1999	)	
	:	
For: IMAGE PROCESSING APPARATUS, IMAGE PROCESSING METHOD, AND RECORDING MEDIUM	)	September 23, 2004

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

PETITION TO WITHDRAW FROM ISSUE
PURSUANT TO 37 C.F.R. § 1.313(c)

Sir:

Pursuant to 37 C.F.R. § 1.313(c), Applicants hereby petition to withdraw this application, in which the Issue Fee has been paid, from issue, for the consideration and entry of a Request for Continued Examination and Preliminary Amendment, both filed herewith.

10/29/2004 AKELLEY 00000023 09396740
01 FC:1460 130.00 OP

A check in the amount of $130.00 in payment of the petition fee under 37 C.F.R. § 1.17(h) is submitted herewith. Please charge any deficiency in this fee (and any other fee required in connection with this paper), and credit any overpayment, to Deposit Account 06-1205.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

Leonard P. Diana
Attorney for Applicants
Registration No. 29,296

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 453689v1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 21

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 27 2004

OFFICE OF PETITIONS

In re Application of
Hiroyuki Shinbata, et al. :
Application No. 09/396,740 :
Filed: September 15, 1999 :
Attorney Docket No. 35.C13834 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed September 27, 2004.

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 August 3, 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.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114 filed September 27, 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

In re Patent No. 6266870
Issue Date: July 31,2001
Application No. 09396916
Filed: September 15,1999
Attorney Docket No. 592-86

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

This is a decision on the electronic petition, filed December 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 December 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.

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)
6,266,870	2001-07-31	09/396,916	1999-09-15	592-00086

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	/Joseph D. Kuborn/	Date (YYYY-MM-DD)	2009-12-09
Name	Joseph D. Kuborn	Registration Number	40689

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/27/09

TO SPE OF : ART UNIT 1646 Basi Nirmal

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/396985 Patent No.: 7029861

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

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: _____

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1646 **Art Unit**

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

APR 14 2000

#6

In re Application of	:	
Jonnie R. Williams	:	DECISION
Serial No. 09/397,018	:	ON
Filed: September 15, 1999	:	PETITION
For: METHOD OF TREATING TOBACCO	:	
TO REDUCE NITROSAMINE CONTENT,	:	
AND PRODUCTS PRODUCED THEREBY	:	

This is in response to the petition filed February 15, 2000, requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Sughrue, Mion, Zinn, MacPeak & Seas, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

UNITED STATES 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

REESE TAYLOR ESQ
RENNER KENNER GRIEVE BOBAK
TAYLOR & WEBER
SIXTEENTH FLOOR FIRST NATIONAL TOWER
AKRON, OH 44308-1456

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Maddox et al.	:	
Application No. 09/397,314	:	
Filed: September 16, 1999	:	ON PETITION
Patent No.: 6,216,916	:	
Issued: April 17, 2001	:	
Title of Invention:	:	
COMPACT FLUID PUMP	:	

This is a decision on the petition under 37 CFR § 1.378(c), filed July 19, 2005, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued April 17, 2001. The grace period for paying the three and one-half (3½) year maintenance fee expired on April 17, 2005. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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 file is being forwarded to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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

SCHWABE WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

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SEP 26 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Ned M. Smith	:	
Application No. 09/397,455	:	
Filed: September 16, 1999	:	
Attorney Docket No. 116536-153402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2007, 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 7, 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 June 8, 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 2137 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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/23/2010

Applicant	: NED M SMITH	: DECISION ON REQUEST FOR
Patent Number	: 7571315	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/397,455	: OF WYETH
Filed	: 09/16/1999	:
		:

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

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR, MI 48105

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Jason Peter Brown et al :
Application No. 09/397,548 :
Filed: September 16, 1999 :
Attorney Docket No. A0000166-66-

ON PETITION

This is a decision on the petition, filed March 4, 2005 and supplemented on March 7, 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 6, 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 1646 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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.
09/397,675	09/16/1999	MASANORI YACHI	991021	9058

38834 7590 03/09/2005

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
KWOK, HELEN C

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 03/09/2005

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

UNITED STATES 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 Application of YACHI
Appl. No.: 09/397,675
Filed: September 16, 1999
For: ACCELERATION SENSOR

DECISION ON PETITION
37 CFR 1.48(b)

This decision in response to the petition filed October 13, 2004 in the above identified application

In view of the papers filed October 13, 2004, the inventorship in this nonprovisional application has been changed by the deletion of Hiroshi ISHIKAWA and Yoshio SATOH.

Hezron E. Williams

Hezron E. Williams,

Supervisory Patent Examiner, Art Unit 2856

UNITED STATES 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

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of
Arlin Davis
Application No. 09/397,850
Filed: September 17, 1999
Title of Invention: Method of Reading a Remote Memory

ON PETITION

This is a decision on the petition under 37 CFR §1.137(a), filed July 11, 2007. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held 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 November 17, 2006. 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). A Notice of Abandonment was mailed February 17, 2007.

Petitioner asserts that the Notice of Allowance and Fee(s) due and the Notice of Allowability mailed November 17, 2006 was never received. A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) due was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) due was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Notice of Allowability was not received and attesting to the fact a review of docket records indicates the Notice of Allowability was not received. In addition, petitioner has

provided a copy of docket records where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the holding of abandonment.

The petition fee will be refunded to deposit account no.11-0600.

In light of applicant's submission of the issue fees, the Notice of Allowance does not need to be remailed. This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 22

Patrick G. Burns., Esq.
Greer, Burns & Crain, Ltd.
300 S. Wacker Drive Suite 2500
Chicago IL 60606

AUG 10 2004

In re Application of:	:	
SASAKI, *et al.*	:	DECISION ON PETITION TO
Application No. 09/398,126	:	WITHDRAW HOLDING OF
Filed: September 16, 1999	:	ABANDONMENT
Attorney Docket No: **2803-63294**	:	

This is a response to the Petition to Withdraw the Holding of Abandonment for the above identified application, filed October 23, 2003.

The petition is **granted.**

The application was held abandoned for failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed July 01, 2003.

The petitioner asserts that the practitioner did not receive the Notice of Allowance of July 01, 2003. The petitioner has provided a copy of the docket records where the non-received Office Action would have been entered had it been received and docketed. The petitioner has provided copies of the requests to change the correspondence address filed on February 19, 2002 and April 15, 2003. Additionally, on August 29, 2003, the petitioner faxed the United States Patent and Trademark Office (PTO) a copy of the April 15th request along with a postcard receipt.

A review of the application file record reveals that a change of address was received on March 06, 2002. However, the change of address was not processed and as a result, the Notice of Allowance and the Notice of Allowability were mailed to an incorrect address. The PTO changed the address to the correct correspondence address on September 11, 2003, as a result of the facsimile received on August 29, 2003.

In view of the above, the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notices mailed July 01, 2003. The statutory periods for response set therein will be reset to run three months from the date the Notices are re-mailed. Extensions of time for these statutory periods are not available. See 37 C.F.R. 1.136(c) effective November 7, 2000.

The Information Disclosure Statement (IDS) received on August 28, 2003, has been received and considered by the examiner. A copy of the initialed IDS is attached hereto.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Janice A. Falcone

Janice A. Falcone, Director
Technology 2800
Semiconductors, Electrical and Optical
Systems and Components

JAF:lmm

Encl: IDS received August 28, 2003

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)
6728684	2004-04-27	09398131	1999-09-17	COM675/96112

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	/Richard W. Reichert/	Date (YYYY-MM-DD)	2008-06-17
Name	Richard W. Reichert		

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

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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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6728684
Issue Date: April 27,2004
Application No. 09398131
Filed: September 17,1999
Attorney Docket No. COM675/96112

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

This is a decision on the electronic petition, filed June 19,2008 ,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 19,2008 . 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

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

MICHAEL J MALLIE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 900251026

Mail Date: 04/23/2010

Applicant	: JONATHAN J. HULL	: DECISION ON REQUEST FOR
Patent Number	: 7640318	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/398,229	: OF WYETH
Filed	: 09/17/1999	:
		:

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

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MAIL Paper No. 11

NOV 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WAGNER MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

In re Application of :
Laubach et al. :
Application No. 09/398,267 :
Filed: September 17, 1999 :
For: MULTI-CHANNEL SUPPORT FOR VIRTUAL PRIVATE NETWORKS IN A PACKET TO ATM CELL CABLE SYSTEM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on September 12, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(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.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to the TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to TC2600 central files to await a response to the outstanding Office Action.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: COM21, Inc.
750 Tasman Drive
Milpitas, California 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW Dec-06

Paper No. 7

H GORDON SHIELDS
7830 N 23RD AVENUE
PHOENIX AZ 85021

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Patent No. 6,163,256	:	
Issued: 19 December, 2000	:	
Application No. 09/398,274	:	DECISION ON PETITION
Filed: 20 September, 1999	:	
For: BRAKE LIGHT APPARATUS	:	

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 3 October, 2005, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.[2]

The petition is **GRANTED**.

The patent issued on 19 December, 2000. The window for payment of the first maintenance fee installment with a surcharge closed on 20 December, 2004. 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 listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence

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[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.

[2] It is noted that the petition referenced the correct patent number but referenced application No. 10/323,473, which is a reissue of the subject application. The misidentification of the application number may have resulted in a delay in matching this petition with the correct application file.

regarding this patent will be mailed solely to the address of record. If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

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: DAVID O. CAPLAN
SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX AZ 85004-2202

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
AMB 08-01

Paper No. 6

BENTON F. BAUGH
14626 OAK BEND
HOUSTON, TX 77079-6441

COPY MAILED

AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of :
Baugh :
Application No. 09/398,276 : PETITION
Filed: September 20, 1999 :
For: SUBEA PIPELINE BLOCKAGE :
REMEDIATION METHOD :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 26, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from 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 March 7, 2001 for failure to timely file a proper reply to the non-final Office action mailed December 6, 2000. The non-final Office action set a three (3) month shortened statutory period for reply. No extensions of time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed July 2, 2001.

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

The present petition does not satisfy requirement (2) above. Accordingly, this application cannot be revived until the petition fee in its entirety has been submitted. Petitioner submitted $55.00 with the instant petition. The petition to revive pursuant to 37 CFR 1.137(b) filing fee is currently $620.00 for a small entity. Any renewed petition must be accompanied by the current petition to revive filing fee, less the $55.00 previously submitted.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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. 8

Benton F. Baugh
14626 Oak Bend
Houston, TX 77079

COPY MAILED

SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Baugh :
Application No. 09/398,276 :
Filed: September 20, 1999 :
Attorney Docket No. :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 5, 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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 8, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(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), a Request for Continued

Examination (RCE) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22313-1450

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
P.O. Box 1450
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Paper No. 10

Benton F. Baugh
14626 Oak Bend
Houston, TX 770796441

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OCT 07 2003

OFFICE OF PETITIONS

In re Application of	:	
Benton F. Baugh	:	
Application No. 09/398,276	:	**ON PETITION**
Filed: September 20, 1999	:	
Attorney Docket No. n/a	:	

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 application file is being forwarded to Technology Center AU 3673.

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
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Paper No. 14

MOTOROLA, INC.
3102 NORTH 56TH STREET
PHOENIX, ARIZONA 85018

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NOV 1 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Shawn W. Hogberg et al	:	
Application No. 09/398,307	:	DECISION GRANTING PETITION
Filed: September 20, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. IRI03778	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the nonfinal Office action of April 11, 2003, which set a three month shortened statutory period for reply. No extensions of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is July 12, 2003. A Notice of Abandonment was mailed on December 31, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (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 11, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 2681 for appropriate action on the reply received July 21, 2004.

Frances Hicks

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
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ALEXANDRIA, VA 22313-1450
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MAR 15 2004

td

Mailed:

In re application of
Bitler et al.
Serial No. 09/398,377
Filed: September 17, 1999
For: POLYMERIC THICKENERS FOR OIL-CONTAINING COMPOSITIONS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO DIRECT THE EXAMINER AS TO THE CORRECT CONSTRUCTION OF CERTAIN CLAIMS.

On March 31, 2003, a non-final office action was mailed to Applicants. The office action contained numerous rejections and objections to the specification based on new matter and claim interpretation. Petitioner argues that the instant specification provides support for all of the subject matter presented by Applicants and that the examiner is interpreting the instant claims too narrowly.

On June 23, 2003 the instant petition under 37 CFR 1.181 was filed to formally request that the examiner be directed to construct the instant claims in a correct manner.

DECISION

It is noted that the instant petition was submitted by Petitioner on June 23, 2003 which falls more than two months after the date of the office action thereby making the instant petition untimely under Rule 181.

In addition, it would appear on its face that there is no issue that is ripe for a petition at this time. It is noted that the outstanding office action is a non-final office action and therefore, the rejections and objections are not yet final. Petitioner states that "The examiner is currently examining these claims on the basis of a construction of the claims which Applicant believes to be wrong. The claims in question have been rejected, and it seems likely that their patentability will be the subject of an appeal. Applicant believes that it is important that further examination, and any appeal, should be based on an agreed construction of the claims." While this would be desirable, this does not appear to be a petitionable matter. It would seem that the issue of claim interpretation and the subsequent rejections/objections presented that are based upon this interpretation, should best be handled by the Board of Patent Appeals and Interferences.

Accordingly, because the instant petition is untimely and because there does not appear to be a petitionable issue present, the instant petition is **DISMISSED.**

The examiner however, should take note of Section MPEP Section 706.07 of the MPEP which states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant.

Before making the next office action final, the examiner should clearly point out how he is interpreting the claims and provide clear reasoning as to why he is interpreting the claims in that manner. Applicant's arguments regarding this matter should be thoroughly addressed.

Upon receipt of a final office action, if Petitioner feels that a clear issue for appeal has not been developed, then a petition to withdraw the finality can be filed.

It is also pointed out that applicant's time for response continues to run from March 31, 2003. Extensions of time may be obtained to file any amendments.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA CA 91101

PET. DEC.

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td

Mailed: APR 6 2004

In re application of :
Bitler et al. : DECISION ON
Serial No. 09/398,377 : PETITION
Filed: September 17, 1999 :
For: POLYMERIC THICKENERS FOR OIL-CONTAINING COMPOSITIONS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY of the office action mailed October 10, 2003.

DECISION

It is noted that no final rejection was mailed to applicant prior to the filing of this petition thereby making this petition non-timely. Accordingly, the petition is DISMISSED.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA CA 91101

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wak

Mailed: JUN 17 2004

In re application of :
Bitler et al. : DECISION ON
Serial No. 09/398,377 : PETITION
Filed: March 16, 2001 :
For: POLYMERIC THICKENERS FOR OIL-CONTAINING COMPOSITIONS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed January 21, 2004.

On March 31, 2003, a non-final office action was mailed by the examiner, containing multiple grounds of rejection. Applicants responded to this office action with a response filed on August 4, 2003. A final rejection was then mailed on January 21, 2004.

On December 12, 2003, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the October 10, 2003 office action which was not the correct date. That petition was dismissed as not being timely because a final rejection was not issued by the Examiner at that time. Applicants have now resubmitted the petition referencing the January 21, 2004 final rejection date.

Applicant's position for the withdrawal of the finality is that clear issues have not been developed between the examiner and Applicants, contrary to the guidelines of MPEP 706.07. It is therefore the position of Applicants that the finality of the office action is premature.

DECISION

Section 706.07 of the MPEP states:

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

In making the final rejection, all outstanding grounds of rejection of record should be

carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.. However, where a single previous Office action contains a complete statement of a ground of rejection, the final rejection may refer to such a statement and also should include a rebuttal of any arguments raised in the applicant's reply. If appeal is taken in such a case, the examiner's answer should contain a complete statement of the examiner's position.

There are several deficiencies in the final office action of January 21, 2004. The 35 USC 102 rejection will be addressed first. In the non-final office action of March 31, 2003, the basis for the rejection under 35 USC 102 is over Mueller et al. with Morawsky et al. as a teaching reference. There is nothing in the body of the rejection other than a statement saying the text of 35 USC 102 can be found in previous office actions. The examiner does not clearly explain why he has brought in a teaching reference and what exactly he is using the reference to teach in conjunction with the primary reference. This information should have been provided to Applicants in the body of the rejection. Likewise, the final rejection only includes a statement that the text of 35 USC 102 can be found in previous office actions. It is noted that the examiner addresses Morawsky in the "response to arguments" section but it is unclear as to whether he is providing support for the 35 USC 102 rejection or the 35 USC 103 rejection. It is also pointed out that in the non-final rejection, claims 40-42 and 44-50 are rejected under 35 USC 102 while in the final rejection, claims 40, 41 and 44-49 are rejected. The examiner should have provided an explanation as to why claim 42 was not rejected in the final office action or whether it was mistakenly included in the previous grounds of rejection.

Next, the 35 USC 103 rejection will be addressed. In the non-final office action, claims 40, 41 and 44-49 were rejected under 35 USC 103 over Mueller et al. in view of Morawsky et al. Once again, the examiner has not included the text of any rejection in the office action. A previous office action prepared by the examiner on November 25, 2002 contained a rejection under 35 USC 103 over Mueller et al. This office action did not contain an explanation as to why the claims would have been obvious over this single reference. No specific differences were pointed out and a thorough explanation of the rejection was not provided. This rejection was clearly incomplete. All rejections under 35 USC 103 must be evaluated using the *Graham v. Deere* analysis clearly stating what the references teach; any differences between the references and the instant claims; and why said differences would be obvious to one of ordinary skill in the art. The examiner failed to clearly set forth this analysis in the non-final office action of January 21, 2004.

Further making the record unclear is the fact that all of the claims have been rejected under 35 USC 102 and 35 USC 103 using the same references. If all the claim limitations are met by Mueller et al. as is alleged by the examiner in the 35 USC 102 rejection, then it is unclear as to how a 35 USC 103 rejection over the combination of the same references is applicable. Once again, the examiner has not provided any explanation as to why both a 35 USC 102 and a 35 USC 103 rejection are necessary.

Petitioner has also raised the argument that the examiner has not addressed several arguments presented throughout the prosecution. One such argument that the examiner has made an improper combination of the two references is a result of the examiner not presenting a complete rejection.

This has not given applicants a fair opportunity to respond to the rejections. Petitioner's argument that the instant application is not ready for appeal is persuasive.

Because several issues remain unclear and confusing (e.g. basis of the rejection), this application is being forwarded to the examiner in order to prepare a new non-final office action. All amendments filed up to this point shall be entered. The office action should include all rejections that are being relied upon including a detailed explanation as to how each reference is being applied and how each reference meets each and every claim limitation. Any 35 USC 103 rejection should include a complete *Graham v. Deere* analysis as discussed above. Differences should be clearly pointed out and motivation for any combination should be clearly stated so that applicants have a fair chance to respond. Furthermore, if claims are to be rejected under multiple statutes (i.e. 35 USC 102 and 35 USC 103) the examiner should provide reasoning as to why the claims are being rejected under both.

Accordingly, the petition for withdrawal of finality is **GRANTED.**

After withdrawal of the finality, the application is being forwarded to the examiner for preparation of a new office action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA CA 91101

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,211,905	2001-04-03	09/398,528	1998-07-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric J. Robinson/	Date (YYYY-MM-DD)	2009-08-06
Name	Eric J. Robinson	Registration Number	38285

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. 6211905
Issue Date: April 3,2001
Application No. 09398528
Filed: July 30,1998
Attorney Docket No. PO107-DIV.2

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

This is a decision on the electronic petition, filed August 6,2009 ,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 6,2009 . 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
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Paper No. 13

ZION HADAD
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OFFICE OF PETITIONS

In re Application of

Zion Hadad

Application No. 09/399,109

Filed: September 20, 1999

Attorney Docket No.

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed November 4, 2003, which set a shortened statutory period for reply of three (3) months. A proper response to the final Office action was not received within the allowed period, and the application became abandoned on February 5, 2004.

Examiner Duc Duong has determined that the amendment filed July 24, 2004, places the application in condition for allowance.

The application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries 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

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

BAKER & BOTTS LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 101120228

Mail Date: 04/23/2010

Applicant	: JOHN WANKMUELLER	: DECISION ON REQUEST FOR
Patent Number	: 7636694	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/399,192	: OF WYETH
Filed	: 09/17/1999	:
		:

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
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WASHINGTON, DC 20231
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 15

Lawrence J. Merkel
Conley Rose & Tayon, PC
P.O. Box 398
Austin, TX 78767-0398

In re Application of: Keller et al. Application No. 09/399281 Attorney Docket No. 5500-48300 Filed: September 17, 1999 For: VIRTUAL CHANNELS AND CORRESPONDING BUFFER ALLOCATIONS FOR DEADLOCK-FREE COMPUTER SYSTEM OPERATION	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the petition filed June 2, 2003 to withdraw the holding of abandonment under 37 CFR § 1.181(a). The petition is being considered under 37 CFR § 1.8 as requesting the acceptance of correspondence as timely filed.

BACKGROUND

Aug 8, 2002	Final rejection mailed (Paper No. 9)
Nov 15, 2002	Notice of appeal and after final response filed (Paper Nos. 10, 11)
Dec 3, 2002	Advisory action mailed (Paper No. 12)
May 19, 2003	Notice of abandonment mailed (Paper No. 13)

ISSUES

The practitioner states he has submitted a copy of the originally submitted appeal brief, amendment and other papers filed on Dec 18, 2002, and a statement of personal knowledge from Mr. Merkel has also been provided. Mr. Merkel states no return postcard was received from the USPTO.

DECISION

The documents provided by the practitioner do ***not*** include a copy of the papers submitted on Dec 18, 2002. The filing only included the statement from Mr. Merkel along with the petition.

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.]

The practitioner needs to submit an additional copy of the original filing (to include the appeal brief in triplicate if that was part of the original submission) along with a certificate of mailing if one was used.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 17

Lawrence J. Merkel
Conley Rose & Tayon, PC
P.O. Box 398
Austin, TX 78767-0398

In re Application of: Keller et al.	)	
Application No. 09/399,281	)	
Attorney Docket No. 5500-46300	)	**DECISION GRANTING PETITION**
Filed: September 17, 1999	)	**TO ACCEPT CORRESPONDENCE AS**
For: VIRTUAL CHANNELS AND	)	**TIMELY FILED UNDER 37 CFR §1.8**
CORRESPONDING BUFFER	)	
ALLOCATIONS FOR DEADLOCK-FREE	)	
COMPUTER SYSTEM OPERATION	)	

This decision is in response to the request for reconsideration of the original petition to withdraw the holding of abandonment of this application. This request was filed on August 13, 2003. The original petition was dismissed on July 30, 2003. This request is being considered as a renewed petition to accept papers as timely filed under 37 CFR §1.8. This application was abandoned for failure to file a proper response to the Final Rejection mailed August 8, 2002 (Paper No. 9).

In support of the original petition and the renewed request, petitioners have provided (over the two submissions) a copy of the appeal brief (in triplicate); an after final amendment along with a marked up copy of the amendment; fee authorization and a statement from Mr. Merkel who signed the original certificates of mailing for these items. The postcard receipt provided is for the filing with the original petition – not for the date of December 18, 2002 (the date of the original certificate of mailing).

The evidence *en total* now meets the requirements of 37 CFR § 1.8(b) and establishes that a timely response was, in fact, filed on December 18, 2002.

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support Staff and to the examiner for consideration of (1) the after final amendment and (2) for entry of the Appeal Brief which were attached to Paper No. 16 (the request for reconsideration).

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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JJGJr: 03-03

Paper No:10

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OFFICE OF PETITIONS

In re Application of:
Gonzalo
Filed: 20 September, 1999
Application No. 09/399,415
Docket No.: (None)

ON PETITION

This is a decision on the petition filed herein on 4 March, 2003, under 37 C.F.R. §1.137(a)[1] to revive the above-identified application.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 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)[2] (as to unintentional delay) must be submitted within two (2)

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[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) 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 for 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 required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 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

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.

(3) While as the Applicant, Petitioner herein certainly may prosecute his own application, there is no indication that petitioner herein ever revoked from Counsel the power to prosecute the instant application. The Office will correspond with only one person in regard prosecution.[3] If Petitioner desires to receive future correspondence regarding this application, the appropriate revocation of power of attorney documentation must be submitted.

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

[3] The regulations at 37 C.F.R. §1.33 provide:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

(1) *Prior to filing of § 1.63 oath or declara-tion by any of the inventors.* If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered 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) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

© All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the attorney or agent of record (see § 1.34(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to §§ 10.5 and 10.11 or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record.

Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a). Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

If more than one attorney or agent is of record and a correspondence address has not been specified, correspondence will be held with the last attorney or agent made of record.

(d) A "correspondence address" or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address" will be used in any correspondence relating to maintenance fees unless a separate fee address" has been specified. See § 1.363 for "fee address" used solely for maintenance fee purposes.

[36 FR 12617, July 2, 1971; 46 FR 29181, May 29, 1981; para. (d) added, 49 FR 34724, Aug. 31, 1984, effective Nov. 1, 1984; para. (c), 50 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985; paras. (a) & (b) revised, 62 FR 53131, Oct. 10 1997, effective Dec. 1, 1997; paras. (a) and (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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.

BACKGROUND

The record indicates that:

- Applicant failed to reply timely and properly to the non-final Office action mailed on 19 February, 2002, with reply due (absent extension of time) on or before Monday, 20 May, 2002;
- the application went abandoned after midnight 20 May, 2002;
- Notice of Abandonment was mailed on 2 October, 2002;
- in his "showing," Petitioner acknowledges that his attorneys received the Office action on 25 February, 2002 (less than a week after it was mailed), but contends that because he did not receive those materials from his attorneys until 19 May, 2002, the period of response should have been reset;
- further, although Petitioner's statement clearly indicates that at the time of his receipt of the Office action from his Counsel Petitioner

  --had time to submit a reply within the shortened statutory period, and

  --could have submitte a request and fee for an extension of time under 37 C.F.R. §1.136(a),

  however, Petitioner failed to do either;
- rather, Petitioner sought--unsuccessfully--to prevail upon the Examiner to restart the period for reply;[4]
- as of this writing, Petitioner has failed to reply to the Office action mailed to his Counsel on 19 February, 2002--more than a year ago.

[4] Petitioner wrote to the Examiner asking that the reply period be restarted (letter dated 10 June, filed 9 July, 2002. (As noted above, the Examiner did not comply with that request.) In that letter, Petitioner stated that he was sending further materials, which Petitioner apparently failed to do.

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8]

And the Petitioner must be diligent in attending to the matter.[9] 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.[10]))

Allegations as to Unavoidable Delay

A delay is not "unavoidable" when there is no documentary support of the allegation or when an

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[5] 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.

[6] 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.

[7] 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).

[8] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[9] 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.

[10] 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.

applicant simply permits the maximum extendable statutory period for reply to expire.[11] In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[12] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[13]

As to the petition alleging to unavoidable delay, Petitioner again has failed to support the allegation.

Accordingly, in view of the failure of the showing herein and the above-described record, the petition to revive as to unavoidable delay under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore, Petitioner's only alternative to irretrievable abandonment is to file a petition and fee as set forth at NOTE 1, above at pages 1 and 2, under 37 C.F.R. §1.137(b), and state therein 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.".

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous.

Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place

---

[11] See MPEP 711.03(c)(III)(C)(2).

[12] 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).

[13] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

cc:
Steven Gonzalo
2920 E. 15th Road
Ottowa, IL 61350

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
WWW.USPTO.GO

JJGJr: 07-03

Paper No: 15

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OFFICE OF PETITIONS

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

In re Application of:
Gonzalo
Filed: 20 September, 1999
Application No. 09/399,415
Docket No.: (None)

ON PETITION

This is a decision on the petition filed herein on 14 July (and supplemented on 25 July), 2003, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application as having been abandoned due to unintentional delay.

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

NOTE: Petitioner was reminded by telephone on Thursday and Friday 24 and 25 July, 2003, that there is no indication contained in the record 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 must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

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[1] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §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 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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record indicates that:

- Applicant failed to reply timely and properly to the non-final Office action mailed on 19 February, 2002, with reply due (absent extension of time) on or before Monday, 20 May, 2002;

- the application went abandoned after midnight 20 May, 2002;

- Notice of Abandonment was mailed on 2 October, 2002;

- in the original petition under 37 C.F.R. §1.137(a)--filed on 4 March and dismissed on 17 March, 2003, for failing to satisfy the "showing" requirement under the regulation:

  --Petitioner acknowledged that his attorneys received the Office action on 25 February, 2002 (less than a week after it was mailed), but contended that because he did not receive those materials from his attorneys until 19 May, 2002, the period of response should have been reset;

  --Petitioner's statement clearly indicated that, after his receipt of the Office action from his Counsel, Petitioner had time to submit a reply within the shortened statutory period, and could have submitted a request and fee for an extension of time under 37 C.F.R. §1.136(a), however, Petitioner failed to do either;

  --rather, Petitioner sought, unsuccessfully, to prevail upon the Examiner to restart the period for reply;[2]

  --moreover Petitioner failed to reply to the Office action mailed to his Counsel on 19 February, 2002;

- the instant petition (with fee) provides the statement of unintentional delay and is accompanied by an amendment as a reply--the Terminal Disclaimer submitted is unnecessary and the fee ($55.00) is being refunded to Petitioner Scott J. Fields via Treasury check;

---

[2] Petitioner wrote to the Examiner asking that the reply period be restarted (letter dated 10 June, filed 9 July, 2002. (As noted above, the Examiner did not comply with that request.) In that letter, Petitioner stated that he was sending further materials, which Petitioner apparently failed to do.

- on 25 July, 2003, Petitioner submitted authorization for the necessary additional funds--to wit: the balance of the petition fee and the (request and) fee for a two- (2-) month extension of time. It is noted, however, that Petitioner has a signature/address block with an incorrect zip code (two many digits) in his 25 July, 2003, filing, and that the Revocation/Power of Attorney which Petitioner was to file was not among the 25 July, 2003, filing.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. 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.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] 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).[6] And the Petitioner must be diligent in attending to the matter.[7]

(Moreover, it long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[8] The Office

---

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an 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.

[5] 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).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] 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.

[8] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[9] Such 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.[10]

CONCLUSION

Accordingly, the petition to revive under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

cc:
Scott J. Fields
Obermayer Rebmann
Maxwell & Hippel, LLP
One Penn Center/19th Floor
1617 John F. Kennedy Blvd.
Philadelphia, PA 19103-1895

---

[9] 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.

[10] 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.

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United States Patent and Trademark Office
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Paper No. 6

CHRISTENSEN O'CONNOR
JOHNSON & KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE , WA 98101

Mailed

AUG 4 2000

Director's Office
Group 2700

In re Application of:	)	
Kimble Dong, et al.	)	DECISION ON REQUEST TO
Application No.: 09/399,510	)	WITHDRAW AS ATTORNEY
Filed: September 20, 1999	)	
For: AUTO BLACK EXPANSION	)	
METHOD AND APPARATUS FOR	)	
AN IMAGE SENSOR	)	

This is a decision on the Request To Withdraw from Representation filed, April 24, 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 **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 Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

cc: Chung M. Ng
Blakely, Sokoloff, Taylor & Zafman
3230 Carillon Point
Kirkland, WA 98033

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

SENNIGER POWERS LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS MO 63102

In re application of	:	**DECISION ON PETITION**
David C. Carrithers et al.	:	**FOR SECOND SUSPENSION**
Application No. 09/399,597	:	**OF ACTION UNDER**
Filed: September 20, 1999	:	**37 CFR 1.103 (a)**

For: DEBIT CARD SYSTEM AND METHOD FOR IMPLEMENTING INCENTIVE AWARD PROGRAM

This letter is responsive to a second petition to suspend action under 37 CFR 1.103(a) received on April 5, 2004.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

Applicant filed a petition on October 3, 2003 to suspend action by the examiner until a patentability dispute involving U.S. Patent Nos. 5,689,100 and 5,956,695, parents of the above application, is settled by the courts. In view of the fact that the outcome of the above-noted litigation had not been decided, the primary examiner suspended prosecution for six (6) months from October 29, 2003, the mailing date of the suspension letter. Since the initial suspension was due to expire on April 29, 2004, applicant has submitted a request for a second suspension of six (6) months. Since the outcome of the pending litigation has not yet occurred, applicant requests this further suspension for the same reasons set forth in the petition of October 3, 2003.

The resolution of the litigation not having yet been reached, the issues which caused the original suspension remain, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

John Love

John Love, Director
Technology Center 3600
(703) 308-1020

snm/mjz : 5/13/04
SM

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SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

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MAR 14 2007
OFFICE OF PETITIONS

In re Patent No. 7,113,939 :
Chou et al. :
Issue Date: September 26, 2006:
Application No. 09/399,682 :
Filed: September 21, 1999 :
Atty Docket No. A8009 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed October 20, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred fifty-five (155) to two hundred seventy-five (275) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred ninety-seven **(297)** days. No new Issue Notification will be issued.

On September 26, 2006, the above-identified application matured into U.S. Patent No. 7,113,939. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 155 days. Patentees state that the determination of patent term adjustment should not have been reduced by 120 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the only paper filed after the mailing of the Notice of Allowance was a

"Statement" which is being construed as a candor letter pursuant to MPEP 2733.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of a "Statement" filed May 8, 2006. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

Further review of the application history has been determined that the twenty-two (22) day reduction is incorrect. The Office mailed an Office action under section 132 on March 18, 2003. The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. Accordingly, a letter restarting the period for reply (and re-mailing the notice) was mailed on April 10, 2003.

Thus, the Office's delay should be calculated using April 10, 2003. Applicants' response was received on July 10, 2003. Thus, no period of adjustment is required.

In view thereof, the patent term adjustment indicated in the patent should have been two hundred ninety-seven **(297)** days (326 - 29).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred ninety-seven **(297)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,113,939 B2

DATED : September 26, 2006

INVENTOR(S) : Chou et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (155) days

Delete the phrase "by 155" and insert – by 297 days--

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Robert H. Kelly
Scheef & Stone, L.L.P.
5956 Sherry Lane, Suite 1400
Dallas, TX 75225

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AUG 03 2005

OFFICE OF PETITIONS

In re Application of
TRAN
Application No.: 09/399,687
Filed: September 21, 1999
Attorney Docket No.: NC13800 (9021.074)

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, 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 non-final Office action mailed October 8, 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 and a reply was not filed. Accordingly, by operation of law, the above-identified application became abandoned on January 9, 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 non-final Office action of October 08, 2003 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 2662.

Telephone inquires concerning this decision should be directed to Derek A. Putonen at (571) 272-3294 or in his absence, the undersigned at (571) 272-3217

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22314

FEB 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Brian Yang, et al.
Application No. 09/399,729
Filed: September 20, 1999
For: **DRIVING METHOD OF SPEAKER AND THE DRIVING CIRCUIT THEREOF**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed November 9, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed November 10, 2003. A Notice of Abandonment was mailed on September 22, 2004.

Petitioner asserts that a proper response was timely filed on February 10, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of a response within the United States Patent & Trademark Office on February 10, 2004.

The original correspondence filed was not matched with the application file 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 U.S.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 application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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)
6,203,259	2001-03-20	09/399,828	1999-09-21	32,703 USA//5968-102US

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	/Richard C. Woodbridge/	Date (YYYY-MM-DD)	2007-03-19
Name	Richard C. Woodbridg	Registration Number	26423

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. 6203259
Issue Date: March 20,2001
Application No. 09399828
Filed: September 21,1999
Attorney Docket No. DAC-123A

:

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

:

This is a decision on the electronic petition, filed March 19,2007 ,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 March 19,2007 . 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.

#10 E.

PTO/SB/21 (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.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 2

Application Number	09/399,875
Filing Date	September 20, 1999
First Named Inventor	Steven G. Hoek
Art Unit	2872
Examiner Name	M. Sikder
Attorney Docket Number	DON09 P-767 (formerly DON01 P-767)

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)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] 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) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):

Request For Certificate Of Correction

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Van Dyke, Gardner, Linn & Burkhart, LLP		
Signature			
Printed name	Catherine S. Collins		
Date	November 10, 2008	Reg. No.	37 599

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:

Signature			
Typed or printed name	Chana L. Withers	Date	November 10, 2008

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 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **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.

3241

3A11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-25-08

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No. 09/399875 Patent No. 6116743

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

2nd Alg., should it be entered?

E. James
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: In regard to the proposed change in col 15, line 31, claim 36, there is no support in the disclosure for the bearing member comprising a clamp. The clamp is disclosed as a seperate element from the bearing member

~~Stephone B.~~ Allen
Supervisory Patent Examiner

Stephone Allen
SPE

2872
Art Unit

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

PATENT NO. : 6,116,743

APPLICATION NO.: 09/399,875

ISSUE DATE : September 12, 2000

INVENTOR(S) : Steven G. Hoek

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:

Column 5:
Line 33, Insert --52-- after "opening"

Column 15:
Line 31, Claim 36, "actuator bracket further includes" should be --bearing member comprises--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Van Dyke, Gardner, Linn & Burkhart, LLP
2851 Charlevoix Drive S.E., Suite 207
Grand Rapids, MI 49588-8695

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

6-12-09

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

Date Mailed:

Patent No. : 6,116,743
Serial No. : 09/399,875
Patent Issued : September 12, 2000
Inventor(s): Steven G. Hoek

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.

Respecting the alleged error in column 15, claim 36, line 31, in regard to the proposed change, there is no support in the disclosure for the bearing member comprising a clamp. The clamp is disclosed as a separate element from the bearing member.

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

A certificate of correction will issue for the remaining error noted in your request.

Eva James
For Mary Diggs
Decision and Certificate of Correction Branch
(703) 756-1583 or 756-1580

Van Dyke, Gardner, Linn & Burkhart
2851 Charlevoix Drive S.E., Suite 207
Grand Rapids, MI 49588-8695

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.go

Paper No. 24

WILLIAM S. GALLIANI
COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

MAIL

JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
GINOSAR, RAN
Application No. 09/399,919
Filed: September 21, 1999

For: DUAL FORM LOW POWER, INSTANT ON AND HIGH PERFORMANCE, NON-INSTANT ON COMPUTING DEVICE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 1, 2004.
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.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the TC's central files area to await action in its regular turn.

Kenneth A Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: Intel Corporation
Mailstop SC4/202
2200 Mission College Boulevard
Santa Clara, CA 95052

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTEL CORPORATION
MAILSTOP SC4/202
2200 MISSION COLLEGE BOULEVARD
SANTA CLARA CA 95052

COPY MAILED

MAR 1 5 2006

OFFICE OF PETITIONS

In re Application of :
Ran Ginosar :
Application No. 09/399,919 : ON PETITION
Filed: September 21, 1999 :
Attorney Docket Number: 004198.P002 :
Title of Invention: DUAL FORM LOW POWER, :
INSTANT ON AND HIGH PERFORMANCE, :
NON-INSTANT ON COMPUTING DEVICE

This is a decision on the petition filed March 2, 2006, 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 September 9, 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 December 10, 2004. A Notice of Abandonment was mailed on February 14, 2005.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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.

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: Edwin Taylor
12400 Wilshire Blvd. 7th Floor
Los Angeles, CA 90025-1026

UNITED STATES 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. 6266142
Issue Date: July 24,2001
Application No. 09399992
Filed: September 20,1999
Attorney Docket No. 017575.0356(

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

This is a decision on the electronic petition, filed January 25,2007 ,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 25,2007 . 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.

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)
6266142	2001-07-24	09399992	1999-09-20	017575.0356

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	/brad williams/	Date (YYYY-MM-DD)	2007-01-24
Name	Bradley P. Williams	Registration Number	40227

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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
John S. Hendricks, et al.	:	
Application No. 09/400,296	:	DECISION GRANTING PETITION
Filed: September 21, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 026880.00018	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 19, 2007, 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, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2135 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 M. Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

ROYLANCE, ABRAMS, BERDO & GOODMAN, LLP
1300 19TH STREET, NW
SUITE 600
WASHINGTON DC 20036-2680

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JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of
Mears, et al.
Application No. 09/400,320
Filed: September 21, 1999
Attorney Docket No. 37770
For: CONTACT CENTER SYSTEM CAPABLE OF HANDLING MULTIPLE MEDIA TYPES OF CONTACTS AND METHOD FOR USING THE SAME

DECISION
ON PETITION
37 CFR 1.47

This is a decision on the petition filed February 28, 2003, under 37 CFR 1.47(a).

The petition is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.47(a) has been proffered due to the inability to obtain the signature of two of the named inventors on a declaration filed under 37 CFR 1.131.

However, 37 CFR 1.47 (and a petition thereunder) is only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. Where, as here, all the named inventors have executed the original oath or declaration under 37 CFR 1.63, 37 CFR 1.47 has no relevance to the application. See MPEP 201.03(b); 409.03.

Rather, MPEP 715.04 applies to the situation in hand and notes in pertinent part that (1) an affidavit or declaration filed under 37 CFR 1.131 may be signed by less than all the named inventors when the signing inventors are in fact the inventors of the subject matter of the of the claim(s) under rejection, or (2) if it is shown that a joint inventor of the claimed invention cannot be reached or refuses to sign, the signature(s) of the remaining inventor(s) is/are sufficient, provided that the declaration under 37 CFR 1.131 shows completion of the invention by all the joint inventors of the claimed subject matter, or (3) the assignee of the entire interest may make the declaration under 37 CFR 1.131.

Accordingly, the file is being returned to Technology Center AU 2642 for treatment of the showing under 37 CFR 1.47(a) as part of a showing under the practice of MPEP 715.04, for acceptance of the declaration under 37 CFR 1.131, signed by less than all the named inventors.

Inquiries regarding this communication may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,279,276	2001-08-28	09/400,440	1999-09-21	

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	/Paul James Knoll/	Date (YYYY-MM-DD)	2009-12-03
Name	Paul James Knoll		

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. 6279276
Issue Date: August 28,2001
Application No. 09400440
Filed: September 21,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed December 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 December 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

COPY MAILED

OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of	:
Rhodes, et al.	:
Application No. 09/400,492	: DECISION ON PETITION
Filed: September 21, 1999	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AHP 98298-P4/ WYBI-0010// MNI-069CP	:
For: METHODS FOR TREATING CARDIOVASCULAR DISORDERS	

This is a decision on the petition filed September 16, 2005 (certificate of mailing date September 13, 2005), under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED** as moot for the reasons stated below.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; or (3) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 365 before November 29, 2000.

Since the instant nonprovisional application is an application filed under 35 U.S.C. § 111(a) prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a later claim for priority do not apply. Accordingly, the petition is dismissed as involving a moot issue.

In view of the above, the $1,370.00 fee submitted for the petition under 37 CFR 1.78(a)(3) is unnecessary and will be credited to deposit account no. 23-3050.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571)272-3230.

The application is being referred to Technology Center Art Unit 1646 for further examination.

Frances Hicks

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

cc: JANET E. REED
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

05252006

Terry D. Morgan
Williams, Morgan & Amerson, P.C.
10333 Richmond
Suite 1100
Houston TX 77042

JUN 0 8 2006

In re Application of
ALLEE, Daren
Application No. 09/400,508
Filed: September 20, 1999
Attorney Docket No. 2000.000900

DECISION ON PETITION

This is a decision on the petition filed December 3, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **DISMISSED.**

A decision by the Board of Patent Appeals and Interferences was mailed on July 29, 2004, setting a two-month period of response. The application became abandoned on September 30, 2004 by operation of law.

Petitioner asserts that he did not receive the decision by the Board of Patent Appeals and Interferences and a search of the file record and docket records indicates that the decision was not received.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the decision by the Board of Patent Appeals and Interferences was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action 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 action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the 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),

Petitioner has not provided the required statement stating that the decision was not received and attesting to the fact that a search of the file jacket and docket records indicates that the decision by the Board of Patent Appeals and Interferences was not received. Further, petitioner has not provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has not made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is proper.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Sharon A. Gibson, 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE.
SUITE 400
IRVINE, CA 92612-7107

COPY MAILED
MAY 21 2004
OFFICE OF PETITIONS

In re Application of :
Buswell et al. :
Application No. 09/400,733 :
Filed: September 21, 1999 :
Title of Invention: :
IMPROVED METHOD AND APPARATUS :
FOR DISPLAY OF WINDOWING :
APPLICATION PROGRAMS ON A :
TERMINAL :

This is a decision on the petition under 37 CFR 1.137(B), filed December 23, 2003, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), 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 "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 30, 2000. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned January 31, 2001. A Notice of Abandonment was mailed on May 22, 2003.

Applicant files the instant petition and avers that a continuation application and transmittal sheet are enclosed with the petition. A review of the application file and Office records reveal that no continuation application have been filed with the instant petition, nor have any filing fees for a

continuation application been assessed Applicant. A review of the petition reveals that the petition authorizes the petition fees only.

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); (**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**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a reply to the October 30, 2000 Office action. Applicant must submit a reply to the Office action as part of the requirement for granting a petition under 37 CFR 1.137(b).

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at 703-305-0014.

Derek L. Woods
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

MCDERMOTT, WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 400
IRVINE, CA 92612-7107

COPY MAILED
MAY 11 2005
OFFICE OF PETITIONS

In re Application of	:	
Buswell et al.	:	
Application No. 09/400,733	:	
Filed: September 21, 1999	:	ON PETITION
For: IMPROVED METHOD AND	:	
APPARATUS FOR DISPLAY OF	:	
WINDOWING APPLICATION	:	
PROGRAMS ON A TERMINAL	:	

This is a decision on the Request for Reconsideration under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 30, 2000. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned January 31, 2001. A Notice of Abandonment was mailed on May 22, 2001.

With the instant petition, Applicant has filed Remarks in response to the non-final Office action.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, this petition is hereby granted.

This application is being referred to Technology Center Art Unit 2122 for processing of the Remarks, filed January 27, 2005, in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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. 7

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ON PETITION

PAUL H. MEIER
633 WEST FIFTH STREET, STE 4700
LOS ANGELES, CA 90071-2066

In re Application of
Gary S. Hahn et al.
Application No. 09/400,757
Attorney Docket No. 246/221
Filed: September 21, 1999

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 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 mailed October 18, 1999. No extensions of time having been obtained, the application became abandoned December 19, 1999. No Notice of Abandonment was mailed.

This application is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries should be directed to Petitions Attorney Laurie Mayes at (703) 308-3145.

Patricia Faison-Ball
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
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re application of
Akio Nakajima :
Application No. 09/400,833 : ON PETITION
Filed: September 21, 1999 :
Attorney Docket No. 991059 :
:

This is a decision on the petition filed October 27, 2006, 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).

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

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
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MAIL

DEC 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of:
Allen Gersho, et al.
Application Serial No.: 09/401,068
Filed: September 22, 1999
For: **LPC-HARMONIC VOCODER WITH SUPERFRAME STRUCTURE**

DECISION
ON PETITION

This is a decision on the petition, filed on November 7, 2005 under 37 C.F.R. §1.181 requesting that the subject application be made special under 37 CFR 1.102.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is already considered special in accordance with PTO policy.

Accordingly, the petition is **<u>DISMISSED AS MOOT</u>**.

It is further noted that an Office action was mailed on November 5, 2005.

Dwayne Bost
Special Program Examiner
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. 29

Joseph R. Keating, Esq.
INTELLECTUAL PROPERTY GROUP
1400 Eaton Place, Suite 312
Fairfax, VA 22030

JUL 25 2003

In re Application of	:	
Takashi Shikama et al.	:	DECISION ON PETITION
Application No.: 09/401,080	:	TO WITHDRAW THE
Filing Date: September 22, 1999	:	HOLDING OF ABANDONMENT
For: COMPOSITE INDUCTOR ELEMENT	:	

This is a decision on the papers filed via facsimile transmission on July 16, 2003. The papers are being treated as a petition to withdraw the holding of abandonment under C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on July 15, 2003 holding the application to be abandoned for failure to timely file a proper reply to the Office action dated December 13, 2002. Petitioner asserts that a Request for Reconsideration in response to the Office action of December 13, 2002 was timely filed via facsimile transmission on June 11, 2003.

A review of the application file reveals that the Request for Reconsideration referred to in the petition was in fact received in the USPTO on June 11, 2003. A Petition for Extension of Time and a Credit Card Payment form for a three-month extension of time fee was filed along with the Request for Reconsideration. It is clear there was no abandonment in fact.

The Notice of Abandonment mailed July 15, 2003 is **VACATED**.

The application is being forwarded to the Technical Support Staff of Technology Center 2800 for the entry of the Request for Reconsideration and the processing of the Petition for Extension of Time. Afterwards, it will be forwarded to the examiner for consideration of the Request for Reconsideration.

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
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Paper No. 23

MOSER, PATTERSON & SHERIDAN, LLP
SARNOFF CORPORATION
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY NJ 07702

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 09/401,132	:	DECISION ON PETITION
Filed: September 22, 1999	:	
Attorney Docket No. SAR-12598A	:	
(MTKI-04-332A)	:	

This is a decision on the petition under 37 CFR 1.183, filed February 28, 2005, requesting waiver of the requirements of 37 CFR 1.97(d) so that the Information Disclosure Statement (IDS) filed concurrently may be considered and entered by the examiner.

Applicant requests waiver of the rule based on the following facts:

> 1. On November 15, 2004, an Office Communication was issued by the European Patent Office in European Patent Application No. 98 934 312.4, corresponding to the above-identified U.S. application. . . .
>
> 2. On January 28, 2004, files for both the above-identified U.S. application and the corresponding European Patent Application No. 98 934 312.4 were received in the undersigned's [Andrew D. Fortney's] office. . . .
>
> 3. The two files in paragraph 3 were transferred to the undersigned's office as part of an overall transfer of 13 standard banker's boxes of files for various U.S. and foreign patents and patent applications. . . .
>
> 4. Between January 28, 2005, and February 2, 2005, the transferred files were inventoried by the

> undersigned's office. Beginning on or around February 4, 2005, matters in these transferred files were diligently addressed in due date order.
>
> 5. On February 14, 2005, I reviewed the transferred file corresponding to European Patent Application No. 98 934 312.4. I discovered that I did not have copies of the references cited in the Office Communications therein. . .
>
> 6. On February 18, 2005, I received copies of copies of the references cited in the Office Communication in European Patent Application No. 98 934 312.4. . . .
>
> 7. On February 22-23, 2004, during a detailed review of the Office Communication in European Patent Application No. 98 934 312.4, the references cited therein, and the file for the above-identified U.S. application, I discovered that references D1, D3 and D4 cited in said Office communication had not been cited in the above-identified U.S. application.

Petition dated February 28, 2005, pp. 1-2.

Applicant submitted the above-noted IDS subsequent to the mailing of the final Office action on July 2, 2003. Accordingly, for the Office to consider the IDS, applicant must satisfy the requirements of 37 CFR 1.97(d)(1)-(2). Applicant is required to submit a statement as specified in 37 CFR 1.97(e) and the fee set forth in § 1.17(q). As indicated above, by the time applicant's representative discovered that references D1, D3 and D4 cited in the Office communication had not been cited in the above-identified U.S. application, the time for making the statement required by 37 CFR 1.97(d)(1) had expired, such that the necessary statement could not accompany the IDS in question.

The regulations pertaining to the submission of an IDS do not require that an IDS be filed, but rather, set forth the conditions under which the Office will consider information promptly brought to its attention by an applicant. Further, these conditions are linked to the stage of prosecution at the time of the submission of the IDS, as it is necessary for the Office to balance its need to consider all information relevant to an application with its desire for an efficient operation, as well as its capability to consider information at various stages in the prosecution of an application.

The Office will grant a petition under 37 CFR 1.183, where an applicant demonstrates that an extraordinary situation exists such that justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). The Office acknowledges applicant's representative's candor and his office's preoccupation with the volume of transferred files; however, he has not demonstrated that the delay in the submission of the IDS was caused by "extraordinary circumstances" such that "justice requires" waiver of the requirement for certification set forth in 37 CFR 1.97(d)(1).

Applicant's representative's explanation and the circumstances surrounding the delay in filing the IDS and bringing it to the attention of the Office, are not such that the three month time period of 37 CFR 1.97(e)(1) should be waived. Applicant has not demonstrated that the delay in the submission of the IDS was caused by circumstances beyond applicant's control. The Office notes that equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. See United States v. Lockheed Petroleum Servs., 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, where the Office has the power to do so, it should not relax the requirements of established practice to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968).

There is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of 37 CFR 1.97(d). See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994)(circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Circumstances resulting from applicant's, or applicant's counsel's, failure to exercise due care or to properly apply the patent statutes or rules of practice are not extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pat. 1990).

Nevertheless, applicant has a suitable remedy on hand for his predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. Applicant is reminded that the Office will not normally consider an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pat. 1982). As set forth in Section 609(III)(B)(3) of the Manual of Patent Examining Procedure, an

applicant wishing to have the Office consider an IDS, where, as apparently herein, the necessary statement cannot be made, an applicant may file an RCE under 37 CFR 1.114, or a continuing application under 37 CFR 1.53(b), to have the information considered by the examiner.

In view of the above, the petition is dismissed. The IDS filed February 28, 2005, has been placed in the application file but will not be considered by the Office. See MPEP 609. The Office will not waive the requirements of 37 CFR 1.97(d).

The application file is being forwarded to Technology Center Art Unit 2636.

Telephone inquiries relevant to this decision may be addressed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. None

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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JUL 21 2006
OFFICE OF PETITIONS

In re Application of :
Patricia Rockwell et al. :
Application No. 09/401,163 :
Patent No. 6,365,157 : DECISION ON PETITION
Filed: September 22, 1999 : UNDER 37 C.F.R. § 1.377
Issue Date: April 2, 2002 :
Attorney Docket Number: 381-25- :
CIP/C :
Title: MONOCLONAL ANTIBODIES :
SPECIFIC TO VEGF RECEPTORS AND :
USES THEREOF :

This is a decision on the petition filed on January 27, 2006, pursuant to § 1.377 [1], to accept and record a timely filed maintenance fee payment for the above-identified patent.

The patent issued on April 2, 2002. The 3½ year maintenance fee provided in 37 CFR 1.362(e) was timely received on October 3, 2005. It is noted that October 2, 2005 fell on a Sunday.

With the present petition, Petitioner has set forth:

> Pursuant to 37 CFR 1.377, Applicants hereby request to be informed of who paid the year 4 maintenance fee for the above-referenced application, which is exclusively controlled by the Applicants. The request is being made because upon seeking to make year 4 maintenance fee payment, Applicants were informed that payment was already made by a third party. Applicants seek to determine who that third party was."

1 The petition fee has been charged to Petitioner's Deposit account, as authorized in the petition.

37 C.F.R. § 1.377 sets forth, in toto:

> (a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Director to accept and record the maintenance fee.
> (b) Any petition under this section must be filed within two months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in § 1.17(g). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.
> (c) Any petition filed under this section must comply with the requirements of § 1.181(b) and 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.
> [49 FR 34725, Aug. 31, 1984, added effective Nov. 1, 1984; para. (c) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

Petitioner has filed a request under 37 C.F.R. §1.377 to be informed of the name of the party who submitted the maintenance fee for patent number 6,365,157. Rule 1.377 does not provide for the avenue of relief which Petitioner has requested. As such, this petition must be **DISMISSED**.

Should Petitioner choose to file a renewed petition, any reply 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 reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.377". 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].

The petition fee of $200 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone

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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.

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Thomas Gallagher
ImClone Systems Incorporated
180 Varick Street - 6th Floor
New York, NY 10014

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/23/2010

Applicant	: CATHERINE M. KEENE	: DECISION ON REQUEST FOR
Patent Number	: 7634455	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/401,251	: OF WYETH
Filed	: 09/23/1999	:
		:

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

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MICROSOFT CORPORATION
PATENT GROUP DOCKETING
ONE MICROSOFT WAY
REDMOND, WA 98052

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OFFICE OF PETITIONS

In re Application of	:	
Fayyad et al.	:	
Application No. 09/401,439	:	ON PETITION
Filed: September 22, 1999	:	
Attorney Docket No. 115377.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 30, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed November 17, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 18, 2005. A Notice of Abandonment was mailed June 10, 2005.

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 under 37 CFR 1.111; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on September 30, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3600 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

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REDMOND WA 98052-6399

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OFFICE OF PETITIONS

In re Application of	:	
Fayyad et al.	:	
Application No. 09/401,439	:	ON PETITION
Filed: September 22, 1999	:	
Attorney Docket No. 115377.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 11, 2007, 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 a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 17

Maine & Asmus
PO Box 3445
Nashua, NH 03061-3445

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OFFICE OF PETITIONS

In re Application of
Even-Zohar, Oshri
Application No. 09/401,670
Filed: September 22, 1999
Attorney Docket No. MK97-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 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 December 28, 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 March 29, 2002.

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. No fee for the Terminal Disclaimer will be charged.

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

CLIENT: Motek
JOB#: MK 97-US
RCVD: 9-16-02
RSPBY: —
RCVDBY: CAS
FSUM: ✓
CAL: —
DKT: ✓
NOTICE: ✓
T/S: —

The application file is being forwarded to Technology Center AU 2674 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

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Paper No.

MARY J GASKIN
ANNELIN & GASKIN
2170 BUCKTHORNE PL
SUITE 220
THE WOODLANDS TX 77380

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OFFICE OF PETITIONS

In re Application of
Albert Dion
Application No. 09/401,675
Filed: September 22, 1999
Attorney Docket No. ALS-03
Title: METHOD FOR ALLOWING VERIFICATION OF ALTERATIONS TO THE CATALOGING STRUCTURE ON A COMPUTER SOTRAGE DEVICE

DECISION ON PETITION

This is a decision on the "PETITION TO CHANGE INVENTOR'S NAME ON PATENT APPLICATION" filed November 24, 2003 (and resubmitted December 30, 2003), which is properly treated under § 1.182.

The petition is **GRANTED**.

Petitioner requests that the name of the inventor be changed from ALBERT ERNEST WHIPPLE, II to **ALBERT ERNEST DION, II.** In support thereof, petitioner submits the sworn declaration of facts of inventor Dion, signed with both names and a certified copy of the Court Order signed August 16, 2002, effectuating the change. The petition is signed by the attorney of record and includes payment of the petition fee.

The change of name has been entered into the records of the Office.

The patent will issue in the name of inventor Dion provided that this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested change cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6864990
Issue Date: March 8,2005
Application No. 09401857
Filed: September 22,1999
Attorney Docket No. PM-263282

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

This is a decision on the electronic petition, filed July 20,2009 ,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 July 20,2009 . 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.

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
Eric S. Cherry - Docketing Supervisor
P.O. BOX 10500
MCLEAN VA 22102

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Ferdinand Engel :
Application No. 09/401,874 :
Filed: September 23, 1999 :
Attorney Docket No. 019287-0317340 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed January 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee, which was submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,112	02/18/2000	SHOJIRO KAWAKAMI	FUK-63	5560

22855 7590 10/30/2003

RANDALL J. KNUTH P.C.
3510-A STELLHORN ROAD
FORT WAYNE, IN 46815-4631

EXAMINER
VERSTEEG, STEVEN H

ART UNIT	PAPER NUMBER
1753	

DATE MAILED: 10/30/2003

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

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

Mailed: NN

Paper No. 33

In re application of Shorijo Kawakami et al Serial No. 09/402,112 Filed: September 29, 1999 For: Three-Dimensional Periodic Structure, Its Fabrication Method, And Method Of Fabrication Film	: : : : : : :	DECISION ON PETITION

This is a decision on the petition for consideration of English translation of foreign priority document under 37 CFR 1.55(4), filed July 25, 2003. The petition will be treated as petition under 37 CFR 1.181. A review of record revealed that the English translation of the foreign priority document was required to overcome the date of a reference relied upon by the examiner in the office action dated December 4, 2002.

The petition is **GRANTED**.

The application will be forwarded to the examiner to consider and enter the English translation of the foreign document.

Nam X. Nguyen
Supervisory Patent Examiner
Technology Center 1700

Randall J. Knuth P.C.
3510-A Stellhorn Road
Fort Wayne, IN 46815-4631

DEC 1 8 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Andrew D. Babcock
Dvorak & Orum
53 West Jackson Boulevard
Chicago, Illinois 60604-3606

In re Application of	:	
KNIPSTROM	:	
U.S. Application No.: 09/402,185	:	DECISION ON PETITION
PCT No.: PCT/SE98/00613	:	
Int. Filing Date: 03 April 1998	:	UNDER 37 CFR 1.182
Priority Date: 04 April 1997	:	
Attorney's Docket No.: C36305	:	
For: METHOD AND APPARATUS FOR FRICTION STIR WELDING	:	

This decision is in response to the "Petition Under 37 CFR 1.182" filed 04 October 2000. The required petition fee has been paid.

BACKGROUND

On 28 September 1999, applicant filed national stage papers including a transmittal letter (Form PTO-1390) identifying international application PCT/EP98/00613; however, all other identifying information provided on the PTO-1390 (e.g. inventors, title, filing date) failed to correspond to this international application.

On 14 December 2000, applicants were mailed a communication informing applicant that in order to continue processing of the national stage application for PCT/SE98/00613 applicant needed to bring a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390). Applicant was given **TWO (2) MONTHS** to submit the required reply and informed that failure to timely file would result in abandonment of U.S. application 09/402,185.

On 04 October 2000, the present petition was filed indicating that the international application identified on the transmittal letter contained a typographical error and that the correct international application number is PCT/SE98/00613. Accompanying the petition was a new Transmittal Letter (Form PTO-1390) indicating the correct international application number.

DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 28 September 1999, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/SE98/00613. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers

filed 28 September 1999 sufficiently identify international application PCT/SE98/00613. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 09/402,185 will be treated as a U.S. national stage submission for PCT/SE98/00613.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of U.S. application number 09/402,185 as the U.S. national stage application of PCT/SE98/00613.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dvorak & Orum
53 West Jackson Boulevard
Chicago, IL 60604-3606

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OFFICE OF PETITIONS

In re Application of	:	
Karl-Erik Knipstrom, et. al.	:	
Application No. 09/402,185	:	ON PETITION
Filed: March 25, 2002	:	
Attorney Docket No. C36305	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 28, 2004, to revive the above-identified application.

The Office acknowledges receipt of $1,330 for the petition to revive fee, $770 for the Request for Continued Examination (RCE) under 37 CFR 1.114, $650 in claim fees, and $950 for a three (3) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on September 28, 2004, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1725, for processing the Request for Continued Examination and for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

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
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In re Patent No. 6251904
Issue Date: June 26,2001
Application No. 09402242
Filed: September 29,1999
Attorney Docket No. PCS9473AJTJ

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

This is a decision on the electronic petition, filed April 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 April 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.

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)
6,251,904	2001-06-26	09/402,242	1999-09-29	PC9473A

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	/Carl J. Goddard/	Date (YYYY-MM-DD)	2007-04-05
Name	Carl J. Goddard	Registration Number	39203

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.

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 27

MARY J. WILSON
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

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NOV 1 9 2002

OFFICE OF PETITIONS

In re Application of
Kawashima et al.
Application No. 09/402,260
Filed: September 30, 1999
Attorney Docket No. 1430-268

ON PETITION

This decision concerns the petition under 37 CFR 1.182, filed on July 24, 2002, to change the order of the inventors' names for the above-identified application.

The petition is **GRANTED**.

The order of the inventors' names will be changed to the following:

1. Laurent Farinelli
2. Pascal Mayer
3. Eric H. Kawashima

In addition, the Office acknowledges receipt of the $130 petition fee; an amendment in response to the January 24, 2001 non-final Office Action along with a request for a 3-month extension of time and the requisite fee; the $414 for claims in excess of 20; the $252 for independent claims in excess of 3; a Supplemental Information Disclosure Statement and the accompanying $180 filing fee; and $40 for recording an assignment.

The file is being forwarded to Technology Center 1600 for entry of the correction in the USPTO records,[1] and for review of the amendment.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

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[1] MPEP sections 605.04(f), (g) (Aug. 2001).

14 JUN 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

PENNIE & EDMONDS
1155 Avenue of the Americas
New York, New York 10036-2711

In re Application of
WATANABE, Itsuo, et al.
U.S. Application No.: 09/402,274
PCT No.: PCT/JP98/01467
International Filing Date: 31 March 1998
Priority Date: 31 March 1997
Attorney's Docket No.: 7426-0067
For: CIRCUIT-CONNECTING MATERIAL AND CIRCUIT TERMINAL CONNECTED STRUCTURE AND CONNECTING METHOD

DECISION

This decision is issued in response to the "Response To Notification Of A Defective Response" filed on 18 January 2000. No petition fee is required.

BACKGROUND

On 31 March 1998, applicants filed international application PCT/JP98/01467 which claimed a priority date of 31 March 1997 and which designated the United States. On 08 October 1998, a copy of the international application was forwarded to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

On 30 October 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the IB) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 30 September 1999.

On 30 September 1999, applicants filed a transmittal letter for entry into the national stage in the United States which indicates that it was accompanied by, among other materials, an English translation of the international application and an unexecuted declaration. The transmittal letter noted that the international application had already been transmitted by the IB, and it contained an authorization to charge Deposit Account No. 16-1150 $1,116 ($840 as the basic national fee, $198 for extra total claims, $78 for extra independent claims).

On 03 December 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 a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notifications also informed applicants that the failure to submit these materials within one month of the date of the Notifications would result in abandonment of the application.

On 16 December 1999, applicants filed a "Response To Notification Of Missing Requirements" accompanied by an executed declaration and the authorization to charge Deposit Account 16-1150 the required $130 surcharge.

On 30 December 1999 , the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) indicating that the declaration filed on 16 December 1999 was defective. Specifically, the Notifications stated that:

> The spelling of the fifth inventor's first name on the declaration "ATSUSHI" does not correspond with the first name "ATSUSI" on the international application.

Again, the Notifications informed applicants that the failure to submit a proper response within one month of the date of the Notifications would result in abandonment of the application.

On 18 January 2000, applicants submitted the "Response To Notification Of A Defective Response" considered herein. In this Response, applicants assert that the fifth inventor's correct name is Atsushi, as set forth in the declaration, and that the spelling in the international application was incorrect.

DISCUSSION

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference between inventor Atsushi KUWANO's name in the present declaration and in the published international application is accepted and noted for the record.

CONCLUSION

In light of the acceptance of Atsushi KUWANO as the correct name for the inventor identified in the international application as Atsusi KUWANO, the declaration originally filed on 16 December 1999 is no longer defective. Accordingly, this application has an international filing date of 31 March 1998 under 35 U.S.C. 363 and a date of 16 December 1999 under 35 U.S.C. 102(e) and 371(c).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision, including the issuance of a Notification Of Acceptance (Form PCT/DO/EO/903).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/LS:rmr

02 MAR 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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Legal Office

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Washington, D.C. 20231

Steven F. Weinstock
ABBOTT LABORATORIES
CHAD 377/AP6D
100 Abbott Park Road
Abbott Park, IL 60064-6050

In re Application of
TEDDER, Richard *et al*
U.S. Application No.: 09/402,282
PCT No.: PCT/GB97/01161
Int. Filing Date: 25 April 1997
Priority Date: 25 April 1996
Attorney Docket No.: 6508.US.01
For: HEPATITIS B MONOCLONAL ANTIBODIES

DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 October 1999 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the 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" as required by 37 CFR 1.137(b)(3). The appropriate basic national fee, additional claim fees, petition fee and surcharge required by 37 CFR 1.492(e) has been charged to Deposit Account No. 01-0025 as authorized. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The application is being forwarded to the United States Designated/Elected Office for further processing including mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) for failing to provide an oath or declaration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
Petitions Attorney
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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Steven F. Weinstock
Abbott Laboratories
100 Abbott Park Road
D 377 AP6D
Abbott Park, IL 60064-6050

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AUG 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Richard S. Tedder, et al.	:	
Application No. 09/402,282	:	ON PETITION
Filed: April 24, 2000	:	
Attorney Docket No. 6508.US.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 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 referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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D 377 AP6D
ABBOTT PARK IL 60064-6050

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OFFICE OF PETITIONS

In re Application of :
Tedder et al. :
Application No. 09/402,282 :
Filed: April 24, 2000 :
Title: Hepatitis B Monoclonal Antibodies

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of December 8, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 9, 2006. A Notice of Abandonment was mailed on August 17, 2006.

This petition is hereby **Granted**.

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.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or

authorization of agent must be submitted.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Lisa V. Mueller
Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60662-2511

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THOMSON LICENSING, LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of	:	
HAILEY, et al.	:	
Application No. 09/402,517	:	DECISION ON PETITION
Filed: October 5, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **RCA88469**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This 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 July 24, 2006, and no 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 1.197(b). As no claim was allowed, the application became abandoned on September 25, 2006. *See* MPEP 1215.04.

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/appeal fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2623 for consideration of the appeal brief filed July 6, 2007.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PO BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Keith Reynolds Wehmeyer, et al. :
Application No. 09/402,524 : ON PETITION
Filed: October 5, 1999 :
Attorney Docket No. RCA 88321 :

This is a decision on the petition, filed January 27, 2005, 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 May 24, 2004. A Notice of Abandonment was mailed on December 17, 2004.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, 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 2611 for consideration of the amendment filed January 27, 2005.

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

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OFFICE OF PETITIONS

JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PO BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543

In re Application of	:	
Keith R. Wehmeyer, et al.	:	
Application No. 09/402,524	:	ON PETITION
Filed: October 5, 1999	:	
Attorney Docket No. RCA 88321	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 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 July 13, 2005. 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 2623, for further processing of the request for continued examination under 37 CFR 1.114 filed August 14, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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PRINCETON, NJ 08543

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SEP 15 2008
OFFICE OF PETITIONS

In re Application of	:	
WEHMEYER, et al.	:	
Application No. 09/402,524	:	DECISION GRANTING PETITION
Filed: October 5, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RCA 88321	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 11, 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 July 30, 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 2623 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

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

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PO BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543

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OFFICE OF PETITIONS

In re Application of :
Keith R. **REYNOLDS, et al.** :
Application No. 09/402,524 :
Filed: October 5, 1999 :
Attorney Docket No. **RCA 88321** :

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

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**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until February 24, 2009. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and therefor will be refunded to petitioner's deposit account.

The Information Disclosure Statement has been made of record 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 (571) 272-7253.

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

#3

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 28 2000

Irving N. Feit
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

In re Application of	:	
HOUTHOFF et al	:	
Application No.: 09/402,707	:	DECISION ON
PCT No.: PCT/NL97/00559	:	
Int. Filing Date: 8 October 1997	:	PETITION UNDER
Priority Date: 8 October 1996	:	
Attorney's Docket No.:570-28	:	37 CFR 1.137(b)
For: Methods for Labeling Nucleotides, Labeled Nucleotides and Useful Intermediates	:	

This is in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR § 1.137(b)" filed on 08 October 1999.

BACKGROUND

On 8 October 1997, this international application was filed, claiming an earliest priority date of 8 October 1996.

On 23 February 1998, a Demand electing the United States was filed in this international application. Accordingly, the deadline for entering the national stage in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 April 1999. This international application became abandoned with respect to the United States at midnight on 08 April 1999 for failure to enter the national stage.

On 08 October 1999, applicant filed the instant petition, which was accompanied by, *inter alia*, the transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, the U.S. basic national fee, the petition fee under 37 CFR 1.17(m), the signed declaration, the specification, the statement claiming small entity status, the assignment of invention, the recordation sheet, and the copy of the international application.

DISCUSSION

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. 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 § 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 © of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m), and (3) the statement required by 37 CFR 1.137(b)(3). In this application, no terminal disclaimer is required. Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and (4) under 37 CFR 1.137(b).

Further, a review of the application file reveals that, with the filings of the present papers, the application satisfied the requirements for entry into the national stage under 35 USC 371.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 102(e) and 35 USC 371 date of this application is **08 October 1999**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (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. 14

SEIDEL GONDA LAVORGNA & MONACO
TWO PENN CENTER PLAZA, SUITE 1800
PHILADELPHIA, PA 19102

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JUN 19 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ON PETITION

In re Application of :
Alvin H. Schmaier et al :
Application No. 09/402,732 :
Filed: December 1, 1999 :
Attorney Docket No. 8820-3 :

This is a decision on the petition, filed June 19, 2001, 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.

Petitioner is advised that the issue fee paid on September 29, 2000 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request, in writing, that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 1653 for appropriate action on the amendment and IDS received June 19, 2001.

Frances Hicks

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
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Alexandria, VA 22313-1450
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RATNER & PRESTIA
ONE WESTLAKES BERWYN
P.O. BOX 980 SUITE 301
VALLEY FORGE PA 19482-0980

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Takuya Nishimura et al	:	
Application No. 09/403,071	:	ON PETITION
Filed: January 13, 2000	:	
Attorney Docket No. MTS-V03176	:	

This is a decision on the petition, filed August 5, 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 December 30, 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2134 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUN 13 2000

Brian Siritzky
PILLSBURY MADISON & SUTRO
1100 New York Avenue NW
Ninth Floor
Washington, D.C. 20005-3000

In re Application of	:	
KETURI, Joonas	:	
U.S. Application No.: 09/403,095	:	
PCT No.: PCT/FI98/00333	:	DECISION
Int. Filing Date: 15 April 1998	:	
Priority Date: 16 April 1997	:	
Attorney's Docket No.: PM 264827	:	
For: DATA SERVICE IN A MOBILE	:	

This decision is in response to applicant's "Petition under 37 CFR 1.182" filed 12 April 2000 requesting to change the name of the inventor. The $130.00 petition fee has been paid.

BACKGROUND

On 15 April 1998, applicant filed international application PCT/FI98/00333 claiming priority to a Finish patent application filed 16 April 1997. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 22 October 1998.

On 13 November 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.*, 18 October 1999 (16 October 1999 was a Saturday).

On 15 October 1999, applicant 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*, a preliminary amendment; an English translation; and a check to pay the basic national fee.

On 13 December 1999, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 to applicants indicating

that the oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge for providing the declaration later than thirty months from the earliest claimed priority date was required. Applicants were given one-month to respond.

On 13 January 2000, applicant submitted a declaration and surcharge fee. The declaration listed the inventors as Joonas Keturi, instead of the name listed on the international publication, Joonas Tuominen.

On 09 February 2000, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) and Notification of Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration submitted on was not in compliance with 37 CFR 1.497(a) and (b). Specifically, the inventor's last name on the declaration was different than listed on the international publication.

On 12 April 2000, applicant filed the instant petition which was accompanied by an affidavit of the inventor, the required petition fee and a certified document from the Population Information Center in Finland with accompanying translation.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedure lists the procedures required to change the name of an inventor and states, in part:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Here, applicants have submitted an affidavit signed with both names of the inventor, *i.e.* Joonas Tuominen and Joonas Keturi, setting forth the procedure whereby the change of name was effected. In addition, applicant has submitted a certified copy of the "Extract From the Population Information Center" listing the name change of the inventor and accompanying translation.

Accordingly, applicant has satisfied the requirement needed to change the name of the inventor to Joonas Keturi. The declaration submitted 13 January 2000 is now in compliance with 37 CFR 1.497(a).

The appropriate three-month extension fee of $870.00 has been paid partially by check and the remainder charged to Deposit Account no. 03-3975 as authorized.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **APPROVED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 15 April 1998, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c) date of **13 January 2000**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
Petitions Attorney
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Joonas **KETURI**	:	
Application No. 09/403,095	:	DECISION GRANTING PETITION
Filed: January 13, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PM264827	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 2007, 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 18, 2007 ***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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

JUL 12 2000

VIDAS, ARRETT & STEINKRAUS
Suite 2000
6109 Blue Circle Drive
Minnetonka, MN 55343-9131

In re Application of
ECKERMANN, Jens, et al.
U.S. Application No.: 09/403,131
PCT No.: PCT/EP98/02097
International Filing Date: 09 April 1998
Priority Date: 16 April 1997
Attorney's Docket No.: H01.2-8601
For: A METHOD OF PACKING CONTAINERS IN TRANSPORT BOXES

DECISION

This decision is issued in response to the "Response To Notification Of Defective Oath Or Declaration" filed on 15 March 2000.

BACKGROUND

On 09 April 1998, applicants filed international application PCT/EP98/02097 which claimed a priority date of 16 April 1997 and which designated the United States. On 22 October 1998, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 16 November 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the IB) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 18 October 1999 (16 October 1999 was a Saturday).

On 14 October 1999, applicants filed a transmittal letter for entry into the national stage in the United States which indicates that it was accompanied by, among other materials: (1) an English translation of the international application, and (2) a check in the amount of $930 for the basic national fee. The transmittal letter noted that the international application had already been transmitted by the IB.

On 29 November 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 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 15 February 2000, applicants filed a "Response To Notice Of Missing Parts" which included an executed declaration and a check for the $130 surcharge for filing the declaration after the 30 month deadline.

On 28 February 2000, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration submitted was defective because the names set forth for two of the inventors were not identical to the names contained in the published international application. The Notifications also informed applicants that the failure to submit a proper response within one month of the date of the Notification would result in abandonment of the application.

On 15 March 2000, applicants submitted the "Response To Notification Of Defective Oath Or Declaration" considered herein.

DISCUSSION

Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the given name of the second inventor is listed in the published international application as "Lubbertus," while the given name for this inventor listed in the declaration and stated to be the correct name is "Lambert." This is clearly more than a mere typographical error or a phonetic misspelling of the applicant's given name. Accordingly, before the declaration identifying this inventor by the name Lambert may be accepted, applicants must make a petition under 37 CFR 1.182. For such a petition to be grantable, it must be accompanied by the requisite petition fee of $130 as well as statements from the inventor and any other persons having firsthand knowledge of the error which resulted in the name "Lubbertus" being listed on the international application. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also state that the mistake was an

inadvertent error without deceptive intent, or, in the case where applicant has changed his name, the statement must be signed with both names and must set forth the procedure whereby the change of name was effected. Here, applicants have submitted copies of a Power of Attorney submitted to the European Patent Office ("EP") in which inventor Brinks' given name is corrected from Lubbertus to Lambert by a handwritten, uninitialed notation, as well as a copy of a letter to the EP stating that Lambert is the correct given name for this inventor. The required statements and petition fee have not been submitted.

In addition, there is a handwritten, uninitialed correction to the name of the third inventor on the submitted declaration. This correction changes the given name of the third inventor from Bernhard to Bernard. This discrepancy could be the result of a simple typographical error which would not require a petition to correct; however, applicants must inform the Office if this is the case and which version of this inventor's given name is correct. A new declaration must also be submitted in which this handwritten correction has been initialed.

Based on the above, the declaration filed on 15 February 2000 remains defective.

CONCLUSION

Applicants' Response To Notification Of Defective Oath Or Declaration is **DISMISSED** without prejudice. As a result, the declaration of inventors submitted by applicants on 15 February 2000 remains defective.

Applicants' must file a proper response within **TWO (2) MONTHS** from the mail date of this decision. Any such response should include a cover letter entitled "Petition Under 37 CFR 1.182" and it must include an acceptable explanation of the facts in the form discussed above and be accompanied by the appropriate petition fee. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. 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, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/RC:rmr

10 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Richard A. Arrett
Vidas, Arrett & Steinkraus
6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185

In re Application of ECKERMANN, et al. U.S. Application No.: 09/403,131 PCT No.: PCT/EP98/02097 Int. Filing Date: 09 April 1998 Priority Date: 16 April 1997 Attorney's Docket No.: H01.2-8601 For: A METHOD OF PACKING CONTAINERS IN TRANSPORT BOXES	DECISION ON PETITIONS UNDER 37 CFR 1.182 AND 37 CFR 1.137(b)

This decision is in response to applicant's "Petition to Revive Unintentionally Abandoned Patent Application Pursuant to 37 CFR § 1.137(b)" and "Petition Under 37 CFR § 1.182 to Accept Supplemental Declaration" filed 19 March 2002 in the United States Patent and Trademark Office (USPTO). The petition fees of $1280.00 and $130.00 respectively have been provided.

BACKGROUND

On 12 July 2000, applicant was mailed a decision advising applicant of the need to file a petition under 37 CFR 1.182 as a result of discrepancies between inventor's names as they appeared in the published international application and their listing in the filed declaration. Applicant was afforded two months and advised that this period for reply was extendable pursuant to 37 CFR 1.136(a).

On 02 July 2002, applicant was mailed a "Notification of Abandonment" for failure to timely reply to the decision mailed 12 July 2000.

On 19 March 2002, applicant filed the present petitions.

DISCUSSION

I. Petition Under 37 CFR 1.182

Accompanying the present and enclosed declaration applicant has included signed statements from inventors Lambert BRINKS and Bernard SKOLIK that the discrepancies detailed in the decision mailed 12 July 2000 were the results of inadvertent errors and made without any deceptive intent. Applicant has thus provided sufficient explanation and thus applicant's petition

under 37 CFR 1.182 can be granted at this time.

II. Petition Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required 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 until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to item (1), the required reply is a grantable petition under 37 CFR 1.182 and compliant oath or declaration of the inventors. As detailed above, applicant has provided a proper reply. It is noted with applicant's current explanations, the declaration filed 15 February 2000 is compliant. As noted above, the present application became abandoned for failure to timely respond to the decision mailed 12 July 2000.

As to item (2), applicant has provided a check for $1280.00 covering payment of the petition fee.

With regard to item (3), applicant's statement that, "the entire delay in filing the required reply to the Decision of July 12, 2000 from the due date of the reply until the filing of this Petition was unintentional" satisfies item (3).

As to item (4), applicant is advised that while applicant has filed a terminal disclaimer no terminal disclaimer is required for the purposes of the present petition as this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's "Petition Under 37 CFR § 1.182 to Accept Supplemental Declaration" is **GRANTED**.

Applicant's "Petition to Revive Unintentionally Abandoned Patent Application Pursuant to 37 CFR § 1.137(b)" is **GRANTED**.

This application will be given an international application filing date of 09 April 1998 and

a date of **15 February 2000** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).

Leonard Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of :
Peter Rudloff :
Application No. 09/403,174 : DECISION ON PETITION
Filed: October 18, 1999 :
Attorney Docket No. 016072-000600US :

This is a decision on the petition filed February 16, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment and a petition under 37 CFR 1.137(b) to revive the above-identified application.

On September 2, 2004, the Office mailed a Notification of Non-Compliance with 37 CFR 1.192(c), stating that the appeal brief filed on June 18, 2004, was defective for failure to comply with 37 CFR 1.192(c)(5). The Notification indicated that the brief did not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters. Furthermore, to avoid dismissal of the appeal, petitioner was required to file a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of three time periods: (1) one month or thirty days from the mailing date of the Notification; (2) two months from the date of the notice of appeal; or (3) within the period for reply to the action from which the appeal was taken. Extensions of these time periods were permitted under 37 CFR 1.136. On September 20, 2005, the Office mailed a Notice of Abandonment.

In the petition, petitioner requested that the Office withdraw the Notification of Non-Compliance because 37 CFR 1.192(c)(5), requiring a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters, was not in effect when the Appeal Brief was filed. Therefore, petitioner asserted that the Appeal Brief was properly filed and reproduced the Appeal Brief for the examiner's convenience.

The Office notes that § 1.192(c)(5) as it reads above was in effect at the time petitioner filed the Appeal Brief. *See MPEP Eighth Edition, Revision 2 (May 2004).* The Notification of Non-Compliance with 37 CFR 1.192(c) was correct and properly mailed, and therefore, will not be withdrawn.

The petition under 37 CFR 1.181 is dismissed.

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

(1) The reply required to the outstanding Office action or notice, 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The present petition does not satisfy requirement (1) above.

The record reveals that petitioner did not submit an appropriate response to the outstanding Office communication previously or with the present petition. Accordingly, the petition under 37 CFR 1.137(b) is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request must include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)," as well as an appropriate reply. No additional petition fee is necessary.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew, LLP
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Eighth Floor
San Francisco, CA 94111-3834

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Peter Rudloff :
Application No. 09/403,174 : DECISION ON PETITION
Filed: October 18, 1999 :
Attorney Docket No. 016072-000600US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.[1]

The petition is **GRANTED**.

On September 2, 2004, the Office mailed a Notification of Non-Compliance with 37 CFR 1.192(c), stating that the appeal brief filed on June 18, 2004, was defective for failure to comply with 37 CFR 1.192(c)(5). The Notification indicated that the brief did not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters. Furthermore, to avoid dismissal of the appeal, petitioner was required to file a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of three time periods: (1) one month or thirty days from the mailing date of the Notification; (2) two months from the date of the notice of appeal; or (3) within the period for reply to the action from which the appeal was taken. Extensions of these time periods were permitted under 37 CFR 1.136. On September 20, 2005, the Office mailed a Notice of Abandonment. On February 16, 2006, petitioner filed a petition under 37 CFR 1.181 and 1.137(b), which was dismissed by the decision of October 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form an appeal brief on December 13, 2006; (2) the petition fee; and (3) a proper statement of unintentional delay.

[1] The decision dismissing the original petition under 37 CFR 1.181 and 1.137(b) set a two-month extendable period from the mailing date of October 16, 2006, to file a request for reconsideration. As the present renewed petition was filed in the extendable period, it is necessary to charge the Deposit Account in the amount of $1,590.00 for an extension of time for response within the fourth month.

This matter is being forwarded to Technology Center AU 2876.

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
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APR 26 2000

Martin B. Pavane
COHEN, PONTANI, LIEBERMAN &
PAVANE
551 Fifth Avenue, Suite 1210
New York, New York 10176

In re Application of MULLER, Paul A. (deceased) Application No.: 09/403,329 PCT No.: PCT/FR98/00785 Int. Filing Date: 17 April 1998 Priority Date: 18 April 1997 Attorney's Docket No.: 33900-56PUS For: A METHOD AND DEVICE FOR MAKING A CONTAINER PROVIDED WITH A LABEL	DECISION ON PAPERS UNDER 37 CFR 1.42 AND 1.44

This is a decision on the papers filed 27 December 1999 under 37 CFR 1.42 and 1.44.

BACKGROUND

On 17 April 1998, applicant filed international application PCT/FR98/00785, which claimed a priority date of 18 April 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 October 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 November 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 18 October 1999.

On 15 October 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 02 December 1999, the Patent and Trademark Office (PTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a one-month extendable time period for reply.

On 27 December 1999, applicant submitted the present RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US). The RESPONSE was accompanied by, *inter alia*: the requisite fee for the surcharge; a Declaration executed by Colette Potier-Muller as the heir of Paul A. Muller; and a Certificate and an English translation of the Certificate stating that Colette Mueller is the sole heir of Paul Mueller.

DISCUSSION

37 CFR 1.42 states in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> One who has reason to believe that he or she will be appointed legal representative of a deceased inventor may apply for a patent as legal representative in accordance with 37 CFR 1.42. Proof of the applicant's authority as legal representative may be filed after the filing date of the application....
>
> Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and if accompanied by a certificate from the court that they are all the heirs and that the estate was under the sum required by state law for the appointment of an administrator.
>
> If the court papers are in a language other than English, an English translation of such papers is required. The translation need not be sworn or affirmed.
>
> If a court certificate is not available, then a legal memorandum prepared and signed by an attorney at law familiar with the law of the jurisdiction involved may be submitted to demonstrate that the persons signing the declaration on behalf of the deceased inventor are all the heirs of the deceased inventor and are authorized to act on behalf of the deceased inventor. A copy (in the English language) of any statute or any court decision relied upon should be made of record.

The declaration states that Ms. Potier-Muller is "the heir of" Paul A. Muller. However, it is not clear that Ms. Potier Muller is the sole heir. The English translation of the Certificate states that "Colette Mueller" is the sole heir of "Paul Mueller". However, the difference in the names themselves (Colette Potier-Muller in the Declaration versus Colette Mueller in the Certificate) and the spelling of the names (Muller in the Declaration versus Mueller in the Certificate) have not been explained. Also, the address of Paul Muller is entirely different in the declaration than in the Certificate and the address of Colette Potier-Muller is slightly different. These differences have not been explained either. Further, the RESPONSE states that the Certificate is "from the Court of Monaco". However, there are several indications that the Certificate is from Liechtenstein: the header states "FL-9490 Vaduz" (Vaduz is the capital of Liechtenstein); "Vaduz" appears next to the date

"20.10.1999" in the middle of the page; the red stamp appearing on both the Certificate and the translation states "Liechtenstein"; and the Apostille states "Liechtenstein". It is not clear why the Certificate would be from a court in Liechtenstein.

The declaration does not state that Ms. Potier-Muller is the legal representative of the deceased. Applicant has also not provided any indication that a legal representative, other than Ms. Potier-Muller, was not appointed.

In addition, the declaration does not include the citizenship of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3). The declaration filed 27 December 1999 states that Ms. Potier-Muller is a citizen of Switzerland and a resident of Monaco. The declaration also states that Mr. Muller was a resident of Monaco but is silent regarding his citizenship.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED** without prejudice.

For the above reasons, the proof of authority under 37 CFR 1.44 is **NOT ACCEPTED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

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In re Application of MULLER, Paul A. (deceased) Application No.: 09/403,329 PCT No.: PCT/FR98/00785 Int. Filing Date: 17 April 1998 Priority Date: 18 April 1997 Attorney's Docket No.: 33900-56PUS For: A METHOD AND DEVICE FOR MAKING A CONTAINER PROVIDED WITH A LABEL	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42 AND 1.44" filed 26 October 2000.

BACKGROUND

On 17 April 1998, applicant filed international application PCT/FR98/00785, which claimed a priority date of 18 April 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 October 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 November 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 18 October 1999.

On 15 October 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 02 December 1999, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) were required. The NOTIFICATION set a one-month extendable time period for reply.

On 27 December 1999, applicant submitted a RESPONSE TO NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US). The RESPONSE was accompanied by, *inter alia*: the requisite fee for the surcharge; a Declaration executed by Colette Potier-Muller as the heir of Paul A. Muller; and a Certificate and an English translation of the Certificate stating that Colette Mueller is the sole heir of Paul Mueller.

On 26 April 2000, the USPTO mailed a decision dismissing the request for status under 37 CFR 1.42 and not accepting the proof of authority under 37 CFR 1.44. Specifically, it was noted that the declaration did not state that Ms. Potier-Muller is the sole heir of Paul A. Muller or that she is the legal representative of the deceased. Other issues, such as different names being provided for Ms. Potier-Muller (e.g., Ms. Mueller and Ms. Potier-Muller) and different spellings of names (e.g., Mueller rather than Muller) were also noted.

On 26 October 2000, applicants submitted the instant "RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42 AND 1.44" accompanied by, *inter alia*, a declaration of inventor signed by Colette POTIER-MULLER as "Sole Heir and Legal Representative" of Paul A. MULLER.

DISCUSSION

The above application and papers have been reviewed and have been found in compliance with 37 CFR 1.42.

Papers have also been filed under 37 CFR 1.44 to satisfy the proof of authority. However, these papers are moot. The proof requirement under 37 CFR 1.44 was deleted as to all pending papers under 37 CFR 1.42 that had not had the proof requirement satisfied as of 08 September 2000. 54604 **Federal Register**, Vol. 65, No. 175, Friday, September 8, 2000, 54618.

It is noted that while the other issues noted in the decision mailed by the USPTO on 26 April 2000 have been addressed in the submission filed by applicants on 26 October 2000, these issues are moot in view of the new declaration submitted 26 October 2000 and the deletion of the requirement for proof of authority.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**

The papers filed under 37 CFR 1.44 are **MOOT**.

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 the letter marked to the attention of the PCT Legal Office.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing including according the application 35 U.S.C. 371(c) date of **26 October 2000**.

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