JUN 2 8 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID E. BRUHN
DORSEY & WHITNEY,LLP
PILLSBURY CENTER SOUTH
220 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

In re Application of	:	
PETER et al.	:	
Application No.: 09/403,443	:	
PCT No.: PCT/CH98/00157	:	
Int. Filing Date: 22 April 1998	:	
Priority Date: 23 April 1997	:	DECISION ON RECONSTRUCTION
Atty. Docket No.: 6599	:	OF APPLICATION FILE and
For: PROPELLING DEVICE FOR A	:	PETITION UNDER 37 CFR 1.181
PISTON IN A CONTAINER	:	
CONTAINING A LIQUID	:	
MEDICAMENT	:	

This is a decision in response to the applicants' "Resubmission of Previously Filed Petition under 37 CFR 1.181 for Reconstruction of File and Examination Thereof" for papers originally filed by applicants on 22 October 1999 and resubmitted on 13 December 2000 and 07 March 2001. For the reasons set forth below, the petition is being treated as a petition under 37 CFR 1.181 to accept the declaration as filed on 13 December 2000.

BACKGROUND

On 22 April 1998, applicants filed international application No. PCT/CH98/00157 which claimed priority of an earlier German application filed 23 April 1997. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 October 1998.

On 29 October 1998, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority

date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 October 1999.

On 22 October 1999, applicants filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and an English translation of the international application. Although applicants did not file the executed declaration at this time, the $130 surcharge for filing the declaration after the thirty month period was paid. The national stage papers were tentatively assigned application no. 09/403,431 and applicants' date-stamped itemized postcard was returned to applicants identifying the application no. as 09/403,431. The application papers have since been reassigned the official application no. 09/403,443.

On 13 December 2000, applicants filed a "Petition Under 37 CFR 1.181 for Reconstruction of File and Examination thereof" and an executed declaration, dispatched by Express Mail under 37 CFR 1.10. However, this communication is not found in either the present application file or the application file of 09/403,431.

On 07 March 2001, applicants filed a "Resubmission of Previously Filed Petition Under 37 CFR 1.181 for Reconstruction of File and Examination thereof". The resubmission is accompanied by:

(1) a copy of "Petition under 37 CFR 1.181 for Reconstruction of File and Examination Thereof", an executed Declaration; a copy of the Customer Copy of the Express Mail label (EL501538364US); and a copy of the itemized returned postcard receipt date-stamped by the USPTO 13 December 2000;

(2) a copy of a Transmittal Letter Concerning a Filing under 35 U.S.C. § 371 (Form PTO-1390); a copy of the Customer Copy of the Express Mail label (EL115447733US); Certificate of Mailing by Express Mail bearing the same number; a copy of the Preliminary Amendment; a copy of check #807890 in the amount of $970, payable to the Commissioner of Patents and Trademarks; itemized post card receipt date stamped 22 October 1999 by the USPTO;

Counsel asserts that the above-mentioned papers are a true and correct copy of the application as filed on 22 October 1999 and requests that these copies be used to reconstruct the application file.

On 23 May 2001, 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(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required. The notification set a one month time limit in which to respond.

DISCUSSION

A review of USPTO records reveals that applicants' original papers were received on 22 October 1999 and were assigned application no. 09/403,443 and are found in that file. Therefore, applicants' "Petition under 37 CFR 1.181 for Reconstruction of File and Examination Thereof" is considered moot. However, it is being treated as a petition under 37 CFR 1.181 to accept a copy of the declaration as filed on 13 December 2000.

As noted above, the original declaration filed on 13 December 2000 was not found upon review of the file for U.S. application nos. 09/403,443 or 09/403,431. Applicants provided a true copy of the executed declaration, along with the following evidence: (1) an itemized post card receipt date-stamped by the USPTO 13 December 2000 and (2) customer copy of the Express Mail label #EL501538364US bearing a "Date-In" of 13 December 2000; and (3) the Certificate of Express Mailing on the "Petition Under 37 CFR 1.181 for Reconstruction of File and Examination thereof" which indicated that the executed declaration was enclosed.

Applicants provided acceptable evidence with the production of the true copy of the executed declaration and post card receipt date stamped by the United States Patent and Trademark Office (USPTO) for 13 December 2000 that the USPTO received the declaration on 13 December 2000. Accordingly, the declaration is accepted as filed on 13 December 2000. It is noted that the declaration executes 09/403,431, the application number which appeared on applicants' 22 October 1999 date-stamped itemized postcard receipt and which since has been changed to 09/403,443. The declaration is acceptable in fulfilling the requirements of 35 U.S.C. 371(c).

In light of the filing of the declaration on 13 December 2000 and payment of the surcharge for filing the declaration after the thirty month period on 22 October 1999, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed on 23 May 2001 is hereby **VACATED**. However, a review of the English translation of the international application indicates that drawing sheet 1/13 (Figures 2 & 3) contains German language. This drawing sheet must be translated before the application can be accepted under 35 U.S.C. 371(c).

CONCLUSION

Applicants' "Petition under 37 CFR 1.181 for Reconstruction of File and Examination Thereof" is considered moot. The petition under 37 CFR 1.181 to accept a copy of the declaration as filed on 13 December 2000 is **GRANTED**.

Applicants are advised to reference application no. **09/403,443** in all future communications regarding this application.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed on 23 May 2001 is hereby **VACATED**. The declaration is accepted as filed on 13 December 2000.

A new Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) will be issued indicating that a translation of drawing sheet 1/13 is required.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/BM:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

23 MAY 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

D. Bruce Prout
CHRISTIE, PARKER and HALE
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of DANZIGER, et al. U.S. Application No. 09/403,472 PCT No.: PCT/IL98/00204 Int. Filing Date: 29 April 1998 Priority Date: 01 May 1997 For: OPTICAL RESONATORS WITH DISCOUNTINOUS PHASE ELEMENTS	:	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's "PETITION FILED UNDER 37 CFR 1.47(a)" filed 08 February 2000 to accept the application without the signature of joint inventor, Yochay Danziger. The required petition fee of $130.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 29 April 1998, applicant filed international application PCT/IL98/00204 which claimed a priority date of 01 May 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 12 November 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 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 at midnight on 01 November 1999.

On 22 October 1999, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; a preliminary amendment; and an unexecuted declaration and power of attorney.

On 10 December 1999, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

In order to satisfy the requirements of 35 U.S.C. 371(c)(4), applicants filed on 08 February 2000 the following papers:

1) a second transmittal letter;

2) a petition under 37 CFR 1.47(a) and required fee;

3) a declaration and power of attorney executed by joint inventors, Asher A. Friesem and Ram Orson on their own behalf and behalf of the non-signing joint inventor, Yochay Danziger;

4) a declaration claiming small entity status;

4) a declaration pursuant to PCT Rule 4.15; and

5) a petition and fee for a one-month extension of time.

DISCUSSION

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 behalf of the non-signing joint inventor. Items (1) and (4) have been satisfied.

Concerning item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part, "before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application paper (specification, including claims, drawings, and oath and declaration) to the non-signing inventor for signature." A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Yochay Danziger. Additionally, petitioner has provided a "Declaration Pursuant to PCT Rule 4.15" dated 28 September 1998 (Exhibit A), which is a statement, at best, that Yochay Danziger refused to sign the international application. No clear proof of the refusal of Mr. Danziger to execute the declaration and application papers for entry into the national stage in the United States has been provided.

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Yochay Danziger and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, a clear statement of the last known address of the non-signing inventor must be provided. See M.P.E.P. 409.03(e).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Extension 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 to the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

07 NOV 2000

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

D. Bruce Prout
CHRISTIE, PARKER and HALE
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
DANZIGER, et al.	:	
U.S. Application No. 09/403,472	:	DECISION ON PETITION
PCT No.: PCT/IL98/00204	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 29 April 1998	:	
Priority Date: 01 May 1997	:	
For: OPTICAL RESONATORS WITH	:	
DISCONTINUOUS PHASE ELEMENTS	:	

This decision is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 23 August 2000. In a decision dated 23 May 2000, the "PETITION UNDER 37 CFR 1.47(a)" filed 08 February 2000 was dismissed because applicant did not provide adequate proof that the inventor, Yachay Danziger, refused to execute the application or could not be reached after diligent effort and applicant did not provide a statement of the last known address of the non-signing inventor.

DISCUSSION

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 behalf of the non-signing joint inventor. The 23 May 2000 decision indicated that petitioner has satisfied items (1) and (4) above. Item (3) is now been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition does not include sufficient factual proof that Mr. Dazinger has refused to join the present application. As stated in the declaration of Galet Gamliel, "[o]n July 12, 2000 I deposited, postage prepaid, in the official Israeli postal system, the enclosed July 12, 2000 covering letter, Declaration and Power of Attorney for Patent Applications and a copy of the U.S. application filed under no. 09/403,472..." However, the declaration does not include proof that the papers mailed on July 12, 2000 were received by Mr. Danziger.

Regarding item (3) above, applicant has provided a clear statement of the last known address of the non-signing inventor.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extension 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 to the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

FEB 0 9 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

D. Bruce Prout
CHRISTIE, PARKER and HALE
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
DANZIGER, et al.	:	
U.S. Application No. 09/403,472	:	DECISION ON PETITION
PCT No.: PCT/IL98/00204	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 29 April 1998	:	
Priority Date: 01 May 1997	:	
For: OPTICAL RESONATORS WITH	:	
DISCONTINUOUS PHASE ELEMENTS	:	

This decision is in response to applicant's "Renewed Petition Under Rule 47(a)" filed 05 January 2001. In a decision dated 07 November 2000, applicant's petition under 37 CFR 1.47(b) to accept the application without the signature of inventor, Mr. Yochay Danziger, was dismissed.

The petition for status under 37 CFR 1.47(b) is moot since the declaration filed 05 January 2001 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Mr.Yochay Danziger. The declaration filed 05 January 2001 is acceptable under 37 CFR 1.497.

CONCLUSION

For the reasons above, the renewed petition is **DISMISSED** as **MOOT**. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 29 April 1998 under 35 U.S.C. 363 and a date of **05 January 2001** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-indentified international application.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

01 AUG 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

Malcolm K. McGowan, Ph.D.
BURNS, DOANE, SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of	:
YIP et al.	:
Application No.: 09/403,608	:
PCT No.: PCT/AU98/00868	: DECISION ON PETITION
Int. Filing Date: 18 October 1998	:
Priority Date: 21October 1997	: UNDER 37 CFR 1.48(a)
Attorney Docket No.: 025265-155	:
For: COATED SUNGLASS LENS	:

This is in response to applicants' "PETITION TO CORRECT INVENTORSHIP PURSUANT TO 37 CFR 1.48(a)(1)" filed 27 April 2000. The required fee of $130 under 37 CFR 1.17(i) has been submitted.

BACKGROUND

On 18 October 1998, applicants filed international application No.PCT/AU98/00868 which claimed a priority date of 21 October 1997. The international application named Brandon Yip, Colin James Hall, Frank Samson, and Brian Douglas Adams as inventors. A copy of international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 April 1999. A Demand for international preliminary examination was filed on 23 March 1999, prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 21 April 2000.

On 25 October 1999, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage accompanied by, *inter alia*, the requisite basic national fee, a copy of the international application, and a first preliminary amendment.

On 14 December 1999, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 1.68.

On 14 February 2000, applicant filed "Transmittal Letter for Missing Parts of Application" accompanied by, inter alia: a petition for a one-month extension of time; oath and declaration surcharge under 37 CFR 1.492(e); and a declaration executed by Brandon Yip, Colin James Hall, Frank Samson, Brian Douglas Adams, and Randy Lee Gove.

On 28 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was defective because the fifth inventor (Randy Lee Gove) was not listed on the published international application.

On 27 April 2000, applicants filed a "Petition to Correct Inventorship Pursuant to 37 CFR 1.48(a)(1)," which was accompanied by a petition for a one-month extension of time and a declaration of Randy Lee Gove.

DISCUSSION

In the instant case, the international application named Brandon Yip, Colin James Hall, Frank Samson, and Brian Douglas Adams as inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a petition under 37 CFR 1.48(a) is required.

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).

Applicants have satisfied items (1), (2) and (3). In order to satisfy item (4), applicants are required to submit a written consent of assignee to the correction in inventorship in compliance

with 37 CFR 3.73(b), if the instant application has been assigned, or, in the alternative, a statement that the application has not been assigned.

CONCLUSION

For the reasons discussed above, applicants' petition 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. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a)." No additional petition fee is required.

A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b), if the instant application has been assigned, or, in the alternative, a statement that the application has not been assigned.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: (703) 308-6314
Fax.: (703) 308-6459

12 DEC 2000

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Malcolm K. McGowan, Ph.D.
BURNS, DOANE, SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
YIP et al.	:	
Application No.: 09/403,608	:	DECISION ON PETITION
PCT No.: PCT/AU98/00868	:	UNDER 37 CFR 1.48(a)
Int. Filing Date: 18 October 1998	:	
Priority Date: 21October 1997	:	
Attorney Docket No.: 025265-155	:	
For: COATED SUNGLASS LENS		

This is a decision on "Renewed Petition Under 37 CFR 1.48(a)" filed 02 October 2000 and "Status Letter" filed 27 October 2000 requesting the addition of fifth joint inventor, Randy Lee Gove. Applicants' previous decision was dismissed in a decision dated 01 August 2000 because applicants did not submit the written consent of the assignee.

On 02 October 2000, applicant filed the present petition.

Requirements of a Petition Under 37 CFR 1.48(a)

A petition under 37 CFR 1.48(a) 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 ($130.00) 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).

Requirements (1) through (3) were met with previously filed papers.

In regard to item (4) above, applicant has provided a "Consent of Assignee to Change in Inventorship Pursuant to 37 CFR 1.48(a)(4)" which states that "assignee Sola International Holdings, Ltd. hereby consents to amendments of the inventorship of the above-identified application by adding Randy Lee Gove as coinventor . . . ," however, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. See Manuel of Patent Examining Procedure (MPEP) §324 and the enclosed Statement under 37 CFR 3.73(b) (Form PTO/SB/96).

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSIONS

The renewed petition under 37 CFR 1.48(a) is **DISMISSED** without prejudice.

Applicant is given **TWO MONTH** from the mailing date of this decision to submit any desired request for reconsideration. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a)." No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

Enclosure: Form PTO/SB/96

PTO/SB/96 (6-98)
Approved for use through 09/30/2000. OMB 0651-0031
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner:_____

Application No./Patent No.:_____ Filed/Issue Date:_____

Entitled:_____

_____, a _____,
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

A. [ ] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From:_____ To:_____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From:_____ To:_____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From:_____ To:_____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8]

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

_____ Date

_____ Signature

_____ Typed or printed name

_____ Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

JUN 20 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Malcolm K. McGowan, Ph.D.
BURNS, DOANE, SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
YIP et al.	:	
Application No.: 09/403,608	:	DECISION ON REQUEST
PCT No.: PCT/AU98/00868	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 18 October 1998	:	
Priority Date: 21October 1997	:	
Attorney Docket No.: 025265-155	:	
For: COATED SUNGLASS LENS		

This is a decision on "Renewed Petition Under 37 CFR 1.48(a)," which is being treated as a request under 37 CFR 1.497(d) filed 12 March 2001 requesting the addition of fifth joint inventor, Randy Lee Gove. Applicants' previous petition was dismissed in a decision dated 12 December 2000 because applicants did not submit the written consent of the assignee.

On 12 March 2001, applicant filed the present petition.

DISCUSSION

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) 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 1.497(a);

(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).

Applicants' have satisfied items (1), (2) and (3).

In regard to item (4) above, applicants have provided a "Consent of Assignee to Change in Inventorship Pursuant to 37 CFR 1.48(a)(4)." However, the assignments provided does not establish ownership to the application as they fail to sufficiently identify the application. See 37 CFR 3.21, which states:

> An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the

> serial number, e.g., 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (e.g., PCT/US90/01234). If an assignment of a patent application filed under Section 1.53(b) is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application under Section 1.53(c) is executed before the provisional application is filed, it must identify the provisional application by name of each inventor and title of the invention so that there can be no mistake as to the provisional application intended.

The assignments do not identify this application and the dates of execution are either wrong or not included. Therefore, applicants have not satisfied Item 4.

CONCLUSION

The renewed request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is given **TWO MONTH** from the mailing date of this decision to submit any desired request for reconsideration. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)." No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

APR 0 2 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Malcolm K. McGowan, Ph.D.
BURNS, DOANE, SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
YIP et al.	:	
Application No.: 09/403,608	:	DECISION ON REQUEST
PCT No.: PCT/AU98/00868	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 18 October 1998	:	
Priority Date: 21October 1997	:	
Attorney Docket No.: 025265-155	:	
For: COATED SUNGLASS LENS		

This is a decision on "Second Renewed Petition Under 37 CFR 1.497(d)" filed 02 November 2001 requesting the addition of fifth joint inventor, Randy Lee Gove. Applicants' previous petition was dismissed in a decision dated 20 June 2001 because assignment provided did not sufficiently identify the application pursuant to 37 CFR 3.21.

On 02 November 2001, applicant filed the present petition.

DISCUSSION

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) 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 1.497(a);

(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).

Applicants' have satisfied items (1) through (3).

In regards to item(4) above, applicants have provided an assignment which sufficiently identifies the above identified application, however, a review of the "Consent of Assignee to Change in Inventorship Pursuant to 37 CFR 1.48(a)(4)" filed on 12 March 2001 reveals that the consent to add Randy Lee Gove is defective. The consent of assignee does not list the name or title of the individual signing on behalf of Sola International Holding Ltd. Therefore, applicants are requested to file an additional written consent of the

assignee that provides the name and title of the individual acting on behalf of the assignee.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

15 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Malcolm K. McGowan, Ph.D.
BURNS, DOANE, SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of YIP et al. Application No.: 09/403,608 PCT No.: PCT/AU98/00868 Int. Filing Date: 18 October 1998 Priority Date: 21October 1997 Attorney Docket No.: 025265-155 For: COATED SUNGLASS LENS	: : : : : : :	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Third Renewed Petition Under 37 CFR 1.497(d)" filed 05 June 2002 requesting the addition of fifth joint inventor, Randy Lee Gove. Applicants' previous petition was dismissed in a decision dated 02 April 2002 because the assignment provided did not list the name or title of the individual signing on behalf of Sola International Holding Ltd.

On 05 June 2002, applicant filed the present petition applicants have submitted a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b)..

DISCUSSION

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) 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 1.497(a);

(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).

Items (1) through (4) have been satisfied.

A review of the application reveals that the declaration of inventors, filed on 14 February 2000, is defective. Specifically, the declaration does not identify the country of citizenship of each inventor pursuant to 37 CFR 1.497(a)(3). Therefore, applicant has not

met the requirements for entry into the national stage under 35 U.S.C. 371. Accordingly, a new oath or declaration executed by Brandon Yip, Colin James Hall, Frank Samson, Brian Douglas Adams, and Randy Lee Gove must be filed in order to fulfill the declaration requirement under 35 U.S.C. 371.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
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. 17

Nixon & Vanderhye
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

COPY MAILED

MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Debyser et al. :
Application No. 09/403,625 :
Filed: February 7, 2000 :
Attorney Docket No. 550-392 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 15, 2002. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the above-identified application became abandoned on October 16, 2002.

The application file is being forwarded to Technology Center 1652 for processing the Request for Continued Examination 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
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, D.C. 20231
WWW.USPTO.GOV

MAR 23 2002

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

#15

In re Application of
Dalit Barkan et al
Serial No.: 09/403,897
Filed: February 22, 2000
Attorney Docket No.: BARKAN=2

PETITION DECISION TO RESTART
PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR § 1.181, filed January 11, 2002, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on October 19, 2001, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office action until January 7, 2002, more than one month after the mail date thereof, and provide copies of the receipt date-stamped first page of the Office action as evidence thereof. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed October 19, 2001, is hereby restarted as of applicants' date of receipt, January 7, 2002. The time period for reply remains as set therein.

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 12 2004

Mailed:

spg
Paper Number _____

In re application of
Jouko Karhunen et al.
Serial No. 09/403,912
Filed: October 28, 1999
For: METHOD AND EQUIPMENT FOR ATTENUATION OF OSCILLATION IN A PAPER MACHINE OR IN A PAPER FINISHING DEVICE

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a) filed April 19, 2004. The request asks that the abandonment, as set forth in the Notice of Abandonment of April 8, 2004, for failure to file a proper reply to the Office letter mailed on March 11, 2003 be withdrawn. The requester asserts that a timely response in the form of a REQUEST FOR CONTINUED EXAMINATION and PETITION FOR AN EXTENSION OF TIME UNDER 37 CFR § 1.136(a) was filed on April 14, 2004.

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 USPTO application file and the evidence presented indicates that applicant's response, REQUEST FOR CONTINUED EXAMINATION and PETITION FOR AN EXTENSION OF TIME UNDER 37 CFR § 1.136(a), was properly filed on April 14, 2004 in view of the fact that the originally filed papers having a USPTO date stamp thereon of April 19, 2004 and a properly completed Certificate of Mailing under 37 CFR 1.8(a) thereon, have been located in the USPTO electronic application file. It is further noted that the Notice of Abandonment of April 8, 2004 was prematurely prepared by the Examiner and mailed, when in fact the applicant was able to extend the period for filing a timely response up to 5 months from the filing of the NOTICE OF APPEAL filed September 15, 2003, therefore when the Notice of Abandonment of April 8, 2004 was mailed the instant application was not in fact abandoned. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers filed April 14, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

15 MAR 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

Armstrong & Associates
285 Fountain Street South
Cambridge, Ontario
Canada N3H 1J2

In re Application of LANKIN et al Application No.: 09/403,982 PCT No.: PCT/CA98/00447 International Filing Date: 1 May 1998 For: MODULAR CONVEYOR SYSTEM HAVING MULTIPLE MOVING ELEMENTS UNDER INDEPENDENT CONTROL	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision in response to the "Missing Requirements" submission filed on 24 February 2000, which has been treated as a request under 37 CFR 1.42. No fee is required.

BACKGROUND

On 1 May 1998, applicants filed international application, PCT/CA98/00447, claiming priority of provisional application 60/045,495, filed 2 May 1997. A Demand for international preliminary examination, in which the United States was elected, was filed on 1 December 1998. Accordingly, the thirty month time period for paying the basic national fee in the United States of America expired at midnight on 2 November 1999.

On 29 October 1999, applicants filed a Transmittal Letter (Form PTO-1390) requesting entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, the requisite basic national fee, and a "Declaration and Power of Attorney".

On 29 December 1999, the United States Patent and Trademark Office (PTO) mailed applicants a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", (PCT/DO/EO/905) and a "NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION" (PCT/DO/EO/917) which indicated that the Declaration was not properly executed, and set a one month time period for response.

On 24 February 2000, applicants filed a "Missing Requirements" submission, which is being treated as a request under 37 CFR 1.42. The submission included the fee for a one month extention of time, the requisite surcharge for filing the declaration later than 30 months from the priority date; a "Declaration and Power of Attorney" executed by inventor Jeffrey John FORTUNA, and a "Declaration and Power of Attorney" executed by the remainder of the inventors except for deceased inventor Kenneth PELTIER, and also executed by one Laura H. PELTIER, an alleged legal representative of deceased inventor Kenneth PELTIER.

DISCUSSION

The documents filed 24 February 2000 meet the requirements of 37 CFR 1.42. Thus all the requirements of 35 U.S.C. 371 were completed on that date.

Note that proof of the authority of the legal representative in compliance with 37 CFR 1.44 will be necessary before the grant of a patent.

37 CFR 1.44 Proof of Authority

In the cases mentioned in 1.42 and 1.43, proof of the power or authority of the legal representative must be recorded in the Patent and Trademark Office or filed in the application before the grant of a patent.

CONCLUSION

For the reasons discussed above, the request for status under 37 CFR 1.42 is **GRANTED**.

It is noted that proof of the authority of the legal representative in compliance with 37 CFR 1.44 is not required at this time but **MUST** be submitted before the grant of a patent.

It is the responsibility of the examiner to ensure that sufficient proof of authority has been submitted in accordance with 37 CFR 1.44. If the proof of authority is ultimately found to be insufficient, the application **MUST** be returned to the PCT Legal Office.

The application is being forwarded to the National Stage Processing Division for further review and processing. The declarations filed on 24 February 2000 are acceptable under 37 CFR 1.42.

Daniel Moon
PCT Legal Detailee
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

William C. Tritt
Renner Otto Boisselle and Skliar
1621 Euclid Avenue
Cleveland, OH 44115

COPY MAILED

NOV 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Pradeep Iyer et al.	:	
Application No. 09/404,047	:	ON PETITION
Filed: September 23, 1999	:	
Attorney Docket No. AVERP2511USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within a timely manner to the non-final Office action mailed July 17, 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 October 18, 2001.

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 1713 for further processing.

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

COOPER & DUNHAM LLP
JOHN P WHITE
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

AUG 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Robert E. Canfield et al	:	
Application No. 09/404,076	:	
Filed: September 23, 1999	:	
Attorney Docket No. 48879-B/JPW/	:	

This is a decision on the petition, filed August 2, 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 10, 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.

The examiner of Technology Center AU 1644 will consider 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

---

[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

Robert W. Griffith
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

COPY MAILED
APR 27 2006
OFFICE OF PETITIONS

In re Application of:
ELO, et al.
Application No.: 09/404,163
Filed: September 27, 1999
Atty's Docket No.: SOM919990015US1

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b) filed January 30, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed May 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August12, 2005.

On January 30, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-06

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

COPY MAILED

AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Adapathya et al.	:	DECISION ON PETITION TO
Application No. 09/404,182	:	WITHDRAW HOLDING OF
Filed: 24 September, 1999	:	ABANDONMENT
Attny Docket No. RP9-99-111	:	

This is a decision on the petition filed on 12 June, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 5 August, 2004. Notice of Abandonment was mailed on 11 May, 2006.

Petitioner asserts that the Notice mailed on 5 August, 2004, was not received because it was mailed to the wrong address due to USPTO error. Specifically, petitioner asserts that a Change of Correspondence Address was filed on 11 May, 2004, but that the Notice of Allowance and Fee(s) Due mailed on 5 August, 2004, was mailed to the previous address.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final 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 action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the official file reveals that on 11 May, 2004, a Change of Correspondence Address was filed listing the new correspondence address as "8911 North Capital of Texas Highway, Suite 2110, Austin TX 78759." However, the Notice mailed on 5 August, 2004, was mailed to "7600B North Capital of Texas Highway, Suite 350, Lakewood on the Park, Austin TX 78731." Additionally, the Notice mailed on 5 August, 2004, was returned to the Office as undeliverable on 25 August, 2004. As such, the showing of record is that there was an irregularity in the mailing of the Notice mailed on 5 August, 2004, in that said Notice was not mailed to the current correspondence address.

Consequently, there was no abandonment in fact.

The Office apologizes for any inconvenience to petitioners.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be referred to the Technology Center's Technical Support Staff for remailing of the Notice mailed on 5 August, 2004.

The application is being referred to Technology Center Art Unit 2629 for further processing.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-05

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

APR 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,838,402	:	
Issued: 4 January, 2005	:	
Application No. 09/404,245	:	ON PETITION
Filed: 21 September, 1999	:	
Atty Docket No. 8675-5	:	

This is a decision on the petition filed on 14 February, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of	:
Kenneth Lee Levy	:
Application No. 09/404,292	: DECISION GRANTING PETITION
Filed: September 23, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LEVY/R	:

This is a decision on the petition, filed June 28, 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 April 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\June9\404292.wpd

---

[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), which includes the following language thereon: "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 in 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

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

COPY MAILED
MAR 15 2010

In re Patent No. 7,783,972	:	
Issue Date: August 31, 2004	:	
Application No. 09/404,448	:	ON PETITION
Filed: September 22, 1999	:	
Attorney Docket No. 4300.012100	:	

This is a decision on the petition May 18, 2005, 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 Diane C. Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 2 9 2004

TECHNOLOGY CENTER 2100

Cooley Godward LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

In re Application of:
Ran GINOSAR
Application No. 09/404,486
Filed: September 23, 1999
For: DUAL-FUNCTION COMPUTING SYSTEM HAVING INSTANT-ON MODE OF OPERATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 14, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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

Paper No. 12

Michael A. Dryja
Law Offices of Michael Dryja
704 228th Avenue NE
PMB 694
Redmond, WA 98053

COPY MAILED

DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Kentaro Toyama :
Application No. 09/404,940 :
Filed: September 23, 1999 :
Attorney Docket No. 1018.034USI :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 13, 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 June 14, 2002.

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 Katrina A. Lyon appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Katrina L. Lyon 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 file will be directed solely to the address of record until otherwise instructed.

This application is being forwarded to Technology Center AU 2121 for further processing.

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

Latrice Bond

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

Cc: Lyon & Harr
300 Esplanade Drive, Suite 800
Oxnard, CA 93036

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.
09/404,979	09/22/99	GOPAL T	GENAPP.002RA

020995 HM11/0615
KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

EXAMINER
MCKELVEY, T

ART UNIT	PAPER NUMBER
1636	#6

DATE MAILED: 06/15/00

BEST AVAILABLE COPY

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

Commissioner of Patents and Trademarks

See the attached.

1- File Copy

#6

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

MAILED 06/15/00
TECH CENTER 1600

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH , CA 92660

In re Application of	:
T. Venkat Gopal	:
Serial No.: 09/404,979	:PETITION DECISION
Filed: September 22, 1999	:
Attorney Docket No.: GENAPP.002RA	:

This is a decision on applicant's petition under 37 CFR 1.136(b) requesting an extension of time.

Applicant in this reissue application requests a one month extension of time to respond to the outstanding Office action and to allow time for an interview with the examiner. In the first Office action a two month shortened statutory period for reply was set based on pending litigation with the additional notation that requests for extension of time must be obtained under 37 CFR 1.136(b).

In view of applicant's submission showing that the related litigation has been dismissed and there is no other pending litigation, the original period for reply is extended to three months from the date of the Office action mailed April 5, 2000. In addition, any further requests for extension of time may be made under 37 CFR 1.136(a) accompanied by payment of the appropriate fee.

Applicant's request is **GRANTED.**

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600/2900, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 308-7922.

John Kittle
Director, Technology Center 1600/2900

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

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

COPY MAILED

AUG 1 2002

OFFICE OF PETITIONS

In re Application of :
Venkat Gopal :
Application No. 09/404,979 : ON PETITION
Filed: September 22, 1999 :
Attorney Docket No. GENAPP.002RA :

This is a decision on the petition, filed July 10, 2002, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED.**

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Petitioner requests that the application be withdrawn from issue to consider a request for continued examination (RCE) under 37 CFR 1.114. However, no RCE and submission under 37 CFR 1.114 was filed.

If reconsideration of this decision is desired, a Request for Reconsideration under 37 CFR 1.313(c) must be filed within **ONE**

MONTH from the mail date of this decision. No extension of time of this one month time limit can be granted under 37 CFR 1.136(a) or (b). The Request for Reconsideration must comply with one of the reasons for withdrawal cited in 37 CFR 1.313(c), including all pertinent papers and fees. If a reply is not received within the ONE MONTH time limit, the application will be returned to Publishing Division for processing into a patent.

Telephone inquiries should 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

COPY MAILED

APR 0 4 2006

OFFICE OF PETITIONS

In re Application of
T. Venkat Gopal
Application No. 09/404,979
Filed: September 22, 1999
Attorney Docket No. GENAPP.002RA

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

This is a decision on the request for reconsideration of petition, filed September 3, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**, *nunc pro tunc*.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and subsequently issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on October 11, 2005. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The issue fee in reply to the second Notice of Allowance and Fee(s) Due mailed October 11, 2005 was received on December 20, 2005. Accordingly, this matter is being referred to Publishing Division for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 16

AMGEN INCORPORATED
MAIL STOP 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

COPY MAILED

FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of :
William J. Boyle :
Application No. 09/405,032 :
Filed: September 24, 1999 :
Attorney Docket No. A-378-CIP2C2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 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 December 14, 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 March 15, 2002.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Ms. Renee Koslack
DORSEY & WHITNEY LLP
Four Embarcadero Center
Suite 3400
San Francisco, California 94111-4187

Date: November 17, 2004
Application No. 09/405,046
Filing Date: September 27, 1999
Subject: Magnetic Resonance Imaging Agents for the Detection of Physiological Agents

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed November 17, 2004, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that the inventor, Wenhong Li should be deleted. Accordingly, this application has been changed by deleting Wenhong Li. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Dameron Jones
United States Patent and Trademark Office
Primary Examiner
Art Unit 1618
Remsen 4A51
571-272-0617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

COPY MAILED

JUL 17 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

STEVEN M MILLS
LAPPIN & KUSMER LLP
RWO HUNDRED STATE STREET
BOSTON MA 02109

In re Application of	:	
Renwick et al.	:	DECISION GRANTING
Application No. 09/405,237	:	PETITION
Filed: September 23, 1999	:	
Attorney Docket No. IBNR-014	:	

This is a decision on the petition filed October 15, 1999 under 37 CFR 1.53(b), which is being treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of September 23, 1999 rather than the presently accorded filing date of September 24, 1999.

The petition is **granted.**

As the instant application papers were received at the PTO before the "date-in" on Express Mail Label No. EL024412563US, the papers were given the date of receipt. While petitioner has not proffered any USPS evidence to clearly establish that the date accorded these papers should be September 23, 1999, the attached printout of a query of the USPS Express Mail Information Database shows that the package in question was accepted at 4:45 PM on the date in quesiton. To expedite further processing, it is presumed, absent witten evidence to the contrary, that acceptance time is prior to the last scheduled pick-up for that date.

This provisional application is being forwarded to the Office of Initial Patent Examination (OIPE), Customer Corrections, for further processing with a filing date of September 23, 1999.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-1820. Inquiries related to OIPE processing should be directed to OIPE at (703) 308-1202.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Express Mail Database Printout

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

COPY MAILED

JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Randall S. Alberte, et al. :
Application No. 09/405,269 :
Filed: September 23, 1999 :
Attorney Docket No. CEA-004.01 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2001.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1774 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

FOLEY HOAG
PATENT GROUP
WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Randall S. Alberte et al :
Application No. 09/405,299 : ON PETITION
Filed: September 23, 1999 :
Attorney Docket No. CEA-005.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2003 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 31, 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 November 1, 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 1774.

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

#18
DW

JAN 24 2002

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

MAILED

JAN 24 2002
OFFICE OF THE DIRECTOR
TC 3600

John Smith-Hill
SMITH-HILL & BEDELL, P.C.
12670 NW Barnes Road, Suite 104
Portland, Oregon 97229

In re Application of:	:	DECISION ON PETITION
Pekka MIELONEN et al.	:	37 C.F.R. 1.144
Serial No. 09/405,436	:	
Filed: September 23, 1999	:	
For: CYLINDER LOCK-KEY-COMBINATION		:

This is a decision on the Petition from requirement for restriction, pursuant to 37 C.F.R. 1.144, filed September 10, 2001.

The petition is **DISMISSED AS MOOT**.

A review of the record indicates that the instant petition was filed concurrently with a request for a Continued Prosecution Application and a preliminary amendment to the claims. In response to the preliminary amendment and the request for Continued Prosecution Application, the Examiner issued a first Office Action, mailed December 4, 2001, in which the prior requirement for restriction (made final in the Official Action mailed June 14, 2001) was superceded by a new requirement for restriction.

Inasmuch as the facts of the instant petition are directed to a different requirement for restriction, the instant petition is dismissed as moot.

The instant application will be returned to the examiner to await Applicants' response to the outstanding requirement for restriction.

Gerald Goldberg
Patent Examining Group Director
Technology Center 3600

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SN 09405436 Paper N

DATE : 12-29-04

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction on Patent No.: 6799447

A response is requested with respect to the accompanying request for a certificate of correc

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 patent read as shown in the certificate of correction? No new matter should be introduced, nor the scope or meaning of the claims be changed.

Please check claims

Thank You For Your Assistance

Certificates of Correction Br

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 ap
- ☐ Denied — State the reasons for denial below.

Comments:

SPE

3676
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Tra

3676

UNITED STATES 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. 6339716
Issue Date: January 15,2002
Application No. 09405462
Filed: September 24,1999
Attorney Docket No. 374.008US1

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

This is a decision on the electronic petition, filed April 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 30,2010 . 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)
6,339,716	2002-01-15	09/405,462	1999-09-24	365.00260101

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	/Loren D. Albin/	Date (YYYY-MM-DD)	2010-04-30
Name	Loren D. Albin	Registration Number	37763

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

JJGJR.: 06-06

Paper No: __

MATTHEW J. BOOTH
& ASSOCIATES, PLLC
P O BOX 50010
AUSTIN TX 78763-0010

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Blomgren	:	
Application No. 09/405,618	:	DECISION
Filing Date: 24 September, 1999	:	
Attorney Docket No.: 31876.0140	:	

This is a decision on the petition filed on 23 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 24 November, 2004, with reply due under a non-extendable deadline on or before 24 February, 2005;
- Petitioner filed Fees on 22 February, 2005, however, the amounts were insufficient;
- the Office mailed a Notice Additional Fees Due on 7 February, 2006, with a reply due under a non-extendable deadline on Monday, 8 May, 2006;

- the instant application went abandoned after midnight 7 May, 2006;
- Petitioner filed the instant petition (with fee), with the reply in the form of fees due, and made the statement of unintentional delay–thus Petitioner appears to have satisfied the requirements under 37 C.F.R. §1.137(b);
- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] 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]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

COPY MAILED
JUL 1 2 2002
OFFICE OF PETITIONS

James J. Leary
Suite 330
505 West Olive Avenue
Sunnyvale, CA 94086

In re Application of	:	
Pierre Hilaire	:	
Application No. 09/405,946	:	ON PETITION
Filed: September 27, 1999	:	
Attorney Docket No. ART9901	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 17, 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 August 18, 2001.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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 3763.

Cheryl Gibson Baylor for Sherry Brinkley

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

Sherry Brinkley
Petitions Examiner

cc: Carol D. Titus
3900 Newpark Mall Rd., Suite 317
Newark, CA 94560

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF DALE B. HALLING, LLC
655 SOUTHPOINTE COURT, SUITE 100
COLORADO SPRINGS, CO 80906

COPY MAILED

MAY 2 6 2006

OFFICE OF PETITIONS

In re Application of Hiatt, Jr. :
Application No. 09/406,001 :
Filing Date: September 24, 1999 :
Attorney Docket No. HTT-9901 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.182 filed May 15, 2006, requesting expedited consideration of the petition filed April 11, 2006. This is also a decision on the petition under 37 CFR 1.137(b), filed April 11, 2006, to revive the above-identified application.

The petition under 37 CFR 1.182 is **granted**.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 2, 2005.

Petitioner requests the Office revive the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be informed of the instant decision and will issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Kenyon & Kenyon
Suite 600
333 W San Carlos Street
San Jose, CA 95110-2711

COPY MAILED

JUL 0 9 2002

OFFICE OF PETITIONS

In re Application of
Ellis T. Cha
Application No. 09/406,330
Filed: September 27, 1999
Attorney Docket No. 2855/16

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2002, to revive the above-identified application.

The petition is **GRANTED**.

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 file is being forwarded to Technology Center 2600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

GREGORY S. ROSENBLATT
INTELLECTUAL PROPERTY LAW SECTION
WIGGIN AND DANA
ONE CENTURY TOWER
NEW HAVEN, CT 06508-1832

COPY MAILED

DEC 1 0 2003

OFFICE OF PETITIONS

In re Application of
Kennedy, William D.
Application No. 09/407,124
Filed: September 27, 1999
Attorney Docket No. 102045

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 21, 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 non-final Office action mailed April 2, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 3, 2002. A Notice of Abandonment was mailed on October 22, 2002.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The New Power of Attorney and Change of Correspondense Address submitted with the instant petition on October 21, 2003, is hereby not accepted. The current assignee in the above-identified application is listed as VStore, Inc. If a name change has occurred, petitioner must supply the proper documents showing such. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

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.

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.[1] 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 intentional, petitioner must notify the Office.

The file is now being forwarded to Technology Center 2100 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Douglas W. Gilmore
Noblitt & Gilmore, L.L.C.
21001 North Tatum Boulevard
Phoenix, AZ 85050

---

[1] 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).

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

PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/23/2010

Applicant	: WILLIAM D. KENNEDY	: DECISION ON REQUEST FOR
Patent Number	: 7634427	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/407,124	: OF WYETH
Filed	: 09/27/1999	:
		:

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

Paper No. 6

Kudirka & Jobse, LLP
One State Street
Suite 1510
Boston, Massachusetts 02109

MAIL

MAR 1 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Glenn W. Hutton et al.	)	
Application No. 09/407,270	)	
Filed: September 29, 1999	)	**DECISION ON REQUEST FOR**
For: POINT-TO-POINT INTERNET	)	**WITHDRAWAL AS ATTORNEY**
PROTOCOL	)	

This is a decision on the Request To Withdraw from Representation filed January 11, 2002 and supplemented by the submission of March 12, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the United States Patent and Trademark Office (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 Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Jeffrey S. Ginsberg, Esq.
Kenyon & Kenyon
One Broadway
New York, New York 10004

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/407,417	09/30/1999	2631	605	A.PARTYKA10	8	32	6

CONFIRMATION NO. 2723

CORRECTED FILING RECEIPT

OC000000011080778

ANDRZEJ PARTYKA
370 FINCH LANE
BEDMINSTER, NJ 07921

Date Mailed: 10/22/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

ANDRZEJ PARTYKA, BEDMINSTER, NJ;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/22/2003

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

TRANSMISSION OF URGENT MESSAGES IN FREQUENCY HOPPING SYSTEM FOR INTERMITTENT TRANSMISSION

Preliminary Class

375

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN-BRADLEY COMPANY INC
ATTN: JOHN J HORN
PATENT DEPT 704 P FLOOR 8 T-29
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

COPY MAILED

MAR 26 2008

In re Application of	:
Bryan P. Stewart et al.	: DECISION ON PETITION
Application No. 09/407,473	:
Filed: September 28, 1999	:
Attorney Docket No. 99A185	:

This is a decision on the petition filed January 18, 2008 under 37 CFR 1.137(b)[1] to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** 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 a proper appeal brief within the time period provided. A Notice of Appeal was filed December 26, 2006. On February 26, 2007, an appeal brief was filed. On June 26, 2007, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. No response having been timely filed, the application became abandoned.

Comes now petitioner with the instant petition to revive and an Substitute Appeal Brief under 37 CFR 41.37.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The Examiner of record has indicated that the Substitute Appeal Brief filed March 23, 2007 is not in compliance with 37 CFR 41.37 in that, in the summary of the claimed subject matter, appellant is mapping entire limitations rather than the elements of the claim. This makes the mapping confusing and incomplete. Thus, the petition does not satisfy requirement (1) above.

A courtesy copy of the Notification of Non-Compliant Appeal Brief is included signed by the Examiner of record is included. Petitioner must submit a proper Substitute Appeal Brief under 37 CFR 41.37 with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay**.

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

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

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

Telephone inquiries 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

ATTACHMENT: Courtesy Copy of Notification of Non-Compliant Appeal Brief

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/407,473	Applicant(s) STEWART ET AL.	
	Examiner VAN H. NGUYEN	Art Unit 2194	

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

The Appeal Brief filed on *1/18/2008* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification, as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

In the Summary of the Claimed Subject Matter, appellant is mapping entire limitations rather than the elements of the claim. This makes the mapping confusing and incomplete.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN-BRADLEY COMPANY INC
ATTN: JOHN J HORN
PATENT DEPT 704 P FLOOR 8 T-29
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

COPY MAILED
AUG 2 9 2008

In re Application of	:
Bryan P. Stewart et al.	: DECISION ON PETITION
Application No. 09/407,473	:
Filed: September 28, 1999	:
Attorney Docket No. 99A185	:

This is a decision on the renewed petition filed June 13, 2008 under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided. A Notice of Appeal was filed December 26, 2006. On February 26, 2007, an appeal brief was filed. On June 26, 2007, however, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. No response having been timely filed, the application became abandoned. Accordingly, a Notice of Abandonment was mailed January 11, 2008.

A petition to revive and a Substitute Appeal Brief under 37 CFR 41.37 were filed January 18, 2008 but was dismissed in a decision mailed March 26, 2008. The Examiner of record indicated that the Substitute Appeal Brief filed January 18, 2008 was not in compliance with 37 CFR 41.37 in that, in the summary of the claimed subject

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

matter, appellant was mapping entire limitations rather than the elements of the claim. This makes the mapping confusing and incomplete. Thus, the petition did not satisfy requirement (1) under 37 CFR 1.137(b).

Comes now petitioner with a substitute appeals brief and an argument that the delay in filing a timely and compliant brief was unintentional.

The Examiner of record has indicated that the Substitute Appeal Brief under 37 CFR 41.37 submitted June 13, 2008 with the instant petition is acceptable.

This application is being forwarded to Technology Center 2194 for review of the Appeal Brief filed June 13, 2008.

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

Mailed

JAN 2 9 2001

Technology Center 2100

Paper No. 5 NEW

Stephen C. Durant
Morrison & Foerster LLP
425 Market Street
San Francisco, California 95125-5106

In re Application of: Alan Newman et al.	)	
Application No.: 09/407,531	)	
Filed: September 28, 1999	)	**DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR A	)	**WITHDRAWAL AS ATTORNEY**
SOFTWARE RELEASE PROCESS	)	

This is a decision on the Request To Withdraw from Representation filed January 9, 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 Mr. Durant is ***authorized*** to sign on behalf of the other listed attorneys. Therefore. the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer

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

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. 11

Charles J. Brumlilk
Mathews, Collins, Shepherd & McKay, P.A.
100 Thanet Circle, Suite 306
Princeton, NJ 08540-3662

JUN 6 2003

In re Application of	:	
Frederic Zenhausern	:	DECISION ON PETITION
Application No.: 09/407,581	:	TO WITHDRAW THE
Filing Date: September 28, 1999	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 4467-103US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed via facsimile transmission on May 27, 2003. A date-stamped return postcard receipt indicates that the original of this petition was filed at the USPTO on March 17, 2003 but the original is not in the application file.

The petition is DENIED.

A non-final Office action was mailed March 27, 2002, setting a three month shortened statutory period for filing a response. On October 7, 2002, applicant filed: 1) an amendment; 2) a request for a three-month extension of time; and 3) a form PTO-1449. On February 11, 2003, a Notice of Abandonment was mailed indicating that the reply of October 7, 2002 was not timely since the period for reply (including the 3-month extension of time) had expired on September 27, 2002.

Petitioner asserts that the reply of October 7, 2002 was timely in that it was deposited with the U.S. Postal Service on September 27, 2002 in accordance with 37 C.F.R. § 1.8. As evidence, the petitioner included a copy of a Certificate of Mailing (on a separate sheet) and a copy of the date-stamped return postcard receipt from the USPTO.

The original Certificate of Mailing is not in the application file. The evidence submitted by the petitioner is not sufficient to satisfy the conditions set forth in MPEP § 512 for establishing that the original Certificate of Mailing was received by the USPTO. The provisions of MPEP § 512 provide in part:

> (B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.
>
> (C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well

as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP § 503 relative to the use of postcards as receipts.

In the instant case, the copy of the Certificate of Mailing provided by petitioner does not include the application number and filing date of the application; and the copy of the postcard receipt does not specifically identify the missing original Certificate of Mailing. In addition, there appears to be sufficient space on at least the amendment to have made the certification on the same paper.

For the above reasons, the petition is **denied.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Any inquiries concerning this decision should be directed to Edward Westin at (703) 308-4823.

The application file is being returned to the Files Repository.

Howard N. Goldberg, 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

Paper No. 13

Charles J. Brumlilk
Mathews, Collins, Shepherd & McKay, P.A.
100 Thanet Circle, Suite 306
Princeton, NJ 08540-3662

AUG 7 2003

In re Application of	:	
Frederic Zennausern	:	DECISION ON REQUEST
Application No.: 09/407,581	:	FOR RECONSIDERATION
Filing Date: September 28, 1999	:	
Attorney Docket No.: 4467-103US	:	

This is a decision on the request for reconsideration filed via facsimile transmission on July 8, 2003. The requester requests reconsideration of the "Petition to Withdraw the Notice of Abandonment" that was filed via facsimile transmission on May 27, 2003. The noted petition was denied in a decision dated June 6, 2003.

Upon reconsideration, the petition is GRANTED.

On February 11, 2003, a Notice of Abandonment was mailed indicating that the reply of October 7, 2002 was not timely since the period for reply (including the 3-month extension of time) had expired on September 27, 2002. In the petition of May 27, 2003, petitioner asserted that it was timely because it was submitted with a Certificate of Mailing dated September 27, 2002. The original Certificate of Mailing was not in the application file.

In the decision of June 6, 2003, the petition was denied on the basis that the copy of the Certificate of Mailing sent in with the petition was on a separate sheet of paper and did not fully identify the paper it accompanied as required by MPEP § 512. More specifically, the copy of the Certificate of Mailing did not include the application number and filing date of the application, and the copy of postcard receipt sent in with the petition did not specifically identify the missing original Certificate of Mailing.

In the request for reconsideration, the requester requests that the totality of the facts be considered in view of the Declaration from Moira Selinka (the person who signed the noted Certificate of Mailing) provided with the request. Requester, while noting that the Certificate of Mailing should have included the application number and filing date of the application, points out that the copy of the executed Certificate of Mailing fully identified each submitted paper by "Amendment, 3-month Extension of Time, and Form PTO 1449 and 2 references."

In light of the fact that the copy of the Certificate of Mailing listed the specific items of the

October 7, 2002 response and in light of the Declaration from Moira Selinka attesting that the original Certificate of Mailing was securely attached to the response filed in reply to the Office action dated March 27, 2002 in application Serial No. 09/407,581, the petition of May 27, 2003 as supplemented by the request for reconsideration filed July 8, 2003 is GRANTED. The Notice of Abandonment mailed February 11, 2003 is hereby VACATED and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response of October 7, 2002. The application will then be forwarded to the examiner for appropriate action in due course.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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)
6247997	2001-06-19	09407591	1999-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/BEN KHALAJ/	Date (YYYY-MM-DD)	2009-08-19
Name	BEN KHALAJ		

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. 6247997
Issue Date: June 19,2001
Application No. 09407591
Filed: September 28,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 19,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6334806	2002-01-01	09407762	1999-09-29	114096USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2006-10-19
Name	C. Irvin McClelland	Registration Number	21124

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

FOLEY & LARDNER
402 W. BROADWAY 23RD FLOOR
SAN DIEGO CALIFORNIA 92101

COPY MAILED

AUG 1 2 2002

OFFICE OF PETITIONS

In re Application of: .
PELLETIER et al.
Filed: September 28, 1999
Application No. 09/407,804
Dckt No.: 073406-0402

ON PETITION

This application is before this office due to a petition filed July 8, 2002 styled as a petition under 37 CFR 1.181 or 1.182 to the Commissioner seeking review of an action of the Group Director, TC 1600.

The petition under 37 CFR 1.181 is **dismissed as premature.**

The petition considered under 37 CFR 1.182 is dismissed as immaterial.

Petitioner complains that the Office policy set forth in 1192 O.G. 68 (Nov. 19, 1996) which permits up to 10 independent nucleotide sequences to be claimed in one application,.is not being followed in this instance.

A party to a proceeding in the Patent and Trademark Office has a right to petition, and may expect to receive a decision by either the Office official delegated authority to render the decision, or the delegating official. See In re Arnott, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991). While a higher level official, at the request of the party, may *further* review a decision on petitionable matters rendered pursuant to delegated authority, such review is a matter which lies within the sound discretion of that higher level official, and is not a matter of right. Id. The rules of practice provide for an orderly treatment of procedural issues, and thus conserve limited USPTO resources.

In this instance, the examiner, not the Group Director, has repeated and made final the election/restriction requirement in the Office action of April 8, 2002, and in so doing also considered the application of 1192 O.G. 68 to the facts of this case. See Office action of April 8, 2002, at 2-3. 37 CFR 1.144 sets forth that such final requirement for restriction is subject to review on petition to the Commissioner. The Commissioner has already delegated that first level review of an examiner's final requirement for restriction to the Group Director. See MPEP 1002.02(c), ¶ 3. In due course and if necessary a petitioner may then seek higher level of review of the Group Director's

decision under 37 CFR 1.181(a)(3). See MPEP 1002.02(b) ¶ 15. Thus the requested review under 37 CFR 1.181 of any examiner's final requirement for restriction is properly performed, in the first instance, by that examiner's Group Director. It also follows that as the rules of practice already provide for the requested review, 37 CFR 1.182, by its terms, does not apply.

This application is being returned to Technology Center 1600 for treatment of the petition filed July 8, 2002, by the Group Director under 37 CFR §§ 1.144 and 1.181.

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

Brian Hearn

Brian Hearn
Senior 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, D.C. 20231
WWW.USPTO.GOV

OCT 15 2002

#23

WESLEY B. AMES
FOLEY & LARDNER
402 BROADWAY
23RD FLOOR
SAN DIEGO, CALIFORNIA
92101-3542

In re Application of	:
PELLETIER et al.	:
Serial No.: 09/407,804	: DECISION ON PETITION
Filed: 28 September 1999	:
Attorney Case No. 073406-0402	:

This is in response to the Petition filed 8 July 2002, for review of the restriction requirement set forth on 4 August 2001 as Paper No. 15 in the above-identified application. Although the Petition was filed under the provisions of 37 CFR 1.181, it is being considered under the provisions of 37 CFR 1.144. 37 CFR 1.144 sets forth that any final requirement for restriction is subject to review on petition to the Commissioner. The Commissioner has delegated any first review of an examiner's final restriction requirement to the Group Director.

BACKGROUND

A review of the file shows that this application was filed under 35 USC 111(a) on 28 September 1999 and claims benefit to under 35 USC 119(e) to provisional application 60/110,992, filed 3 December 1998.

The issue under petition is the Restriction Requirement as set forth in Paper No. 15.

In Paper No. 15, mailed 4 August 2001, the examiner set forth the following restriction requirement under 35 U.S.C. 121:

I *Claims 9, 10 and 12-4*[1]*, drawn to various isolated, purified or enriched nucleic acid sequences and recombinant vectors and cells comprising a bacteriophage 77 open reading frame 17, 19, 43, 102, 104 or 182, which are SEQ ID Nos. 4, 5, 6, 7, 8 and 9, respectively, classified in class 536, subclass 23.1.*

II. *Claim 11, drawn to an isolated purified or enriched polypeptide encoded by the bacteriophage 77 open reading frame 17, 19, 43, 102, 104 or 182, classified in class 530, subclass 300+.*

Both groups I and II recite six different open reading frames. Where Group I or II is elected, applicant is also required to elect one of the SEQ ID Nos 4, 5, 6, 7, 8, or 9 because each is a different polynucleotide in Group I and each is a different polypeptide in Group II.

Note that claims 1-8 and 15-32 had been canceled and that claims 33-72 were already withdrawn from examination due a previous Restriction Requirement, which is not under review in this petition.

In Paper No. 18 filed 10 January 2002, Applicants elected Group I and SEQ ID No. 8, corresponding to open reading frame 104, with traverse. The traverse was on the grounds that the election of a single sequence is inappropriate because MPEP 803.04 and the Official Gazette Notice dated 17 October 1996, entitled "Examination of Patent Applications Containing Nucleotide Sequences," requires examination in most cases of up to 10 independent and distinct sequences. Applicants requested examination of polynucleotides SEQ ID Nos. 4-9 in Group I and examination of the polypeptides encoded by SEQ ID Nos. 4-9 in Group II.

On 8 April 2002, in Office action Paper No. 19, the examiner acknowledged the election of Group I, claim 9 (in part) and claims 10, 12-14 with respect to SEQ ID No. 8. The examiner considered the traversal but found it not persuasive. The Examiner reasoned that each polynucleotide sequence and each polypeptide sequence is patentably distinct. Concerning the request for rejoinder of Group II with Group I, the arguments were not found persuasive because the inventions require more than the search of the DNA or amino acid databases. Literature searches are also required and would be more burdensome in addition to the required search to the different patent classes and subclasses. The DNA and protein have different modes of operation and are structurally, functionally, patentably distinct. The DNA and protein are unrelated because they are not capable of being used together. The Restriction Requirement was made Final.

Claims 11, 33-36, 38, 40-43, 45 and 48-70 were withdrawn under 37 CFR 1.142(b) from further consideration as being directed to the non-elected invention. Claims 9, 10, 12-

[1] This should have stated Claims 9, 10 and 12-14.

14, 37, 39, 44, 46, 47, 71 and 72 were examined to the extent that they read upon SEQ ID No. 8. Claims 9, 10, 12-14, 37, 39, 44, 46, 71 and 72 were rejected under 35 U.S.C. 112 first paragraph for lacking the full scope of enablement. Claims 9, 12 and 13 and dependent claims were rejected under 35 U.S.C. 112, second paragraph for indefiniteness. Claims 9, 10 and 39 were rejected under 35 U.S.C. 102(b) as being anticipated by Black et al.

On 8 July 2002, as Paper No. 21, Applicants filed a Petition under the provisions of 37 CFR 1.181 to compel the Group Director of TC1600 to comply with the Notice provided in 1192 O.G. 68 allowing up to ten independent sequences to be claimed in one application.

On 21 August 2002, the Office of Petitions considered and dismissed as premature the Petition filed 8 July 2002. The dismissal letter explained that 37 CFR 1.144 sets forth that any final requirement for restriction is subject to review on petition to the Commissioner. The Commissioner has delegated any first review of an examiner's final restriction requirement to the Group Director.

The Petition now being treated as a Petition filed under 37 CFR 1.144.

In the Petition filed 8 July 2002, Applicants again argue that the O.G. Notice requires an examination of up to ten sequences in most cases and that requiring applicants to elect one sequence places a financial burden on applicants to file additional applications.

DISCUSSION

The file record, the restriction requirement and petition have been carefully considered.

Applicants have requested that the restriction requirement concerning the election of one sequence be withdrawn in view of the 1192 OG Notice published October 17, 1996 (1192 OG 68) and MPEP 803.04.

The petition states that any per se rule requiring only one sequence to be examined in a particular application would place an enormous burden on applicants, hinder protection for their inventions and have a deleterious affect on the biotechnology industry. The petition argues that the examiner has superseded the Commissioner's considered opinions and policy expressed in the OG Notice.

These arguments have been considered carefully and found not to be persuasive for the following reasons. Applicants are correct that the Official Gazette Notice is directed to the examination of patent applications containing distinct nucleotide sequences. The OG Notice and MPEP 2434 are silent concerning the examination of multiple polypeptide sequences and cannot support a request for examination of 10 polypeptides in Group II.

Turning now to the Inventions listed in Group I, according to 35 USC 121, the examiner can require applicant to elect a single invention. In the biotechnology arts, sometimes a single invention encompasses only one molecule comprising a polynucleotide sequence.

The examination of the elected DNA sequence SEQ ID No.8 would not solely require a search of nucleic acid databases, but would also require a search of other, non-sequence databases and patent and non-patent references. As to the question of burden of search, the literature search, particularly relevant in this art, is not co-extensive and is also important in evaluating the burden of search. Clearly different searches and different issues are involved in the examination of each invention. In order to examine more than one of the DNA sequences, as claimed, the Office would be required to search additional DNA sequences, on patent and non-patent literature, and on a variety of sequence databases.

The Official Gazette Notice and MPEP 803.04 do not require examination of ten polynucleotide sequences in one application. The OG Notice and MPEP 803.04 permit the examiner to examine up to ten polynucleotide sequences in one application. According to 35 USC 121, the examiner can require applicant to elect a single invention. A restriction of one sequence is consistent with both the requirements of the OG Notice, MPEP 803.04 and 35 U.S.C. 121. One sequence falls within the range of "up to ten" permitted by the Official Gazette Notice. The restriction requirement between the various polynucleotide molecules, between the various polypeptides and between the DNA and encoded polypeptide was proper.

MPEP 2434 also states that should applicant traverse on the ground that the sequences are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the sequences unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other sequence.

DECISION

Applicants' petition is **DENIED** for the reasons set forth above.

Since no fee is required for the filing of this petition, Applicants' Deposit Account 50-0872 will be credited the $130.00 petition fee.

Applicants remain under obligation to properly respond to the Office Action mailed 3 April 2002, within the time period set therein or as extendable under the provisions of 37 CFR 1.136(a).

Any request for reconsideration of this decision must be by way of a renewed petition and must be filed within TWO MONTHS of the date of mailing of this decision in order to be considered timely.

Should there be any questions with respect to this decision, please contact Special Program Examiner Julie Burke, Ph.D. by letter addressed to the Director, Technology Center 1600, Washington DC 20231. Alternatively, SPRE Burke can be reached by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUGRUE & MION
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

COPY MAILED

FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Pelletier et al.
Application No. 09/407,804
Filed: September 28, 1999
Attorney Dck't. No. 241/190

: ON PETITION

This is a decision on the petition filed December 23, 2002 , which is being treated as a petition under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and review the decision of the Group Director, Examining Group 1600 (Group Director), mailed October 15, 2002, which refused to withdraw the outstanding requirement for restriction.

The petition is **dismissed as moot**.

In the interim, prosecution on the merits has resumed, with result that the Technology Center has indicated to the Office of Petitions that all claimed species have been examined, and further, that all claims are allowable such that a Notice of Allowance is forthcoming.

Accordingly, no meaningful relief can now be accorded to petitioner. The requested relief from an allegedly improper restriction requirement has already been realized by way of the Technology Center's withdrawal of that requirement and the ensuing examination, and forthcoming allowance, of all the claims. As such, there is no remaining condition of restriction (or election) or any subject matter that remains withdrawn from consideration on the merits by the examiner to review, or overturn. Should petitioner contend that in fact any of the aforementioned issues have not been mooted by the forthcoming allowance, then the petition should be promptly renewed on that basis.

Telephone inquiries relative to this decision should be directed to Petitions Examiner Brian Hearn at (571) 272-3217.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Kilpatrick Stockton
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

COPY MAILED

SEP 06 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Roger Shealy
Application No. 09/408,068
Filed: September 29, 1999
Attorney Docket No. 42655/214299

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 9, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 10, 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 extension of time submitted with the petition on August 13, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file is being forwarded to Technology Center 1700, Art Unit 1761, for review of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed August 13, 2002.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

In re Application of Hirata et. al. Application No. 09/408,114 Patent No. 6,891,424 Filed: September 29, 1999 Issue Date: May 10, 2005 Attorney Docket Number: 14485.12 Title: MONOLITHIC PAYLOAD IF SWITCH	DECISION ON PETITION UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on July 21, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on May 10, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 10, 2009, with no payment received. Accordingly, the patent expired on May 10, 2009 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;

(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 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.

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)
6495237	2002-12-17	09/408,131	1999-09-29	New Denim

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.

UNITED STATES 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. 6495237
Issue Date: December 17,2002
Application No. 09408131
Filed: September 29,1999
Attorney Docket No. COSTIN/NEW-D

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Randall M. Chung :
Application No. 09/408,198 :
Filed: September 29, 1999 :
Attorney Docket No. 97RSS467 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 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 October 1, 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 January 2, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The 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; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed May 13, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 2600, Art Unit 2632 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

MAIL

NOV 05 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
STANFORD RESEARCH PARK
700 Hansen Way
Palo Alto, CA 94304

In re Application of	
Nancy E. Miller, et al.	DECISION ON PETITION
Application No. 09/408,716	TO RESTART THE PERIOD
Filed: September 30, 1999	FOR REPLY
Attorney Docket No. 01413.0011-0	
For: METHODS AND APPARATUS FOR DISPLAYING DISPARATE TYPES OF INFORMATION USING AN INTERACTIVE SURFACE MAP	

This is a decision on the petition filed on September 5, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on August 5, 2002 be restarted in view of an alleged defect in the Office Action.

Petitioner alleges that an Information Disclosure Statement (IDS) filed on April 17, 2002 included 114 documents and that the Office action mailed on August 5, 2002 is defective inasmuch as it failed to consider all of those documents. The petition is being treated as a request for consideration of the prior art submitted on April 17, 2002 and as a request for re-mailing of a new Office action.

The prior art submitted on April 17, 2002 was located and has been considered by the examiner as shown by the attached copy of the supplemental copy of an initialed and dated copy of the PTO-1499. Therefore, the request for consideration of the prior art submitted on April 17, 2002 is **GRANTED.**

However, the consideration of the prior art does not warrant any changes to the outstanding Office action. The outstanding Office Action is not defective within the meaning of MPEP § 710.06. Therefore, the request for re-mailing of a new Office action is **DENIED**.

The petition is **GRANTED-IN-PART** and **DENIED-IN-PART** for the reasons set forth above.

In view of this decision, the Third Supplemental IDS filed October 10, 2002 fails to comply with the requirements set forth in 37 CFR 1.97(d) inasmuch as it was filed after Final Rejection and lacks the necessary statement as specified in 37 CFR 1.97(e). *This statement should be filed within **THIRTY (30) DAYS** of the mailing of this decision.* At such time that the necessary statement is filed, the IDS filed on October 10, 2002 will be forwarded to the examiner for appropriate consideration.

It should be noted that the period for response to the Final rejection continues to run from the August 5, 2002 date of mailing. The application is being returned to TC 2600 Central Files to await applicant's response.

Joseph J. Rolla, Jr., 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

In re Patent No. 6894988
Issue Date: May 17,2005
Application No. 09408725
Filed: September 29,1999
Attorney Docket No. 51010.P001

:

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

:

This is a decision on the electronic petition, filed November 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 November 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)
6,894,988	2005-05-17	09/408,725	1999-09-29	P19948 (ITL.1994US)

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	/Timothy N. Trop/	Date (YYYY-MM-DD)	2009-11-09
Name	Timothy N. Trop	Registration Number	28994

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

Gary M Nath
NATH & ASSOCIATES PLLC
1030 15th Street N W
6th Floor
Washington, DC 20005

COPY MAILED

OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of
Branislav A. Petrovic
Application No. 09/408,826
Filed: September 29, 1999
Attorney Docket No. 90191

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 30, 2004[1].

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed October 2, 2002. A Notice of Abandonment was mailed on February 13, 2003.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing provided on June 23, 2005.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (703) 305-8283.

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

[1] The original papers cannot be located; however, the evidence submitted is convincing that the petition, including the formal drawings, was filed on June 30, 2004 and subsequently misplaced in the Office. A copy of the papers filed on June 30, 2004 was provided by facsimile transmission on June 23, 2005.

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)
6658576	2003-12-02	09409017	1999-09-29	

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

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	/Howard Lee/	Date (YYYY-MM-DD)	2008-06-04
Name	Howard Hong-Dough Lee		

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. 6658576
Issue Date: December 2,2003
Application No. 09409017
Filed: September 29,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed June 4,2008 ,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 4,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6269523
Issue Date: August 7,2001
Application No. 09409051
Filed: September 30,1999
Attorney Docket No. AIF33056

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

This is a decision on the electronic petition, filed March 9,2010 ,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 9,2010 . 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)
6269523	2001-08-07	09409051	1999-09-30	AIF33056

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 h mcglynn/	Date (YYYY-MM-DD)	2010-03-09
Name	Joseph H. McGlynn	Registration Number	38028

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.9

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022

MAIL

DEC 3 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
SUZUKI et al.	:	
Application No. 09/409,146	:	DECISION ON PETITION TO
Filed: September 30, 1999	:	WITHDRAW HOLDING OF
For: **NETWORK SYSTEM**	:	ABANDONMENT
	:	

This is a decision on the petition filed September 25, 2003, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application became abandoned for failure to timely file a response to the Non-Final Office Action mailed December 18, 2002. A Notice of Abandonment was mailed on July 29, 2003.

Petitioner asserts that he did not receive the Non-Final Office action mailed December 18, 2002. In support of the petition, Petitioner provides a copy of the Change of Address filed at the Patent and Trademark Office on November 27, 2002. A review of the file indicates that Change of Address was entered on November 27, 2002. A review of the record also indicates that the Non-Final Office action was mailed to the previous address of record on December 18, 2002. Therefore, there was an irregularity in mailing of the non-final Office action on December 18, 2002, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to the petitioner.

Accordingly, the application was not abandoned in fact, and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The Notice of Abandonment mailed July 29, 2003 is hereby vacated and the holding of abandonment withdrawn. In view of the time lapse between the original mailing of the Office action of December 18, 2002, and the date of this decision, the application file will be forwarded to the examiner of record for updating the search and the Office action as appropriate. From

there, the file will be forwarded to the support staff for mailing of the Office action to the correspondence address of record and setting a shortened statutory period of three (3) months for the applicant to respond.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

MAR 2 2 2002

#6

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of Jeffrey D. Saffer et al Serial No.: 09/409,260 Filed: December 21, 1999 Attorney Docket No.: 01413.0010	PETITION DECISION TO RESTART PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR § 1.181, filed February 08, 2002, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on December 14, 2001, setting a one month shortened statutory period for reply. Applicants state that they did not receive the Office action until February 1, 2002, more than one month after the mail date thereof. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed December 14, 2001, is hereby restarted as of applicants' date of receipt, February 1, 2002.

The reply received with the Office action will be entered and the application forwarded to the examiner for further action thereon.

Should there be any questions regarding 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

COPY MAILED
JUL 23 2007
OFFICE OF PETITIONS

In re Application of	:	
Claussen, et al.	:	
Application No. 09/409,376	:	ON PETITION
Filed: September 30, 1999	:	
Attorney Docket No. AT-9-99-480	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2007, 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 Notice of Allowance and Fee(s) Due, mailed August 25, 2005. Accordingly, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on January 18, 2006.

Applicants have submitted a proper reply in the form of the $1,400.00 issue fee and a completed PTOL-85B, an acceptable statement of the unintentional nature of the delay in responding to the August 25, 2005 Notice of Allowance and Fee(s) Due,[1] and the $1,500.00 petition fee.

The petition is **granted**.

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

[1] 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 practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

JOHN W BUNCH
1100 NORTHLAND PLAZA
3800 WEST 80TH STREET
MINNEAPOLIS, MN 55431

COPY MAILED

JAN 09 2002

OFFICE OF PETITIONS

In re Application of :
Gary M. Lesley :
Application No. 09/409,461 : ON PETITION
Filed: August 31, 1999 :
Attorney Docket No. 6173.20/US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 28, 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 September 28, 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 December 29, 2000.

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 3765.

Wan Laymon
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

JUN 10 2003

John W. Bunch
One Corporate Center, Suite 300
7300 Metro Blvd.
Minneapolis, MN 55439

Paper No. 19

In re Application of Gary M. Lesley Serial No. : 09/409,461 Filed : August 31, 1999 For : Enhanced Visibility Safety Garment	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed March 17, 2003, to review the holding of abandonment mailed December 30, 2002 for failure to respond to the Office action mailed July 23, 2002. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a one-month extension of time request, and a copy of a PTO stamped receipt dated October 1, 2002. The communication included a certificate of mailing dated September 23, 2002.

In view of the above, the Notice of Abandonment mailed December 30, 2002 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 October 1, 2002.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/05/30/03

The application file is being forwarded to the Publishing Division.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 16 2008

In re Application of	:	
Kenji Taima et al.	:	
Application No. 09/409,894	:	DECISION ON PETITION
Filed: October 1, 1999	:	
Attorney Docket No. P7355-9023	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to submit new formal drawings, and to timely pay the issue fee on or before April 1, 2002, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2001, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 2, 2002. The Notice of Abandonment was mailed May 7, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within

the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 2, 2002. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Nikaido, Marmelstein, Murray & Oram was counsel of record at the time of abandonment, Nikaido, Marmelstein, Murray & Oram should explain why this application became abandoned while it was under their control and what efforts Nikaido, Marmelstein, Murray & Oram made to further reply of itself and with whom this matter was discussed outside of Nikaido, Marmelstein, Murray & Oram. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) Nikaido, Marmelstein, Murray & Oram, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Nikaido, Marmelstein, Murray & Oram, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 5 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Nikaido, Marmelstein, Murray & Oram and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Thurman Page
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

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

COPY MAILED
SEP 02 2008

In re Application of	:	
Kenji Taima, et al.	:	
Application No. 09/409,894	:	DECISION ON PETITION
Filed: October 1, 1999	:	
Attorney Docket No. P7355-9023	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit new formal drawings, and to timely pay the issue fee on or before April 1, 2002, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2001. Accordingly, the date of abandonment of this application is April 2, 2002. The Notice of Abandonment was mailed May 7, 2007.

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 $1,400; (2) new formal drawings and, (3) the petition fee of $1,500; and (4) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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

Chris Bottorff
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

COPY MAILED

APR 0 7 2005

OFFICE OF PETITIONS

MARGER JOHNSON & MCCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND OR 97205

In re Application of	:	
Randall Baird et al.	:	
Application No. 09/409,922	:	ON PETITION
Filed: September 30, 1999	:	
Attorney Docket No. 2705-70	:	

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on June 23, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on March 22, 2004. By Advisory Action dated October 7, 2004, petitioners were informed that the reply to the Final Office Action, filed June 22, 2004, did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed October 20, 2004.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2665 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Janyce R. Mitchell
Sawyer Law Group LLP
P.O. Box 51418
Palo Alto, CA 94303

In re Application of:
Bryan K. BULLIS, et al.
Application No. 09/409,940
Filed: September 30, 1999
For: METHOD AND SYSTEM FOR PROVIDING HIERARCHICAL SELF-CHECKING IN ASIC SIMULATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to a communication filed on March 24, 2005. The communication has been treated as a petition under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a reply to the decision by the Board of Patent Appeals and Interference rendered on October 29, 2004 or failure to seek court review of the decision by the Board. A Notice of Abandonment was mailed on February 8, 2005.

The petitioner provided a copy of the Request for Continued Examination (RCE) filed December 6, 2004 and a copy of the amendment filed December 6, 2004.

A review of the Image File Wrapper and the RAM Fee History, it reveals that the RCE filing was received on December 6, 2004 and the RCE fee was also processed on December 6, 2004.

Applicant has established that a timely RCE and amendment were filed on December 6, 2004. The Notice of Abandonment is hereby withdrawn.

The copies of Request for Continued Examination and amendment filed on December 6, 2004 are being forwarded to the Technology Center support Staff for processing the RCE and entering the amendment. The file will then be forwarded to the examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Qualcomm Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

COPY MAILED

OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of
Nizri et al.
Application No. 09/409,947
Filed: September 30, 1999
Attorney Docket No. 990520

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 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 to the final Office action mailed September 27, 2001, which set a shortened statutory reply period of three months. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, A Notice of Abandonment was mailed on May 21, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being forwarded to Technology Center AU 2685 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Steven W. Smith
Ericsson Inc.
6300 Legacy Drive
M/S EVR C11
Plano, TX 75024

MAILED

APR 2 2 2004

Technology Center 2100

In re Application of:
Roland Bodin
Application No. 09/410,044
Filed: October 1, 1999
For: METHOD FOR ENCRYPTION OF INFORMATION

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed 02 April 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed 19 March 2004 (Paper No. 8).

Petitioner makes no representation that the response filed 02 May 2003 was timely filed. Accordingly, the Petition to Withdraw the Holding of Abandonment Under 37 CFR §1.181 is **DISMISSED**.

The application file is being forwarded to the Petitions Office for consideration of the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b). Deposit Account 50-1379 was charged the $1300 fee under 37 CFR 1.17(m) on 05 September 2003.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVW2-C-2
PLANO, TX 75024

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Bodin	:	
Application No. 09/410,044	:	ON PETITION
Filed: October 1, 1999	:	
Attorney Docket No. P06553-US2	:	

This decision concerns the May 2, 2003 petition under 37 CFR 1.137(b), re-submitted by facsimile on April 2, 2004.

The petition is **GRANTED.**

The application became abandoned on January 4, 2003 for failure to timely respond to the October 3, 2002 non-final Office Action.

The instant petition encloses an amendment, authorizes the USPTO to charge the $1,300 petition fee to Deposit Account No. 50-1379, and states in essence that the entire delay in responding to this non-final Office action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 2100 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: JUN 16 2004

spg
Paper Number #15

In re application of	:	
Jerome Melvin Klosowski et al.	:	DECISION ON
Serial No. 09/410,162	:	PETITION
Filed: September 30, 1999	:	
For: CONSERVATION OF ORGANIC AND INORGANIC	:	
MATERIALS	:	

This is a response to the RECONSIDERATION OF HOLDING OF ABANDONMENT filed October 10, 2003. The paper requests that the abandonment, as set forth in the Notice of Abandonment of October 16, 2003, be withdrawn since the applicants did timely file a response on August 5, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed August 5, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on August 5, 2003 by facsimile transmission as evidenced by the copy of the facsimile transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-872-9311), of 7 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on July 22, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed August 5, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DOW CORNING CORPORATION CO1232
2200 W. SALZBURG ROAD
P.O. BOX 994
MIDLAND MI 48686-0994

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Agilent Technologies Inc.
Legal Department, DL 429
Intellectual Property Administration
PO Box 7599
Loveland CO 80537-0599

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of :
Stephen D. Kendig :
Application No. 09/410,177 : ON PETITION
Filed: September 30, 1999 :
Attorney Docket No. 10980102-1 :

This is a decision on the petition filed April 22, 2004, to correct the inventor's first name on the Fee(s) Transmittal (PTOL-85(b)).

The petition is **granted**.

The inventor's name will be corrected from "Stehpen D. Kendig" to "**Stephen D. Kendig.**"

No petition fee is necessary. The Office records have been changed to reflect the correct name of the inventor as indicated above.

The Office of Patent Publications is directed to correct the inventor's name as indicated on the Fee(s) Transmittal submitted on April 22, 2004.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

BEST AVAILABLE COPY

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

Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601 SW Second Avenue
Portland, OR 97204-3157

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Brian Donovan :
Application No. 09/410,202 : ON PETITION
Filed: September 30, 1999 :
Attorney Docket No. 7134.007 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 2, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 3, 2002.

The application is being forwarded to Technology Center 2100, Art Unit 2155, for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 31

QUINE INTELLECTUAL PROPERTY LAW GROUP PC
P O BOX 458
ALAMEDA, CALIFORNIA 94501

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Charles S. Craik et al	:	
Application No. 09/410,362	:	DECISION GRANTING PETITION
Filed: September 30, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 305T-900100US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2003. A Notice of Abandonment was mailed on May 3, 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 September 23, 2003 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 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 the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 1642 for further action as the nature of the case may require.

Frances Hicks

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

cc:

Wilson Sonsini Goodrich & Rosati
(Docket No. 28644-701)
650 Page Mill Road
Palo Alto, CA 94304

UNITED STATES 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. 13

COPY MAILED

JUN 1 0 2003

OFFICE OF PETITIONS

MICHAEL J. MALLIE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD 7TH FLOOR
LOS ANGELES, CA 90025

In re Application of	:	
Kurt W. Piersol et al	:	
Application No. 09/410,494	:	ON PETITION
Filed: September 30, 1999	:	
Attorney Docket No. 074451.P107	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 July 1, 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 2, 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 2155 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

APR 10 2002

In re Application of)
ALYANAK)
Application No. 09/410,584)
Filed: October 1, 1999)
For: Apparatus and Method for Changing the)
Dynamic Response of an Electromagnetically)
Operated Actuator)

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on February 21, 2002, requesting that the period for reply to the Office action mailed on November 23, 2001, be reset.

The petition is **GRANTED**.

Petitioner states that the Office action in question has not been received by the applicant at the correspondence address of record. Petitioner states that a courtesy copy of the Office action was received via facsimile transmission on February 20, 2002. The petition includes a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

A review of the written record indicates that the November 23, 2001 Office action was not mailed to the correspondence address provided in the Associate Power of Attorney filed on September 6, 2001. In view of the mailing of the Office action to an incorrect correspondence address, and the resulting failure of the applicant to receive the mailed action, the petition to reset the period for reply is hereby granted.

Since the copy faxed to counsel on February 20, 2002, was merely a courtesy copy, the application file is being forwarded to technical support staff for Technology Center 2800 for remailing of the Office action of November 23, 2001. The period for response will be restarted along with the remailing of the Office action.

Edward Glick, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-4858

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED
SEP 18 2006
OFFICE OF PETITIONS

In re Application of
Atsuko Ohara et al.
Application No. 09/410,626
Filed: October 1, 1999
Attorney Docket Number: 21.1936/GMG

ON PETITION

This is a decision on the petition filed April 22, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, or in the alternative, to revive the above identified application, under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-referenced application was held abandoned on February 24, 2005 for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 23, 2004. Accordingly, a Notice of Abandonment was mailed February 21, 2006.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

A review of the file reveals that the Notice of Allowance was mailed to the address of record on November 23, 2004, but was returned by the US Postal Service on November 30, 2004 as undeliverable. A further review of the file reveals that this application is associated with customer number 21171 but that a change of customer number address of record, using the address found on the petition was not updated until June 14, 2005.[2]

As petitioner has not presented any evidence that the address of record for customer number 21171 had been changed with the USPTO at the time the Notice of Allowance was mailed on November 23, 2004, and in the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with up to date address, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charged to deposit account no. 19-3935.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2]The address of record for customer number 21171 at he time the Notice of Allowance was mailed on November 23, 2004 was STAAS & HALSEY LLP, 700 11th St., N.W., SUITE 500, WASHINGTON DC 20231.As of June 14, 2005 the address of record for for customer number 21171 was STAAS & HALSEY LLP, SUITE 700,1201 NEW YORK AVENUE, N.W., WASHINGTON DC 20005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070913

DATE : September 13, 2007

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,031,517

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

MTT

Thank You For Your Assistance **Certificates of Correction Branch**

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

☐ **Approved** **All** changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The last line of page 1 does not make sense:

— Q: Line 48, "a set co-ordinates" sense? —

Accordingly, this "change" does not apply. All other changes are accepted.

BHAVESH M MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 19 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

David Blumenthal
Foley and Lardner
2029 Century Park East
35th Floor
Los Angeles, CA 90067-3021

In re Application of: Arthur Willard Chaffee	)	
Application No. 09/410,825	)	DECISION ON PETITION FOR
Filed: October 1, 1999	)	ACCELERATED
For: INVESTMENT PORTFOLIO	)	EXAMINATION UNDER
TRACKING SYSTEM AND	)	M.P.E.P. §708.02(VIII)
METHOD	)	

This is a decision on the petition, filed January 9, 2002 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, or if the Office determines that all the claims presented are not obviously directed to a single invention, ***will make an election without traverse*** as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 fails on two counts. The petition is deficient in that **(1)** there is no statement that applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and **(2)** Applicant's submission does not include a discussion pointing out how the ***claimed subject matter is patentable over the references as required by 37 CFR 1.111(b) and (c)***. For at least some of the references purported to be most closely related, the discussion does not point out any specific claimed features recited in any of the independent claims that are not taught or suggested by the reference. Specifically, in the discussion of U.S. Patent 5,819,238 to Fernholz, Applicant has discussed the disclosure of the Fernholz patent and Applicant's disclosed invention, but has not pointed out any claimed features recited in any of the independent claims not taught or suggested by the Fernholz patent. Further, U.S. Patents 5,644,727 (Atkins); 5,826,878 (Kiyosaki); 5,842,185(Chancey); 5,911,136 (Atkins) and 5,963,925 (Kolling) have been cited as most closely related, but Applicant has not provided a detailed discussion of these references, and has not pointed out any claimed features that are not taught or suggested by these references. Thus, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

It is noted that the petition included a check in the amount of $180.00 as fee for filing an IDS, and no fee for filing the petition. Applicant is hereby notified that since no fee is required to file an IDS before first Office action, the check will be used to cover the $130.00 fee for filing the petition as required by 37 CFR 1.17(h).

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

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

MAILED Paper No. 18

MAR 2 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS, LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of:
Andrew L. Laursen et al
Application No. 09/410,859
Filed: October 1, 1999
For: **METHOD AND APPARATUS FOR ACCESSING A COMMON DATABASE FROM A MOBILE DEVICE AND A COMPUTING DEVICE**

DECISION ON PETITION

This is in response to the Petition to withdraw the Holding of Abandonment for the above-identified application, filed December 23, 2002.

The application was abandoned for failure to respond in a timely and effective manner to a Non-Final Rejection mailed April 10, 2002. A Notice of Abandonment was mailed November 14, 2002.

Petitioner asserts that a proper response was in fact timely filed. In support of the petition, petitioner has submitted a date stamped post card receipt, indicating that an Amendment was received in the Patent and Trademark Office on July 15, 2002; and a copy of the response including a certificate of mailing of July 10, 2002.

The original response was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as a *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 not matched with the application file.

In view of the above stated reason, the Notice of Abandonment is hereby 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 to have the Amendment entered. From there the application file will be forwarded to the examiner for consideration in due course.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

June 7, 2002

Struart T. Langley
Hogan & Hartson
One Tabor Center
1200 17th St., Suite 1500
Denver, CO 80202

In re application of:
Andrew Jones et al
Serial No.: 09/410,928
Filed: October 1, 1999

DECISION ON PETITION

For: SYSTEM AND METHOD FOR MAINTAINING CACHE COHERENCY IN A SHARED

This is a decision on the petition received by mail May 22, 2000 and by fax December 4, 2001, 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 October 29, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 30, 1999.

On May 22, 2000 and December 4, 2001, the office received a communications from the attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed October 29, 1999

The evidence submitted is sufficient to establish that the petitioners did not receive the Notice to File Missing Parts mailed October 29, 1999.

The petition is hereby GRANTED.

The petition fee of $130 has been credited to Deposit Account 50-1123.

The application has been completed for release to the Technology Center 2751.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 08

MAILED

APR 1 0 2002

OFFICE OF DIRECTOR GROUP

Lyon & Artz PLC
28333 TELEGRAPH ROAD
SOUTHFIELD, MI 48034

In re Application of:
Nold *et al.*
Application No. 09/410,952
Filed: October 05, 1999
Attorney Docket No.: 198-1601

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a response to the communication filed via facsimile transmission on December 13, 2001, that is being treated as a petition to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on April 03, 2001. A Notice of Abandonment was mailed on November 30, 2001.

Petitioner asserts that on April 20, 2001, a response to the Office action of April 03, 2001 was transmitted to the United States Patent and Trademark Office (PTO), via facsimile transmission. To support this assertion, petitioner has provided a copy of the response to the Office action that includes a proper Certificate of Facsimile Transmission under 37 CFR §1.8(a), a successful transmission report dated April 20, 2001 that includes a copy of the facsimile transmission cover sheet, and a statement from the attorney Kevin G. Mierzwa, that attests on a personal knowledge basis that the above identified response was facsimile transmitted to the PTO on April 20, 2001.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 C.F.R. § 1.8(a).

The petition meets the conditions of 37 C.F.R. § 1.8(b) to establish the previous timely filing of the response. The application is not abandoned in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the instant petition is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

HHP:lmm

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

Texas Instruments Incorporated
PO Box 655474, MS 3999
Dallas, TX 75265

COPY MAILED

FEB 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Tardieux	:	
Application No. 09/411,434	:	ON PETITION
Filed: October 1, 1999	:	
Attorney Docket No. TI-28234	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 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, to the final Office action mailed January 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 28, 2003.

The application file is being forwarded to Technology Center AU 2183, for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed with the instant petition.

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

Paper No. 6

Thomas M. Fisher
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

COPY MAILED

APR 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Emile Edward Abi-Habib, et al. :
Application No. 09/411,496 :
Filed: October 4, 1999 :
Attorney Docket No. 9D-HL-19210 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 October 4, 2000. 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 December 5, 2000.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to 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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6373676
Issue Date: April 16,2002
Application No. 09411564
Filed: October 1,1999
Attorney Docket No. 18534.44.04

:

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

:

This is a decision on the electronic petition, filed December 1,2006 ,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 1,2006 . 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)
6373676	2002-04-16	09411564	1999-10-01	18534.44.04 (8125/6)

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	/Frank C. Nicholas/	Date (YYYY-MM-DD)	2006-12-01
Name	Frank C. Nicholas	Registration Number	33983

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.

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)
6220439	2001-04-24	09411720	1999-10-02	VLAS-0002

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	/Spencer K. Warnick/	Date (YYYY-MM-DD)	2009-06-22
Name	Spencer K. Warnick	Registration Number	40398

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. 6220439
Issue Date: April 24,2001
Application No. 09411720
Filed: October 2,1999
Attorney Docket No. BADO11USQ

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-06

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

COPY MAILED

MAR 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Gary Karlin Michelson	:	
Application No. 09/412,082	:	ON PETITION
Filed: 4 October, 1999	:	
Atty Docket No. 008810-20021	:	

This is a decision on the petition filed under 37 CFR 1.181(a) paper filed on 11 April, 2005, requesting withdrawal of the holding of abandonment in the above-identified application.

This application became abandoned on 11 July, 2001, for failure to file a proper and timely reply to the final Office action mailed on 10 April, 2001. Notice of Abandonment was mailed on 5 April, 2005.

Petitioner asserts that a timely reply was filed on 2 July, 2001. While a review of the official record reveals that an amendment after final rejection was in fact received on 2 July, 2001, the Notice of Abandonment mailed on 5 April, 2001, states that the proposed reply was received on 2 July, 2001, but does not constitute a proper reply under 37 CFR 1.113(a).

While the delay in responding to the present petition is regretted, petitioner is reminded that a proper reply to a final rejection consists only of a timely filed amendment which places the application in condition for allowance; a timely filed Notice of Appeal and appeal fee; or a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

The petitioner may want to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-06

MARTIN & FERRARO LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

COPY MAILED
MAY 3 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Gary Karlin Michelson	:	
Application No. 09/412,082	:	ON PETITION
Filed: 4 October, 1999	:	
Atty Dckt No. 008810-20021	:	

This is a decision on the petition filed on 23 March, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on 11 July, 2001, for failure to file a timely and proper reply to the final Office action mailed on 10 April, 2001. Notice of Abandonment was mailed on 5 April, 2005. The petition to withdraw the

---

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

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

(2) the petition fee as set forth in 37 CFR1.17(m);

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

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

holding of abandonment filed on 11 April, 2005, was dismissed on 8 March, 2006.

With the present petition, petitioner filed a Request for Continued Examination (RCE) under 37 CFR 1.114, including a submission in the form of an Information Disclosure Statement (IDS).

The application file is being referred to Technology Center Art Unit 3764 for consideration of the RCE and IDS filed on 23 March, 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Gary Karlin Michelson :
Application No. 09/412,082 : ON PETITION
Filed: October 4, 1999 :
Attorney Docket No. 101.0052-01000 :

This is a decision on the petition, filed July 12, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 9, 2007 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 3772 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Joseph Mizrahi, et. al. :
Application No. 09/412,085 : ON PETITION
Filed: October 4, 1999 :
Attorney Docket No. 13626-014001 CGL04/0235US01 :

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

In response to the final Office action mailed January 7, 2002, petitioner hereby submits $1,370 for the petition to revive fee, a Revocation and New Power of Attorney, the statement of unintentional delay, and $430 for a two month extension of time. The Office also acknowledges receipt of a continuation application filed June 4, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the 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.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above application, this application is again abandoned in favor of continuing application No. 10/162,935.

The Revocation and New Power of Attorney filed November 12, 2004 and supplemented by facsimile transmission on July 7, 2005, has been accepted and made of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $430 extension of time submitted with the petition on November 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above application is being referred to Files Repository.

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
WWW.USPTO.GOV

Paper No. 20

MICHAEL L GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P O BOX 31051
ROCHESTER NY 14603-1051

COPY MAILED
MAY 22 2003
OFFICE OF PETITIONS

In re Application of
Wei, et al.
Application No. 09/412,100
Filed: October 4, 1999
Attorney Docket No. 21829/31 (EBC-002)

ON PETITION

This is a decision on the "Petition for Change of Inventorship of Inventor's Name Under 37 C.F.R. 1.182", filed January 27, 2003.

Applicant has filed the petition to change the name of inventor Jennifer J. Niggemeyer to Jennifer J. Stephens. Applicant has paid the petition fee and included a declaration from Jennifer Stephens, stating that she was legally married in the State of Washington on September 11, 1999. While this change in the inventor's name occurred before the application was filed, applicant explained that the prior name was inadvertently given when filing the application.[1]

Accordingly, the 37 CFR 1.182 petition is **GRANTED**.

A final Office action was mailed on July 26, 2002. In reply, applicant filed a Continued Prosecution Application (CPA) on January 27, 2003, made timely by obtaining a three month extension of time and by the fact that January 26, 2003 fell on a Sunday.[2]

The application file is being forwarded to Technology Center 1600 for consideration of the Continued Prosecution Application, filed January 27, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 605.04(c).

[2] See 37 CFR 1.7(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE CA 94085-3523

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Patent No. 6,540,741	:	
Issue Date: April 1, 2003	:	
Application No. 09/412,103	:	NOTICE
Filed: October 4, 1999	:	
Attorney Docket No. 37167-8039.US00	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

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

Paper No. 18

CHRISTOPHER P. MORENO
VEDDER PRICE KAUFMAN & KAMMHOLZ
222 NORTH LASALLE STREET
CHICAGO, IL 60601

COPY MAILED

NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of
Gerson, Ira A.
Application No. 09/412,202
Filed: October 5, 1999
Attorney Docket No. 04776.81656

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 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 non-final Office action mailed January 28, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 29, 2003. A Notice of Abandonment was mailed on September 22, 2003.

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.

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

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

cc: Michael K. Lindsey
Howrey Simon Arnold & White, LLP
321 North Clark Street, Suite 3400
Chicago, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AIKINS PATENT COMPANY
30TH FLOOR
360 MAIN STREET
WINNIPEG MB R3C 4G1
CANADA

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
David E. Vokey et al	:	
Application No. 09/412,440	:	DECISION GRANTING PETITION
Filed: October 5, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 80204-1302	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 27, 2001, is accepted as having been unintentionally delayed.

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 the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center AU 2862.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MR. ADRIAN D. BATTISON
C/O ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG, MANITOBA
CANADA R3C 3Z3

BARNES & THORNBURG LLP

11 South Meridian Street
Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

OIPE JC36
JAN 03 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.	23643
Group:	3764
Confirmation No.:	9671
Application No.:	09/412,459
Invention:	AIRWAY TREATMENT APPARATUS WITH BIAS LINE CANCELLATION
Inventor:	Nicholas P. Van Brunt
Filed:	October 4, 1999
Attorney Docket:	7175-74159
Examiner:	Mathew, Fenn C.

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on Dec. 28, 2004

Ronita K. Bury
(Signature)

Ronita Bury
(Printed Name)

Petition is moot

IDS considered 2/14/05 and allowability maintained

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. § 1.313(a)

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

Sir:

The NOTICE OF ALLOWANCE AND FEE(S) DUE and the NOTICE OF ALLOWABILITY for the above-captioned patent application were mailed by the U.S. Patent & Trademark Office on October 6, 2004. A Supplementary Partial European Search Report, dated November 4, 2004, in a foreign counterpart of the above-captioned application was sent to Applicant's foreign patent counsel by the European Patent Office after the allowance of the above-captioned application. Two references listed in the Supplementary Partial European Search Report have not been considered by the Examiner in the above-captioned application. Accordingly, it is respectfully requested that the above-captioned patent application be withdrawn from issue for consideration of the two references listed in the Information

Stephen Marcus
Special Program Examiner
Group 3700

01/04/2005 MMEKONEN 00000040 09412459
02 FC:1464 130.00 OP

Disclosure Statement submitted concurrently herewith. The Issue Fee has not yet been paid in this application.

A check in the amount of $130 is enclosed herewith for payment of the petition fee set forth in 37 C.F.R. § 1.17(h). Please charge any additional fees or credit any overpayments to Deposit Account No. 10-0435 with reference to our matter 7175-74159.

Respectfully submitted,
BARNES & THORNBURG LLP

Ronald S. Henderson

Ronald S. Henderson
Reg. No. 43669
(317) 231-7341

INDS02 RSH 698451v1

UNITED STATES 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. 40

SIXBEY FRIEDMAN LEEDOM & FERGUSON PC
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN, VA 22102

COPY MAILED
OCT 22 2003
OFFICE OF PETITIONS

In re Application of :
Kenji Itoh, et al. :
Application No. 09/412,510 : ON PETITION
Filed: October 5, 1999 :
Attorney Docket No. 0756-2045 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on October 21, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 8, 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]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jerome W. Massie IV appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Massie desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Massie, the petitioner herein. However, until otherwise instructed, all future

[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).

correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1762 for 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

cc:

JEROME W. MASSIE IV
NIXON PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIXBEY FRIEDMAN LEEDOM & FERGUSON PC
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN, VA 22102

COPY MAILED

JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenji Itoh, et al.	:	
Application No. 09/412,510	:	ON PETITION
Filed: October 5, 1999	:	
Attorney Docket No. 0756-2045	:	

This is a decision on the petition, filed January 14, 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 29, 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]

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

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

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

The application is being referred to Technology Center AU 1762 for further processing of the request for continued examination under 37 CFR 1.114 filed January 14, 2005.

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

cc: Jeffrey L. Costellia
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

COPY MAILED

SEP 2 8 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

AKIN GUMP STRAUSS HAUER & FELD, LLP
ONE COMMERCE SQUARE
2005 MARKET STREET - 22ND FLOOR
PHILADELPHIA, PA 19103-7086

In re Application of
Kucera, et al.
Application No. 09/412,539
Filed: October 4, 1999
Attorney Docket No. 0443-17U3

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed August 24, 2000, requesting that the above-identified application be accorded a filing date of October 4, 1999, rather than the presently accorded filing date of October 5, 1999.

Petitioner alleges that the application was deposited in Express Mail service on October 4, 1999. In support of the allegation, the petition is accompanied by a copy of Express Mail receipt No. EL32991956US, showing a United States Postal Service stamp of October 4, 1999. The same Express Mail receipt number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**.

The petition fee of $130.00 is unnecessary. Petitioner may obtain a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany any request for a refund.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to **October 4, 1999.**

Telephone inquiries should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 11 2005

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

#37

In re Application of	:
Louis S. Kucera et al	:
Serial No.: 09/412,539	: PETITION DECISION
Filed: October 4, 1999	:
Attorney Docket No.: 053665-5005-02	:

This is in response to the petition under 37 CFR 1.181, filed October 27, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on December 24, 2003, setting a three month shortened statutory period for. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed October 20, 2004. Applicants state that a reply was filed March 22, 2004. The reply has now been located and correlated with the file. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

Michael K. Lindsey
Howrey Simon Arnold & White
321 N. Clark, Suite 3400
Chicago, IL 60610

COPY MAILED

OCT 16 2003

OFFICE OF PETITIONS

In re Application of :
Ira A. Gerson :
Application No. 09/412,699 :
Filed: October 5, 1999 :
Attorney Docket No. 04776.81658 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed September 22, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 15, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 16, 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 2684 for further processing.

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

Paper No. 11

PILLSBURY MADISON & SUTRO LLP
725 SOUTH FIGUEROA STREET
SUITE 1200
LOS ANGELES CA 90017-5443

COPY MAILED

JUL 0 3 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Katsuichi Osakabe
Application No. 09/412,736
Filed: October 4, 1999
Attorney Docket No. 51270-245618

This is a decision on the petition, filed July 3, 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 May 28, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 2653 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES 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

Date : July 3, 2003

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Katsuichi Osakabe
Application No. : 09/412,736
Filed : October 4, 1999

The above-identified application has been assigned Patent No. 6,594,211 and an issue date of July 15, 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 July 15, 2003:

"All reference to Patent No. 6,594,211 to Katsuichi Osakabe of Japan for RECORDABLE OPTICAL DISK AND OPTICAL DISK RECORDING DEVICE UTILIZING PRE-RECORDING SPEED INFORMATION appearing in the Official Gazette of July 15, 2003 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 9

JUL 2 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Rick Nydegger
Workman Nydegger
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

In re Application of: Hopmann et al.	)	
Application No. 09/412,738	)	
Attorney Docket No. 13768.119	)	DECISION ON PETITION TO ACCEPT
Filed: October 4, 1999	)	CORRESPONDENCE AS TIMELY
For: SYSTEMS AND METHODS FOR	)	FILED UNDER 37 CFR § 1.8(b)
DETECTING AND RESOLVING	)	
RESOURCE CONFLICTS	)	

This is a decision on the "Request to Accept Correspondence as Timely Filed." The request, filed July 2, 2003, is being considered a petition under 37 CFR § 1.8(b) to accept correspondence as timely filed. A Notice of Abandonment has not been mailed.

Petitioners' request filed on July 2, 2003 included a copy of applicants' response to the Office action dated November 5, 2002, a signed and dated certificate of facsimile transmission for January 21, 2003, and a statement by Mr. Adrian Lee attesting to his personal knowledge that the fax was originally sent on January 21, 2003. In a submission dated June 13, 2003, the practitioner submitted a copy of a "Transaction Report" dated January 21, 2003 for 20 pages.

The petitioners' evidence establishes that a timely response was, in fact, filed in response to the Office action of November 5, 2002 (Paper No. 7). The Office erred in not matching the response to the application file. It is noted the examiner did not provide a facsimile number to applicants in the Office action.

Accordingly, the petition is **GRANTED**. The paper is accepted as timely filed and therefore, the application has not been abandoned ***in fact.*** The Office regrets any inconvenience caused by the failure to process applicants' submission.

The application file is being forwarded to the Technology Center support staff for processing of the amendment. Thereafter, the file will be forwarded to the examiner for consideration of applicants' response.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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

Paper No. 8

WALKER DIGITAL CORPORATION
ONE HIGH RIDGE PARK
STAMFORD, CT 06905-1325

COPY MAILED

APR 27 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Jay S. Walker, et al.
Application No. 09/412,930
Filed: October 5, 1999
Attorney Docket No. WD2-99-015

NOTICE

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.. No. 97-1128, -1280, -1453, 1998 U.S. App. LEXIS 21409, at *30 (Fed. Cir. Sept. 1, 1998). Therefore, 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 returned to Technology Center 2700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Karen Creasy
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. 19

Walker Digital
Five High Ridge Park
Stamford, CT 06905

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Jay S. Walker et al. :
Application No. 09/412,930 : ON PETITION
Filed: October 5, 1999 :
Attorney Docket No. WD2-99-015 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 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 14, 2002, 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 above-identified application became abandoned on August 15, 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 3625.

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

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED

DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of:
Walker et al.
Application No. 09/412,930
Filed: October 5, 1999
Docket No.: WD2-99-015

: ON PETITION

This is a decision on the petition filed April 23, 2004, which is being treated as a petition under 37 CFR 1.182 asking that the USPTO withdraw the terminal disclaimer filed July 3, 2000.

The petition is **granted**.

Petitioner requests that the aforementioned terminal disclaimer be withdrawn as it inadvertently disclaimed over U.S. Patent No. 6,061,660 which is not commonly owned. Petitioner notes that the other patent relied upon to support the former rejection on the grounds of obviousness-type double patenting (U.S. Patent No. 6,249,772) is commonly owned and has been the subject of another terminal disclaimer of record. . Accordingly, the requested relief can be favorably considered.

The aforementioned erroneous terminal disclaimer has been rendered a "closed" document in this IFW file.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

GREGORY D CALDWELL
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90024

COPY MAILED

JUN 19 2001

OFFICE OF PETITIONS
A/C PATENTS

ON PETITION

In re Application of :
Layne Britton :
Application No. 09/412,993 :
Filed: October 5, 1999 :
Attorney Docket No. 3099P017 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2001, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 1, 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 January 2, 2000.

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

[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).

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).

This application became abandoned for failure to file a reply to the Notice of File Missing Parts of Application (Notice)mailed November 1, 1999. The reply required for consideration of a petition to revive must be a signed declaration.

Since petitioner has filed to submit the reply required by 37 CFR 1.137(b)(1), the petition must be dismissed.

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 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 Wan Laymon at (703) 305-9282.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

GREGORY D. CALDWELL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90024

COPY MAILED

AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Britton
Application No. 09/412,993
Filed: October 5, 1999
Attorney Docket No. R0027
For: PROVIDING AUDIENCE FLOW IN A PERSONAL TELEVISION DEVICE

ON PETITION

This decision addresses two petitions: (1) the petition under 37 CFR 1.47(b), filed January 23, 2002 (certificate of mailing date December 19, 2001) and supplemented on February 12, 2002 and (2) the reconsideration petition under 37 CFR 1.137(b), filed January 23, 2002 (certificate of mailing date December 19, 2001), to revive the above-identified application. The Office apologizes for the delay in addressing these petitions.

The petition under 37 CFR 1.47(b) is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(b) and 1.137(b)." Petitioners are advised that this is not a final agency decision.

On November 1, 1999, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set forth an extendable two (2) month period to submit an executed oath or declaration, filing fees, and a $130.00 surcharge under 37 CFR 1.16(e) for their late filing. No response was received. Thus, this application became abandoned on January 2, 2000. On May 14, 2001, petitioner filed a petition to revive under 37 CFR 1.137(b), the required petition fee, and filing fees. The petition under 37 CFR 1.137(b) was dismissed on June 19, 2001 for failure to provide a complete reply -- a signed declaration was missing.

The instant petitions and a 4 month extension of time and required fee were filed in response.

PETITION UNDER 37 CFR 1.47(b)

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1) set forth above.

As to item (1), applicant has failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The statement of facts of Debbie Peloquin establishes that "documents" were mailed to the inventors last known address on October 8, 2001 and they were received by a "Britton" on October 10, 2001. However, the statement of facts does not establish that a complete copy of the application was mailed. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Libby Hope's statement of facts buttresses the argument that Mr. Britton did not receive a complete copy of the application because when Ms. Hope spoke to Mr. Britton about the necessity of obtaining his signature on documents pertaining to this application, he "appeared to not know what [she] was talking about, and explained that he would look for the documents and call [her] back."

Mr. Britton must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. After all, Mr. Britton cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

When petitioner can show that Mr. Britton was mailed or 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 within a reasonable amount of time, petitioner will have satisfied this requirement.

If there is an express oral refusal, that fact along with the time and place of the refusal must be stated in a statement of facts. If there is a written refusal, a copy of the refusal must be submitted. Finding refusal by conduct is possible. All facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

The petition under 37 CFR 1.47(b) is dismissed.

It is noted that petitioner has not specified Mr. Britton's last known address. It is assumed that Mr. Britton's last known address is that listed in the declaration. If this is the case, please state so in any reconsideration petition.

PETITION UNDER 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;

(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).

This petition lacks item (1) above. The required reply is an acceptable declaration -- whether executed by the inventor or executed by someone representing an entity with proprietary interest. Since the petition under 37 CFR 1.47(b) is dismissed, petitioner has not submitted the required reply to revive the application.

The petition under 37 CFR 1.137(b) is dismissed.

It is noted that on June 12, 2003, Attorney Eric R. Moran of McDonnell Boehnen Hulbert & Berghoff filed a power of attorney by assignee of entire interest on behalf of Digital Networks North America, Inc.. Mr. Moran attached an asset purchase agreement between SONICblue Incorporated, ReplayTV, Inc., and Digital Networks North America, Inc. as evidence of Digital Networks North America, Inc.'s status as assignee of the entire interest of the above-identified application. The Office requires this document to be recorded in Assignments Division before the assignee will be permitted to take action. See MPEP 324. Of course, prior to Digital Networks North America, Inc.'s intervening, Rule 47(b) status for ReplayTV, Inc. must be established.

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 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 should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: ERIC R. MORAN
McDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE, 32 FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

COPY MAILED

NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of Britton Application No. 09/412,993 Filed: October 5, 1999 Attorney Docket No. R0027 For: PROVIDING AUDIENCE FLOW IN A PERSONAL TELEVISION DEVICE	DECISION NOTING JOINDER OF INVENTOR AND DISMISSING PETITION UNDER 37 CFR 1.47(B) AS MOOT & DECISION GRANTING PETITION UNDER 37 CFR 1.137(B)

This decision addresses the reconsideration petitions under 37 CFR 1.47(b) and 37 CFR 1.137(b), both filed October 14, 2003 in the same paper.

On November 1, 1999, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set forth an extendable two (2) month period to submit an executed oath or declaration, filing fees, and a $130.00 surcharge under 37 CFR 1.16(e) for their late filing. No response was received. Thus, this application became abandoned on January 2, 2000.

Papers filed on October 14, 2003 included a declaration signed by the previously nonsigning inventor, Layne Britton, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, the reconsideration petition under 37 CFR 1.47(b) is dismissed as moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

With respect to the reconsideration petition under 37 CFR 1.137(b), petitioner has submitted a reply in the form of a proper declaration, an acceptable statement of the unintentional nature of the delay in responding to the November 1, 1999 Notice to File Missing Parts of Nonprovisional Application, and the petition fee.

The petition under 37 CFR 1.137(b) is granted.

This application will be returned to the Office of Initial Patent Examination for further processing.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6364649
Issue Date: April 2,2002
Application No. 09413016
Filed: October 7,1999
Attorney Docket No. 31764-0003

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

This is a decision on the electronic petition, filed April 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 April 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)
6364649	2002-04-02	09413016	1999-10-07	31764-0003

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)	2010-04-19
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 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

WONG, CABELLO, LUTSCH, RUTHERFORD &
BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

COPY MAILED

NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of
James L. Martin, Jr.
Application No. 09/413,105
Filed: October 6, 1999
Attorney Docket No.: **149-0031US**

ON PETITION

This is a decision on the petition filed May 28, 2002 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

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

The application was held abandoned on January 23, 2002, for failure to timely submit a timely response to the non-Final Office Action mailed October 22, 2001, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed May 6, 2002.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment with a certificate of mail date of December 27, 2001 and a post card receipt date stamped January 18, 2002 by the USPTO.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter will be referred to Technology Center 2172 for appropriate action on the amendment filed January 18, 2002 (certificate of mail date December 27, 2001), a copy of which was submitted upon petition.

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of :
Martin :
Application No. 09/413,105 :
Filed: October 6, 1999 : DECISION ON PETITION
Attorney Docket No. 99-008-02-US :
For: SEQUENTIAL UNLOAD PROCESSING :
OF IMS DATABASES :

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term modification entitled "Petition for Reconsideration of Patent Term," received on December 28, 2009.

The petition under 37 CFR 1.182 is dismissed.

Petitioner notes that the Notice of Allowance mailed on December 14, 2009, for the above-identified application stated that the Patent Term Extension is 0 days and did not contain an indication of patent term adjustment. Petitioner asserts that "the correct Patent Term Adjustment/Extension is 2,858 days, on the basis of the USPTO's delay caused by effectively losing the application from 27 March 2001 through 22 January 2009".

Petitioner asserts that there were no circumstances where applicant failed to engage in reasonable efforts to conclude processing the present application. Petitioner asserts that the delays are attributable to the Office, as the Office improperly abandoned the application and then failed to timely treat the petition. Petitioner requests that the Office make a determination of Patent Term Adjustment and that the adjustment should be 2,858 days.

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 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).

The above-identified application was filed on October 6, 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. 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.

Petitioner's assertion that the application is eligible for patent term adjustment provisions pursuant to 35 U.S.C. § 154 and 37 CFR 1.702 -1.705 is not persuasive. The effective date provision (§ 4405) in the legislation clearly states that the amendments to 35 U.S.C. § 154 apply to applications filed on or after the date that is 6 months after the date of enactment, i.e., May 29, 2000. This provision does not include applications that were filed prior to the date of enactment or even immediately after the date of enactment, but applications that were filed on or after the date that is 6 months after the date of enactment, see *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 FR 56366 (Sept. 18, 2000) 1239 Off Gaz. Pat. Office Notices 14 (Oct. 3, 2000). [1]

Petitioner's assertion that the application is eligible for additional patent term under 37 CFR 1.182 due to the extraordinary length of the prosecution history, as it is unfair to Petitioner is not persuasive. 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).

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 $400 fee for the petition under 37 CFR 1.182 petition has been paid.

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

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

[1] Sykes v. Dudas, 573 F.Supp 2d 191, 89 USPQ2d 1423 (D.D.C.2008).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID A CHERRY ESQ
WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of
Evan C. Unger
Application No. 09/413,110
Filed: October 6, 1999
Attorney Docket No. UNGR-1580

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2005.

The petition 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 Suzanne E. Miller on behalf of all attorneys/agents of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 23377 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicant.

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

This application is being referred to Technology Center AU 1617 to await a reply to the final Office action mailed February 24, 2006.

Amelia Au
Petitions Examiner
Office of Petitions

cc: DLA PIPER RUDNICK GRAY CARY US LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 92121-2133

EVAN C. UNGER
6227 E. MIRAMAR STREET
TUCSON, AZ 85710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Stephen B. Ackerman
George O. Saile and Associates
28 Davis Avenue
Poughkeepsie, NY 12603

COPY MAILED

NOV 1 9 2002

OFFICE OF PETITIONS

In re Application of :
L. Chan et al. :
Application No. 09/413,177 : ON PETITION
Filed: October 7, 1999 :
Attorney Docket No. CS99-107C :

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 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 within the meaning of 37 CFR 1.113 to the final Office action mailed August 31, 2001, which set a shortened statutory reply period of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on December 1, 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 2815 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

Paper No.: 34

KNOBBE MARTENS OLSON AND BEAR LLP
2040 MAIN STREET 14TH FLOOR
IRVINE, CA 92614

MAR 0 8 2005

In re Application of:
Mark W. Miles
Serial No.: 09/413,222
Filed: October 5, 1999
Attorney Docket No.: **IRDM.056CP**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 24, 2003, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on October 21, 2002. Petitioner timely filed a Request for Continued Examination (RCE) on January 24, 2003 with a certificate of mailing dated January 21, 2003. Subsequently, another Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on March 11, 2003. The application was held abandoned for failure to timely pay the issue fee in response to this Notice of Allowance. A Notice of Abandonment was mailed on August 29, 2003.

A review of the written record indicates that petitioner apparently did not receive the Notice of Allowance mailed on March 11, 2003. This is based on the fact that petitioner asserts that no issue fee was due for the Notice of Allowance mailed on October 21, 2002 since the RCE was timely filed on January 24, 2003. It is apparent that petitioner is not aware of the Notice of Allowance mailed on March 11, 2003.

A further review of the written record reveals that a proper Change in Power of Attorney filed on June 18, 2002 was not entered into the Patent Application Location and Monitoring (PALM) computer system. Accordingly, the Notices of Allowance mailed on October 21, 2002 and March 11, 2003 were mailed to the previous attorney of record. It is presumed that petitioner was forwarded a copy of the Notice of Allowance mailed October 21, 2002, but not the Notice of Allowance mailed March 11, 2003.

Although petitioner has not provided a showing that establishes non-receipt of the Notice of Allowance mailed March 11, 2003 in accordance with M.P.E.P. § 711.03(c), it has been

established that the Notices of Allowance were mailed to the incorrect old address due to an error by the Office. Accordingly, the application was not abandoned in fact.

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 re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

NOV 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark W. Miles	:	
Application No. 09/413,222	:	DECISION GRANTING PETITION
Filed: October 5, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01568-010001	:	

This is a decision on the petition, filed October 31, 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 September 27, 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 2873 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).*

UNITED STATES 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. 6235866
Issue Date: May 22,2001
Application No. 09413376
Filed: October 6,1999
Attorney Docket No. RD-26.867

:

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

:

This is a decision on the electronic petition, filed August 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6235866	2001-05-22	09413376	1999-10-06	RD26867-4-US-NP

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	/Diderico van Eyl/	Date (YYYY-MM-DD)	2009-08-05
Name	Diderico van Eyl	Registration Number	38641

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

Paper No. 16

Schwegman Lundberg Woessner & Kluth
PO Box 2938
Minneapolis, MN 55402

COPY MAILED

OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Wayne Bonin	:	
Application No. 09/413,494	:	ON PETITION
Filed: October 6, 1999	:	
Attorney Docket No. B908-002-PAT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice of Non-Compliant Amendment pursuant to 37 CFR 1.121 mailed September 5, 2002. Accordingly, a Notice of Abandonment was mailed April 1, 2003.

The application file is being forwarded to Technology Center AU 2855 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 10 2005

MAILED

MAR 10 2005

OFFICE OF THE DIRECTOR
TC 3600

Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
Dallas, TX 75270

In re Application of :
Thomas J. Marsan et al :
Application No. 09/413,728 :
Filed: October 6, 1999 :
For: SYSTEM AND METHOD FOR PROCESSING RETRIEVAL REQUESTS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 12, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicants on March 28, 2003. Applicant responded with a Notice of Appeal and Appeal fee filed August 4, 2003. However, there is no record of the Office receiving the Appeal Brief. Since the Office never received the Appeal Brief the application was properly abandoned on January 7, 2005.

Petitioner contends that the response of August 4, 2003 also contained the Appeal Brief. Petitioner offers proof that the Appeal Brief was submitted in the August 4, 2003 response by citing that the check for the Appeal fee was accepted by the Office.

A thorough review of applicants petition, and the entire application file record has been performed. While indication of the Notice of Appeal and Appeal fee having been paid are indicated in the file no Appeal Brief dated August 4, 2003 is contained in the file. Thus, without the appropriate documentary evidence (i.e., post card receipt, proper certificate of mail or facsimile transmission, proper express mail, etc. of the Appeal Brief), applicants statement of timely filing a response to the March 28, 2003 Office action is insufficient, and the holding of abandonment cannot be withdrawn.

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 should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

KJD/jwk: 2/08/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS, TX 75270

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Marsan, et al.	:	
Application No. 09/413,728	:	ON PETITION
Filed: October 6, 1999	:	
Attorney Docket No. B-65583(0143	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2005, to revive the above-identified application.

The application became abandoned for a failure to timely file an Appeal Brief within two months of the August 4, 2003 date of the Notice of Appeal. The Appeal Brief was filed on January 12, 2005.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

The application is being referred to Technology Center AU 3629.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 5, 2010

TO SPE OF : ART UNIT 2879
SUBJECT : Request for Certificate of Correction for Appl. No.:09/413773 /Patent no.6927533

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

☒1 **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

/NIMESHKUMAR D. PATEL/2
SPE, AU 2879

UD41

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: #19

DATE : 10/9/08

TO SPE OF : ART UNIT 3661 Black Thomas (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/413959 Patent No.: 6289277

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: _____

SPE

3664
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,289,277 B1
APPLICATION NO. : 09/413959
DATED : September 11, 2001
INVENTOR(S) : Feyereisen et al.

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

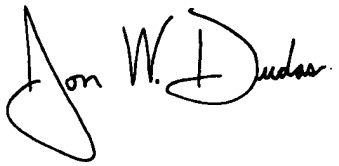
At Column 10, line 16, Claim 42 cancel the text beginning with "42. A computer-implemented system" and ending on line 23 with "and hazards (420)." and insert the following claim:

--42. A computer-implemented system for planning routes (410), in which data (110) associated with a proposed route and hazard data (120) are represented on an interface (130),

characterised in that the interface displays the route data and hazard data for multiple types of weather hazards together geographically (401,402) and includes user controls (450,480) for manipulating user-specifiable display characteristics of the hazards (420).--

Signed and Sealed this

Twenty-fifth Day of November, 2008



JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:	
George Anderson et al	:	
Application No. 09/413,971	:	ON PETITION
Filed: October 7, 1999	:	
Attorney Docket No. 72167.000112	:	

This is a decision on the petition under 37 CFR 1.182, filed October 11, 2005, 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. George Anderson

2. Lou Riehl

This matter is being referred to Publishing Division to be processed into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

GARVEY, SMITH, NEHRBASS & DOODY, LLC
3838 N. CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

COPY MAILED

JAN 29 2007

OFFICE OF PETITIONS

In re Application of
James E. Landry et al.
Application No. 09/413,993
Filed: October 7, 1999
Attorney Docket No. 312.2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 30, 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) was obtained. Accordingly, the application became abandoned on December 31, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks: item (3)

The file record shows that over 5 years and 8 months elapsed between the date of abandonment and the filing of the instant petition. A Notice of Abandonment was mailed to applicant on August 13, 2002. Due to the extended delay in filing the petition to revive, further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed is required, along with information as to how such delay was "unintentional." Petitioner should submit:

(A) further information as to when the applicant (or applicant's representative) first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). See MPEP 711.03(c)

Please provide further information in regards to the above within TWO (2) MONTHS from the mail date of this decision.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

MRD 3-21-07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: James E. Landry DATE: March 21, 2007

SERIAL NO.: 09/413,993 GROUP ART UNIT: 1712

FILED: October 7, 1999 EXAMINER: Sellers, Robert E.

FOR: "A Flexible Insulating Material and Method of Use"

ATTORNEY DOCKET NO.: A00308US (98417.1)

* * * * * * * * * * * * * * *

RENEWED PETITION UNDER 37 CFR 1.137(b)

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Renewed Petition to Revive for Unintentional Abandonment under 37 CFR 1.137(b) in response to the dismissal of the petition filed August 17, 2006.

This application went unintentionally abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 30, 2001. Applicant submits herewith the appropriate fees. Applicant submitted a Response on August 17, 2006 along with the Petition to Revive. 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 cause of the delay between the date Applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed is noted in the attached Declaration. As described in the Declaration, such delay was unintentional. Subsequent to filing the subject patent application, applicant experienced catastrophic and severe financial hardships which resulted in the delay in responding to the Office. In January, 2000, applicant's business was interrupted due to a fire completely destroying one of two buildings. From May, 2000 through February, 2002, a key employee embezzled money and damaged applicant's reputation. Applicant's attorney of record received the Notice of Abandonment on August 19, 2002 (see Cover Page for Paper No. 11 noting "received" and "docketed"). As a result of the embezzlement of funds, applicant was in a precarious financial status. In August, 2004, a primary customer filed for bankruptcy which further interrupted applicant's financial stability. Legal

action is currently pending against a potential buyer of applicant's business that breached its agreement to purchase after succeeding in hiring most of applicant's key employees.

CONCLUSION

Applicant respectfully submits 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.

Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any additional fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,

/jmd/

Gregory C. Smith, Reg. No. 29,441
Charles C. Garvey, Jr., Reg. No. 27,889
Seth M. Nehrbass, Reg. No. 31,281
Brett A. North, Reg. No. 42,040
Jacqueline M. Daspit, Reg. No. 36,779
Email: JacquelineDaspit@gsnn.us
GARVEY, SMITH, NEHRBASS & NORTH, L.L.C.
PTO Customer No. 22920
3838 N. Causeway Blvd., Suite 3290
Metairie, LA 70002
Tel.: (504) 835-2000
Fax: 504-835-2070
www.neworleanspatents.com

P:\ClientFiles\98\984\98417\RenewedPetitionRevive.wpd

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: James E. Landry
SERIAL NO.: 09/413,993
FILED: October 7, 1999

DATE: March 21, 2007
GROUP ART UNIT: 1712
EXAMINER: Sellers, Robert E.

FOR: "A Flexible Insulating Material and Method of Use"

ATTORNEY DOCKET NO.: A00308US (98417.1)

****

DECLARATION

DECLARATION

I, James E. Landry, do hereby declare the following:

that I am the inventor of the patent application titled "A Flexible Insulating Material and Method of Use" filed on October 7, 1999 and bearing serial no. 09/413,993;

that this application went unintentionally abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 30, 2001;

that applicant submitted a Response on August 17, 2006 along with the Petition to Revive;

that this is a Renewed Petition to Revive for Unintentional Abandonment under 37 CFR 1.137(b) in response to the dismissal of the petition filed August 17, 2006;

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;

that the cause of the delay between the date I was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed was due to catastrophic and severe financial hardships from which I have recently recovered;

that in January, 2000, my business was interrupted due to a fire completely destroying one of two buildings

that from May, 2000 through February, 2002, a key employee embezzled money and damaged my reputation;

that my attorney of record received the Notice of Abandonment on August 19, 2002 and forwarded the Notice of Abandonment to me;

that as a result of the embezzlement of funds, I was in a precarious financial status and unable to afford patent fees or attorney fees;

that in August, 2004, a primary customer filed for bankruptcy which further interrupted

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.
09/413,993	10/07/1999	JAMES E. LANDRY	312.2	2682

7590 08/13/2002

GARVEY, SMITH, NEHRBASS & DOODY, LLC
3838 N. CAUSEWAY BLVD., SUITE 3290
METAIRIE, LA 70002

EXAMINER
SELLERS, ROBERT E

ART UNIT	PAPER NUMBER
1712	11

DATE MAILED: 08/13/2002

98417.1
A0030845
GCS

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

RECEIVED
Garvey, Smith
Nehrbass & Doody
AUG 19 2002
Docket by
Action
Due date

RECEIVED
AUG 16 2002
Garvey, Smith
Nehrbass & Doody

PTO-90C (Rev. 07-01)

Electronic Patent Application Fee Transmittal

Application Number:	09413993
Filing Date:	07-Oct-1999
Title of Invention:	FLEXIBLE INSULATING MATERIAL AND METHOD OF USE
First Named Inventor/Applicant Name:	JAMES E. LANDRY
Filer:	Seth M. Nehrbass
Attorney Docket Number:	312.2
Filed as Small Entity	

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Petition-revive unintent. abandoned appl	2453	1	750	750
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Electronic Acknowledgement Receipt

EFS ID:	1610144
Application Number:	09413993
International Application Number:	
Confirmation Number:	2682
Title of Invention:	FLEXIBLE INSULATING MATERIAL AND METHOD OF USE
First Named Inventor/Applicant Name:	JAMES E. LANDRY
Correspondence Address:	GARVEY, SMITH, NEHRBASS & DOODY, LLC - 3838 N. CAUSEWAY BLVD., SUITE 3290 - METAIRIE LA 70002 US 504835-2070 -
Filer:	Seth M. Nehrbass
Filer Authorized By:	
Attorney Docket Number:	312.2
Receipt Date:	21-MAR-2007
Filing Date:	07-OCT-1999
Time Stamp:	11:36:17
Application Type:	Utility

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$750
RAM confirmation Number	1643

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARVEY, SMITH, NEHRBASS & DOODY, LLC
3838 N. CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

COPY MAILED

APR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
James E. Landry et al.	:	
Application No. 09/413,993	:	ON PETITION
Filed: October 7, 1999	:	
Attorney Docket No. 312.2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 30, 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) was obtained. Accordingly, the application became abandoned on December 31, 2001.

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 $750; and (3) an adequate statement of unintentional delay.

The $750 petition fee charged on March 21, 2007 your deposit account was unnecessary and will be credited.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center Au 1712 for appropriate action on the amendment filed August 17, 2006.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McGLINCHEY STAFFORD, PLLC
Attn: IP Group
301 Main Street, 14th Floor
BATON ROUGE LA 70802

MAILED

FEB 01 2010

OFFICE OF PETITIONS

In re Application of	:	
James E. Landry, et al.	:	
Application No. 09/413,993	:	DECISION ON PETITION
Filed: October 7, 1999	:	
Attorney Docket No. S-1142	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 23, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 24, 2008. The Notice of Abandonment was mailed February 27, 2009.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on November 23, 2009 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
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)
6325818	2001-12-04	09414184	1999-10-07	014584US1

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	/Todd A. Holmbo/	Date (YYYY-MM-DD)	2010-04-20
Name	Todd A. Holmbo	Registration Number	42665

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. 6325818
Issue Date: December 4,2001
Application No. 09414184
Filed: October 7,1999
Attorney Docket No. DMT/US-17

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

This is a decision on the electronic petition, filed April 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 20,2010 . 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET, N.W.
WASHINGTON, D.C. 20036

COPY MAILED

MAR 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Karen A. Gross et al
Application No. 09/414,261
Filed: October 7, 1999
Attorney Docket No. CDR96-013-2

This is a decision on the petition, filed March 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2645 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

Petition Maintenance

File Edit View Show

Application

Application No: 09414261 Patent No: Clear

Title of Invention: SINGLE TELEPHONE NUMBER ACCESS TO MULTIPLE COMMUNICATIONS SERVICES

Filing Date: 10/07/1999 Issue Date:

Inventor Name: GROSS, KAREN A.

Mailroom Date	Match	Initial Type	Decided Type	Decision	Decision Date
03/05/2004	Y	505	505	GRANTED	03/05/2004

Petition Detail

Mailroom Date *:

Cert. of Mail Date:

Initial Petition Type *:

Initial Deciding * Office:

☑ Matched to Application

☐ Reconsidered/Renewed

Decision: <NONE>

Decision Date: ☐ Next Business Day

Decided Petition Type:

Final Deciding Office:

Petitions Examiner:

Add | Update | Delete Decision | Reprint

Print current window. idingle

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 8, 2006

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/414307 Patent No.: 7,065,140 B1

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: None

Mehdad Dastouri — SPE

2621 — 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. 18

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

COPY MAILED

NOV 0 6 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Muralidharan Ramaswamy
Application No. 09/414,454
Filed: October 7, 1999
Attorney Docket No. PHA-23.780

This is a decision on the petition, filed November 3, 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 September 24, 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 2176 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LONG AND CAMERON
SUITE 1401 - 1166 ALBERNI STREET
VANCOUVER BC V6E 3Z3
CANADA

COPY MAILED

AUG 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Meho KARALIC :
Application No. 09/414,483 : ON PETITION
Filed: October 8, 1999 :
Attorney Docket No. 247P1US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 19, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 20, 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 response to a non-final Office action; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 19, 2006 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3635 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

cc: Meho Karalic
1123 East 29th Street, North Vancouver
British Columbia V7K 1C3
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Thomas J. Ngo et al :
Application No. 09/414,514 : ON PETITION
Filed: October 8, 1999 :
Attorney Docket No. 013155-065

This is a decision on the petition filed, March 6, 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 April 18, 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 2611 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

---

[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

BACON & THOMAS
625 SLATERS LANE
4TH FLOOR
ALEXANDRIA VA 22314

COPY MAILED

DEC 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,062,336	:	
Issue Date: June 13, 2006	:	
Application No. 09/414,518	:	NOTICE
Filed: October 8, 1999	:	
Attorney Docket No. EM/YANG/5037	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 24, 2009. 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. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 2 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

#24

Robert D. McCutcheon
Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

In re Application of: Ramey, et al. Application No. 09/414,590 Attorney Docket No. 03384.0374 Filed: October 8, 1999 For: METHOD, APPARATUS AND ARTICLE OF MANUFACTURE FOR WEB-BASED CONTROL OF A UNIFIED MULTI-SERVICE COMMUNICATION 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, under 37 CFR §1.181, filed on September 15, 2004.

The instant application became abandoned for failure to timely respond to the Office action mailed January 14, 2004. A notice of abandonment was mailed on September 7, 2004. A grantable petition must include a copy of the response and proof of timely filing of the response. An Office generated FAX receipt that properly identify the contents of the submission, A stamped post card receipt with an indication of the documents filed therewith, or properly used certificates of mail and transmission that include a 37 CFR 1.8(b)(3) statement will be acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response; transmittal form; an account detail report; copy of post card receipt (without USPTO date stamp); copy of check in the amount of $416.00 for additional claims fee; authorization to charge (additional) fees to deposit account 50-0208; certificate of mailing and a personal knowledge statement by Kathy Hamilton (treated under 37 CFR 1.8(b)(3)).

Petitioner has established that a response was timely filed on April 14, 2004. Since all of the criteria set forth above have been met, the petition is **GRANTED**. The Notice of Abandonment is hereby **WITHDRAWN**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response (copy June 14, 2004 and duplicate copy filed September 15, 2004). The application will then be forwarded to the examiner for prompt action on the merits. Note, the fee for additional claims ($416) has been charged to deposit account 50-0208 (since the original check has been either lost or cancelled). The Office regrets any inconvenience caused to Applicant.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-212-9306

5/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

#23

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

JUL 14 2004

CROMWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 14300
WASHINGTON DC 20044-4300

Certificate
JUL 15 2004
of Correction

In re Application of
John E. Piletz et al
Serial No.: 09/414,643
Filed: October 8, 1999
Attorney Docket No.: 147.37315D2

: PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed October 15, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that following the allowance of the application it was discovered that pages 55-67 had missing text in the left margin of the page. The Office mailed a letter to applicants on February 10, 2003, setting a 30 day period for providing new copies of the pages in question. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed October 6, 2003. Applicants state that a reply was filed March 7, 2003, and provide evidence of Office receipt by means of an Office date stamped return postcard dated March 7, 2003. The reply has not been located and the copy provided with the petition will be used in lieu thereof. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to Publications Division for printing as a patent.

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 703-872-9306.

Jasemine C. Chambers
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

Paper No. 9

BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES, CA 90025

Mailed

MAY 4 2000

Director's Office
Group 2700

In re Application of :
Scott Faber, et al.
Application No.: 09/414,710
Filed: October 8, 1999
For: SYSTEM FOR PROVIDING SERVICES
IN REAL-TIME OVER THE INTERNET

DECISION ON PETITION TO
MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 4, 2000, to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually 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 has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge or the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 11 2005

Antonelli, Terry, Stout &
Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

In re application of
Ravi Ganesan, et al.
Application No. 09/414,731 :
Filed: October 8, 1999 :
For: ELECTRONIC BILLING WITH FLEXIBLE :
BILLER CONTROLLER BILL
CONTROLLED ELECTRONIC BILL
PRESENTMENT

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on June 24, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **DISMISSED as MOOT**.

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 dismissed as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed August 3, 2005.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587
Facsimile No.: (571) 273-8300

KJD/dcg: 10/4/05

UNITED STATES 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

MARK JOY
LEYDIG VOIT AND MAYER LTD
SUITE 4900 TWO PRUDENTIAL PLAZA
180 NORTH STETSON
CHICAGO IL 60601-6780

COPY MAILED

JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of
Michael A. Arkes
Application No. 09/414,951
Filed: October 8, 1999
Attorney Docket Number: 202143
Title: INCENTIVE POINTS REDEMPTION PROGRAM CARRIED OUT VIA AN ON-LINE AUCTION

DECISION ON PETITION

This is a decision on the petition filed on June 19, 2003, 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 submit a proper response to the Final rejection of September 23, 2002, which set a statutory period for reply of three (3) months. On March 11, 2003, an after-final amendment was received, along with a three-month extension of time under the provisions of 37 §CFR 1.136(a) to make timely this reply. The amendment was not deemed to place the application in condition for allowance, and as such, an

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.

advisory action was mailed on June 4, 2003. Accordingly, the above-identified application became abandoned on March 24, 2003.

With the instant petition, 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 the filing of a Notice of Appeal, the payment of the associated fee, the payment of the petition fee, and has made the proper statement of unintentional delay.

The Notice of Appeal filed on June 19, 2003, has been entered and made of record. Accordingly, **the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision**.

The application file is being forwarded to Technology Center 3600 for processing of the Notice of Appeal.

Telephone inquiries *concerning this decision* should be directed to the undersigned at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/414,951	10/08/1999	MICHAEL A. ARKES	202143	4073

8968 7590 05/02/2008
DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

EXAMINER
KYLE, CHARLES R

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
05/02/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

MAY 0 2 2008

TECHNOLOGY CENTER 3600

Drinker Biddle & Reath, LLP
Attn: Patent Docket Dept.
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606

In re Application of:	:	**DECISION ON PETITION**
Michael A. Arkes	:	**UNDER 37 CFR 1.181**
Application No.: 09/414,951	:	
Filed: October 8, 1999	:	

For: INCENTIVE POINTS REDEMPTION PROGRAM CARRIED OUT VIA AN ON-LINE AUCITON

This is in response to the petition filed on June 13, 2005 under 37 CFR 1.181 for review of the finding by Examiner that the Rule 131 Declaration filed December 3, 2004 is insufficient for demonstrating the conception and reduction to practice of the claimed invention as recited in at least claims 1 and 6-20 prior to the July 14, 1999 of U.S. Patent No. 6,178,408 to Copple et al. Petitioner respectfully submits that the previously-filed Rule 131 Declaration meets all of the requirements set forth in 37 C.F.R. § 1.131 and, therefore, is sufficient for antedating the Copple et al. patent. The delay in treating this petition is sincerely regretted.

Because a review on the merits of a 37 CFR 1.131 affidavit is by appeal to the Board of Patent Appeals and Interferences and is not petitionable, the above noted petition is DISMISSED. See MPEP 715.08.

The petition is **DISMISSED**.

Questions concerning this decision should be referred to SPE Jim Trammell at 571-272-6712.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Jt/snm: 4/28/08

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.
09/414,951	10/08/1999	MICHAEL A. ARKES	202143	4073

8968 7590 05/09/2008
DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

EXAMINER
KYLE, CHARLES R

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
05/09/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

MAY 0 8 2008

TECHNOLOGY CENTER 3600

Drinker Biddle & Reath, LLP
Attn: Patent Docket Dept.
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606

In re Application of:	:	**DECISION ON PETITION**
Michael A. Arkes	:	**UNDER 37 CFR 1.181**
Application No.: 09/414,951	:	
Filed: October 8, 1999	:	

For: INCENTIVE POINTS REDEMPTION PROGRAM CARRIED OUT VIA AN ON-LINE AUCITON

This is in response to the petition filed on June 13, 2005 under 37 CFR 1.181 for review of the finding by Examiner that the Rule 131 Declaration filed December 3, 2004 is insufficient for demonstrating the conception and reduction to practice of the claimed invention as recited in at least claims 1 and 6-20 prior to the July 14, 1999 of U.S. Patent No. 6,178,408 to Copple et al. Petitioner respectfully submits that the previously-filed Rule 131 Declaration meets all of the requirements set forth in 37 C.F.R. § 1.131 and, therefore, is sufficient for antedating the Copple et al. patent. The delay in treating this petition is sincerely regretted.

Because a review on the merits of a 37 CFR 1.131 affidavit is by appeal to the Board of Patent Appeals and Interferences and is not petitionable, the above noted petition is Dismissed as Moot. See MPEP 715.08.

The petition is **DISMISSED as MOOT**.

Questions concerning this decision should be referred to SPE Jim Trammell at 571-272-6712.

Kathey Matecki
for Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Jt/snm: 4/28/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Drinker Biddle & Reath, LLP
Attn: Patent Docket Dept.
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606

In re Application of:	:	**DECISION ON PETITION**
Michael A. Arkes	:	**UNDER 37 CFR 1.181**
Application No.: 09/414,951	:	
Filed: October 8, 1999	:	

For: INCENTIVE POINTS REDEMPTION PROGRAM CARRIED OUT VIA AN ON-LINE AUCITON

This is in response to the petition filed on June 13, 2005 under 37 CFR 1.181 for review of the finding by Examiner that the Rule 131 Declaration filed December 3, 2004 is insufficient for demonstrating the conception and reduction to practice of the claimed invention as recited in at least claims 1 and 6-20 prior to the July 14, 1999 of U.S. Patent No. 6,178,408 to Copple et al. Petitioner respectfully submits that the previously-filed Rule 131 Declaration meets all of the requirements set forth in 37 C.F.R. § 1.131 and, therefore, is sufficient for antedating the Copple et al. patent. The delay in treating this petition is sincerely regretted.

Because a review on the merits of a 37 CFR 1.131 affidavit is by appeal to the Board of Patent Appeals and Interferences and is not petitionable, the above noted petition is Dismissed as Moot. See MPEP 715.08.

The petition is **DISMISSED as MOOT**.

Questions concerning this decision should be referred to SPE Jim Trammell at 571-272-6712.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Jt/snm: 4/28/08

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAILED

JAN 2 4 2003

Technology Center 2100

Paper No. 5

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd
7th Floor
Los Angeles, California 90025

In re Application of: Edward Schwartz et al.	)	
Application No.: 09/414,994	)	**DECISION ON PETITION**
Filed: October 7, 1999	)	**FOR A RESPONSE TO BE**
For: METHOD AND APPARATUS FOR	)	**CONSIDERED TIMELY**
SECURING EXECUTABLE	)	**FILED**
PROGRAMS AGAINST COPYING	)	

This is a decision on the petition filed January 15, 2003 requesting that an amendment, a copy of which was filed by facsimile on September 25, ***2002***, be considered timely filed.

The petition is **GRANTED**.

An office action was mailed September 25, ***2001*** and a reply was not received within six (6) months from mailing of the office action. No notice of abandonment was mailed. A copy of an amendment was faxed to office on September 25, ***2002*** along with a copy of a petition for extension of time. This submission did not petition for entry of the paper as timely filed. The copy of the amendment did not contain a date and an original signature. On January 15, 2003, in response to a telephone call by the Examiner of record, a petition was filed requesting entry of the response as being timely filed and ratifying the amendment. On January 22, 2003, in response to a telephone call, a facsimile was filed attesting that the attorney of record (Archana B. Vittal) originally signed the response by initials as shown on the copy of the response of September 25, 2002.

In support of the petition, Petitioner provides (1) a copy of the petition under 37 CFR 1.136(a) to extend the time for three months, (2) a copy of the post card with a PTO stamp indicating receipt at the USPTO on April 9, 2002 of the aforementioned items. Each of items 1 and 2 carries a Certificate of Mailing bearing the date of deposit of March 25, 2002.

M.P.E.P. § 503 states:

> A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Therefore, the petitioner has established that the amendment was filed on March 25, 2002 with the requisite fees for a three-month extension of time and also ratified the amendment necessary for the response to be considered timely.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center support staff for processing of the Amendment and will be forwarded to the examiner for further consideration.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-416

UNITED STATES 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

DAVID B. RITCHIE
D'ALESSANDRO & RITCHIE
P.O. BOX 640640
SAN JOSE, CA 95164-0640

COPY MAILED

JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Robert Charles Monsen et al :
Application No. 09/414,995 :
Filed: October 7, 1999 :
Attorney Docket No. CISCO-1261 :

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 14, 2003, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed January 10, 2003, which set a shortened statutory period for reply of three (3) months. Petitioner indicates that the reply was filed in a timely fashion, with a properly executed certificate of mailing date March 14, 2003.

Since the reply was submitted timely on March 14, 2003, the $1330 petition fee will be refunded to petitioner's deposit account. Therefore, the holding of abandonment will be withdrawn.

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

The application is being forwarded to Technology Center AU 2155 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
DIW Oct-05

Paper No. 17

ADAM H. TACHNER
TWO EMBARCADERO CENTER
P.O. BOX 7936
SUITE 2000
SAN FRANCISCO CA 94120-7936

COPY MAILED

OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Arnaud Pedenon	:	
Application No. 09/415,018	:	ON PETITION
Filed: 7 October, 1999	:	
Atty Dckt No. 351891.02300	:	

This is a decision on the petition to revive the above-identified application filed on 6 October, 2005, under 37 CFR 1.137(b)[1]

---

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

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

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

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

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

which, in light of petitioner's statement that "the Office Action mailed on July 18, 2003 was never received," is first treated as a petition to withdraw the holding of abandonment.

The petitions are **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 16 May, 2003, for failure to timely file a response to the final Office action mailed on 16 January, 2003, which set a three (3) month shortened statutory period for reply. On 20 May, 2003 (certificate of mailing 15 May, 2003), petitioner filed a one (1) month extension of time and an amendment after final rejection. The examiner determined that the amendment did not place the application in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 18 June, 2003. Notice of Abandonment was mailed on 6 October, 2003.

Petitioner's counsel states in the "Reply to Notice of Abandonment" attached to the present petition that "the Office Action mailed on June 18, 2003, was never received by Applicant's or Applicant's attorney."

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

With regard to petitioner's claim that he did not receive the "Office action" mailed on 18 June, 2003 a review of the application file reveals that no Office action was sent on that date. Rather, petitioner appears to be referring to the Advisory Action mailed on 18 June, 2003. Abandonment occurred by operation of law for failure to properly respond to the final Office action mailed on 15 January, 2003.

In this case, petitioner submitted an amendment after final rejection. However, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petition of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petition received an Advisory Action or not, prior to the expiration of the six month statutory

period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. This application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

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.[2]

As such, the petition to withdraw the holding of abandonment is **dismissed.**

PETITION UNDER 37 CFR 1.137(b)

The petition is dismissed because the reply required by 37 CFR 1.137(b)(1) has not been supplied.

As stated above, the only proper reply to a final Office action is (a) a continuing application, (b) a Notice of Appeal, (c) a Request for Continued Examination accompanied by a proper submission, or (d) an amendment which *prima facie* places the application in condition for allowance. As petitioner has not submitted a proper reply, the petition to revive must be **dismissed.**

Petitioner should file a renewed petition accompanied by a proper reply as specified by 37 CFR 1.137(b)(1).

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

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

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

---

[2] 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).

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-05

Paper No. 21

ADAM H. TACHNER
TWO EMBARCADERO CENTER
P.O. BOX 7936
SUITE 2000
SAN FRANCISCO CA 94120-7936

COPY MAILED

DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Arnaud Pedenon	:	
Application No. 09/415,018	:	DECISION ON PETITION
Filed: 7 October, 1999	:	
Atty Docket No. 351891.02300	:	

This is a decision on the renewed petition filed on 30 November, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

---

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

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

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

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

The petition is **GRANTED**.

The application became abandoned on 16 May, 2003, for failure to timely file a response to the final Office action mailed on 16 January, 2003, which set a three (3) month shortened statutory period for reply. On 20 May, 2003 (certificate of mailing date 15 May, 2003), petitioner filed a one (1) month extension of time and an amendment after final rejection. The examiner determined that the amendment did not place the case in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 18 June, 2003. Notice of Abandonment was mailed on 6 October, 2003. The petition filed on 6 October, 2005, was dismissed on 31 October, 2003.

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the required reply under 37 CFR 1.114.

This application is being forwarded to Technology Center 2100 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HICKMAN PALERMO TRUONG & BECKER
1600 WILLOW STREET
SAN JOSE, CA 95125

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Benoit Dageville et al	:	
Application No. 09/415,031	:	ON PETITION
Filed: October 7, 1999	:	
Attorney Docket No. 50277-297	:	

This is a decision on the petition under 37 CFR 1.314, filed May 27, 2004, to defer issuance of the instant application into a patent.

The petition is **GRANTED**.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, the deferral period has now passed.

Any questions concerning this matter may be directed to Wan Laymon at (703) 306-5685.[1] Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-67893.

This matter is being referred to Publishing Division.

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

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

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)
6315106	2001-11-13	09415064	1999-10-12	114097USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2006-10-19
Name	C. Irvin McClelland	Registration Number	21124

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/415,142	10/09/1999	1632	1928	C1039/7029		68	5

CONFIRMATION NO. 4378

CORRECTED FILING RECEIPT

OC000000013112195

HELEN C LOCKHART
WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON, MA 02210

Date Mailed: 06/30/2004

Receipt is acknowledged of a CPA in this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

ARTHUR M. KRIEG, IOWA CITY, IA;
Alfred D. Steinberg, Residence Not Provided;
Dennis Klinman, Residence Not Provided;

Domestic Priority data as claimed by applicant

This application is a DIV of 08/386,063 02/07/1995 PAT 6,194,388

Foreign Applications

CPA filed on: 06/10/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMMUNOMODULATORY OLIGONUCLEOTIDES

Preliminary Class
514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON DC 20037

In re Application of:
IGARASHI, CHIAKI
Application Serial No.: 09/415,205
Filed: October 12, 1999
For: **RADIO TELEPHONE SYSTEM**

DECISION
ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed on June 23, 2005 pursuant to 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file new formal drawings as required in the Notice of Allowability mailed December 9, 2004. A Notice of Abandonment was mailed May 9, 2005.

Petitioner states that corrected drawings were submitted August 21, 2002 responsive to the May 21, 2002 Office action. As evidence thereof, a copy of the response along with a copy of the corrected drawings has been submitted. A review of the record indicates that the subsequent action by the examiner mailed November 5, 2002 indicated that the drawings filed with the response of August 21, 2002 are acceptable.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The requirement for corrected drawings set forth in the Notice of Allowability mailed December 9, 2004 is vacated. The application file is being forwarded to publications for further processing.

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

COPY MAILED

MAR 0 1 2007

OFFICE OF PETITIONS

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE CA 92612

In re Application of	:	
Amir Ben-Efraim et al.	:	
Application No. 09/415,295	:	DECISION ON PETITION
Filed: October 8, 1999	:	
Attorney Docket No. M-7844US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 2, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form corrected formal drawings, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6297934
Issue Date: October 2,2001
Application No. 09415370
Filed: October 8,1999
Attorney Docket No. MGNC-47

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

This is a decision on the electronic petition, filed April 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 7,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6297934	2001-10-02	09/415,370	1999-10-08	124-001-6297934

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	/Joel D. Voelzke/	Date (YYYY-MM-DD)	2010-04-07
Name	Joel D. Voelzke	Registration Number	37957

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.: X

DATE : **March 17, 2008**

TO SPE OF : ART UNIT **2629**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/415481** Patent No.: **7030860 B1**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: IT IS OK.

/Richard Hjerpe/ SPE, Art Unit 2629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

#13

Paper No. 13

Baker & Botts LLP
2001 Ross Avenue
Dallas, TX 75201-2980

COPY MAILED
MAY 29 2003
OFFICE OF PETITIONS

In re Application of :
Mukesh Dalal :
Application No. 09/415,507 : ON PETITION
Filed: October 8, 1999 :
Attorney Docket No. 020431.0562 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 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 September 25, 2002 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 November 26, 2002. See MPEP 1215.04.

This application is being forwarded to Technology Center AU 3623 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 7

FEB 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David M. Crompton
CROMPTON, SEAGER & TUFTE, LLC
331 Second Avenue South, Suite 895
Minneapolis, MN 55401-2246

In re Application of
Rowe et al.
Application No. 09/415,594
Filed: October 08, 1999
For: APPARATUS AND METHOD FOR IDENTIFICATION OF INDIVIDUALS BY NEAR-INFRARED SPECTRUM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102 (d), filed December 03, 2001, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section XI: Invention for Countering Terrorism.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with M.P.E.P. § 708.02, Section XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 C.F.R. § 1.17(I). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism.

The petition includes the above requirements. Accordingly, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RECEIVED
MAY 28 2004
PMS & S

JN

Paper No. 12

#14

JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543

COPY MAILED
MAY 25 2004
OFFICE OF PETITIONS

In re Application of
David Lowell McNeely
Application No. 09/415,654
Filed: October 12, 1999
Attorney Docket No. RCE89830

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 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 March 14, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 15, 2003.

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

The application file is being forwarded to Technoloyg Center AU 2634.

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

Event	PTN GRANTED
Deadline	—
Entered	R 28/05/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 2 2 2005

THOMSON LICENSING INC.
PATENT OPERATIONS
P.O. BOX 5312
PRINCETON NJ 08543-5312

JN

COPY MAILED

FEB 1 6 2005

OFFICE OF PETITIONS

ON PETITION

#23

In re Application of
David L. McNeely
Application No. 09/415,654
Filed: October 12, 1999
Attorney Docket No. RCA89830

This is a decision on the petition, filed February 15, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the application file will be forwarded to Technology Center AU 2634 to 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

Event	RJN GRANTED
Deadline	—
Entered	R 22/02/05

[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

Copy Only

THOMSON LICENSING INC.
PATENT OPERATIONS
P.O. BOX 5312
PRINCETON NJ 08543-5312

COPY MAILED

FEB 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
David L. McNeely	:	
Application No. 09/415,654	:	ON PETITION
Filed: October 12, 1999	:	
Attorney Docket No. RCA89830	:	

This is a decision on the petition, filed February 15, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the application file will be forwarded to Technology Center AU 2634 to 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).

UNITED STATES 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. 6670974
Issue Date: December 30,2003
Application No. 09415656
Filed: October 12,1999
Attorney Docket No. 99-1186

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

This is a decision on the electronic petition, filed July 14,2009 ,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 14,2009 .
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)
6,670,974	2003-12-30	09/415,656	1999-10-12	ACER-45647

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	/Aaron A. Fishman/	Date (YYYY-MM-DD)	2009-07-14
Name	Aaron A. Fishman	Registration Number	44682

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

Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

COPY MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Hiroshi Kaibara
Application No.: 09/415,668
Filed: October 12, 1999
Patent No.: 6,954,280
Issued: October 11, 2005

: **DECISION**
: **DISMISSING**
: **PETITION**

This is a decision on the September 11, 2006 petition titled "Petition Under 37 CFR § 1.182 To Reprint The First Page Of U.S. Patent No. 6,954,280" ("the September 11, 2006 petition").

The September 11, 2006 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The September 11, 2006 petition is **dismissed**.

U.S. Patent No. 6,954,280 ("the '280 patent") issued on October 11, 2005, from application No. 09/415,668 ("the '668 application"). The Image File Wrapper record for the '668 application reveals, *inter alia*, the filing of:

(i) a Part B – Fee(s) Transmittal PTOL-85 form on March 29, 2005, identifying "Canon Kabushika Kaisha" as the Name of Assignee;

(ii) a paper titled "Request To Correct Name Of Assignee In Issue Fee Transmittal" on April 8, 2005, together with a marked-up copy of the March 29, 2005 Part B – Fee(s) Transmittal PTOL-85 form in which "Kabushika" is struck-through and "Kabushiki" is added under Name of Assignee; and

(iii) a Request For Certificate Of Correction Under 37 C.F.R. § 1.322 on June 23, 2006, requesting the Office to delete "Canon Kabushika Kaisha, Tokyo (JP)" from the Title Page of the '280 patent and insert therefor "Canon Kabushiki Kaisha (Tokyo, JP)."

Of note, the issue fee was paid concurrently with the March 29, 2005 submission of the Part B – Fee(s) Transmittal PTOL-85 form. Also of note, the April 8, 2005 Request

states that "[a]fter paying the issue fee, Applicant reviewed the PTOL-85b, as filed, and noticed a typographical error in the name of the assignee."

The Image File Wrapper record for the '668 application also reveals that the Office issued a Certificate of Correction on August 15, 2006, effecting the correction of the Name of Assignee from "Canon Kabushika Kaisha" to "Canon Kabushiki Kaisha."

The September 11, 2006 petition seeks to have the first page of the '280 patent reprinted "to reflect the correct spelling of the name of the Assignee, *i.e.*, Canon Kabushiki Kaisha, Tokyo, Japan."

A patent may be reprinted where there is a mistake on the part of the Office, and a certificate of correction is deemed inappropriate in form.[1] In the present instance, it was not a mistake on the part of the Office for the '280 patent to issue with "Canon Kabushika Kaisha" identified as the Assignee.

In this regard, 37 CFR 3.81(a) and (b) provide:

> a) With payment of the issue fee: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.
>
> (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 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.

Also, MPEP 1481.01 provides:

> The Fee(s) Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B), the patent will issue to the applicant. **Assignment data printed on the**

[1] See: 35 U.S.C. § 254; 37 CFR 1.322(b).

> **patent will be based solely on the information so supplied.**
> [Emphasis added.]

In accordance with proper Office procedure as set forth at 37 CFR 3.81 and MPEP 1481.01, the '280 patent was printed with the assignment data supplied at item 3 of the Fee(s) Transmittal Form PTOL-85B submitted concurrently with payment of the issue fee, *i.e.*, the assignment data supplied at item 3 of the March 29, 2005 Part B – Fee(s) Transmittal PTOL-85 form.[2] Accordingly, it was not a mistake on the part of the Office for the '280 patent to issue with "Canon Kabushika Kaisha" identified as the Assignee. Therefore, the September 11, 2006 petition is dismissed.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Robert A. Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[2] See also: MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6286458
Issue Date: September 11,2001
Application No. 09415709
Filed: October 12,1999
Attorney Docket No. 9926

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

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

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)
6286458	2001-09-11	09415709	1999-10-12	128683.00002

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	/Gavin J. Milczarek-Desai/	Date (YYYY-MM-DD)	2007-02-09
Name	Gavin J. Milczarek-Desai	Registration Number	45801

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

Paper No.

HARRY M. LEVY
EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO, IL 60606-4401

COPY MAILED
DEC 0 1 2006
OFFICE OF PETITIONS

In re Patent of	:	
Strickler et al.	:	
Patent No. 6321943	:	
Application No. 09/415773	:	
Filing or 371(c) Date: 10/09/1999	:	ON PETITION
Issue Date: 11/27/2001	:	
Title of Invention:	:	
SOAP DISPENSER FOR SOAP OF	:	
DIFFERENT VISCOSITY	:	

This is a decision on the petition under 37 CFR § 1.378(c), filed August 28, 2006, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued November 27, 2001. The grace period for paying the three and one-half (3½) year maintenance fee expired on November 27, 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
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 0 5 2006
OFFICE OF PETITIONS

STEVEN A. BENNER
1501 N.W. 68TH TERRACE
GAINESVILLE, FL 32605-4147

In re Patent No. 6,627,456	:	
Issued: September 30, 2003	:	
Application No.: 09/415,966	:	ON PETITION
Filed: October 12, 1999	:	
Attorney Docket No: **SUL-402D1**	:	

This is a regarding the "Withdrawal of Claim of Small Entity Status and Payment of Deficiency under 37 CFR 1.28(c)" filed March 6, 2006 which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6339773
Issue Date: January 15,2002
Application No. 09415998
Filed: October 12,1999
Attorney Docket No. SHFR-16.114

:

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

:

This is a decision on the electronic petition, filed February 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 February 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)
6339773	2002-01-15	09415998	1999-10-12	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Naphtali Rishe/	Date (YYYY-MM-DD)	2010-02-09
Name	Naphtali Rishe		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

BIERMAN MUSERLIAN AND LUCAS
600 THIRD AVENUE
NEW YORK, NEW YORK 10016

COPY MAILED

APR 2 4 2002

OFFICE OF PETITIONS

In re Application of
Constantin Agouridas et al
Application No. 09/416,022
Filed: October 8, 1999
Attorney Docket No. 146.1327

: DECISION DISMISSING PETITION
: TO WITHDRAW FROM ISSUE
: UNDER 37 CFR 1.313(c)(3)

This is a decision on the petition, filed February 13, 2002, which is being treated as a petition under 37 CFR 1.313(c)(3), to withdraw the above-identified application from issue after payment of the issue fee in favor of a continuing application (assigned Application No. 10/075,635, filed February 13, 2002).

The petition is **DISMISSED as moot.**

Unfortunately, the instant petition did not reach the appropriate deciding official's office for action until after issuance of this application into Patent No. 6,352,983 on March 5, 2002. It is noted that the instant petition was received in the Office of Initial Patent Examination on February 13, 2002, and received in Technology Center 1600/2900 on February 27, 2002. The instant file containing the petition to withdraw from issue was not received in the deciding official's office until recently. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Note also 1220 *off. Gaz. Pat. Office* 42 (March 9, 1999), under "Patents to Issue More Quickly after Issue Fee Payment," and 1221 *off. Gaz. Pat. Office* 14 (April 6, 1999), under "Filing of Continuing Applications, Amendments, or Petitions After Payment of Issue Fee," which states:

> In the event that it is necessary to file a petition under 37 CFR 1.313(b) [now 37 CFR 1.313(c)] to withdraw an application from issue after payment of the issue fee, the PTO strongly recommends that the petition be clearly marked "Petition under 37 CFR 1.313(b)" and be either:

(1) Submitted by facsimile to (703) 308-6916; or
(2) Hand-carried to the Office of Petitions.

Otherwise, it is quite possible that the petition will not be brought before the appropriate deciding official before the date the application issues as a patent.

The most common petition under 37 CFR 1.313(b) is a petition under 37 CFR 1.313(b)(5) to withdraw an application from issue for abandonment in favor of a continuing application to permit consideration of an information disclosure statement (IDS) in the continuing application. In this event, applicants are encouraged to file the petition under 37 CFR 1.313(b)(5) with a continued prosecution application (CPA) under 37 CFR 1.53 (d) by facsimile to (703) 308-6916. The petition need not be accompanied by the IDS (if the size of the IDS makes its submission by facsimile impracticable), but the petition should indicate that an IDS will be filed in the CPA if an IDS does not accompany the petition under 37 CFR 1.313(b)(5).

See also MPEP Section 1308.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The patented file is being forwarded to Files Repository.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

BALARAM GUPTA
AVENTIS PHARMACEUTICALS, INC.
ROUTE 202-206; P.O. BOX 6800
MAIL CODE D-303-A
BRIDGEWATER, NJ 08807

COPY MAILED

NOV 13 2006

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,352,983 :
Issue Date: March 5, 2002 :
Application No. 09/416,022 :
Filed: October 8, 1999 :
Patentee: Constantin Agouridas, et al. :

This is a decision on the petition, filed March 17, 2006, 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**.

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts. However, petitioner should note that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

This file is being forwarded to Files Repository.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

'E : August 16, 2002 Paper

#13

TO : Supervisor, Art Unit 3744

SUBJECT : Certificate of Correction Request in Patent No.: 6,308,531

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

~~Should~~ Should amended spec. be entered?

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.

All attachments copy

EXPEDITE

Magdalene Talley

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

THANK YOU FOR YOUR ASSISTANCE!

EXPEDITE

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: changes should have been made due to 9-17-02 Examiner's amendment

William C Doerler for Denise Esquivel — Supervisor

3744 — 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. 16

Arter & Hadden, LLP
1100 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

COPY MAILED

APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Iiya M. Fishman, et al. :
Application No. 09/416,081 : ON PETITION
Filed: October 12, 1999 :
Attorney Docket No. 99-01-US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 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)." Petitioner is advised that this is not a final agency decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

This petition lacks item (1) above. The issue fee has been received. There is, however, no indication that corrected formal drawings as required by the Notice of Allowability of November 6, 2002 have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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 Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Office of Publications for further processing.

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

Sherry D. 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. 22

Arter & Hadden, LLP
1100 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

COPY MAILED

SEP 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Fishman et al.	:	
Application No. 09/416,081	:	ON PETITION
Filed: October 12, 1999	:	
Attorney Docket No. WEI002/148202	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed November 6, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 7, 2003.

This application is being forwarded to the Publishing Division.

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

Latrice Bond

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

cc: Andrews & Kurth
600 Travis, Suite 4200
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED

OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of Donovan et al. Application No. 09/416,101 Filed: October 12, 1999 Attorney Docket No. RIC-99-027-DIV1	DECISION DISMISSING PETITION AS MOOT

This is a decision on the letter filed April 5, 2002, which is being treated as a petition under 37 CFR 1.181, requesting that a divisional patent application of prior application No. 09/416,101 be assigned an application number and accorded a filing date of June 25, 2001.

Petitioners allege that the original application papers were filed on June 25, 2001. In support, petitioners have supplied a copy of a stamped postcard receipt acknowledging receipt in the USPTO of, *inter alia*, a fee transmittal, "Continued Prosecution Application", 47 pages of specification, 13 sheets of drawings, a check for $970.00, and a preliminary amendment. Petitioners state that the divisional application was inadvertently addressed to Box CPA rather than Box Patent Application. The petition was also accompanied by a "Utility Patent Application Transmittal" dated 4/5/02, a copy of a fee transmittal dated 6/25/01, a copy of a check for $970.00 dated 6/22/01, a copy of a "Utility Patent Application Transmittal" dated 6/25/01, a copy of 47 pages of specification, a copy of 13 sheets of drawings, a copy of a preliminary amendment dated 6/25/01, a copy of a declaration and power of attorney, and a copy of Express Mail Receipt No. ET555404697US which is blank and unsigned.

The original application papers filed June 25, 2001 have been located in application No. 09/416,101. A review of the application papers filed on June 25, 2001, reveals that they were accompanied by a transmittal letter requesting a continued prosecution application (CPA) under 37 CFR 1.53(d) and by a "Utility Patent Application Transmittal" for an application under 37 CFR 1.53(b). If application papers are in any way designated as a CPA filing under 37 CFR 1.53(d), the application papers will be treated by the Office as a CPA filed under 37 CFR 1.53(d), even if the application papers also contain other inconsistent designations. See Manual of Patent Examining Procedure (MPEP), Section 201.06(d), page 200-43 (Eighth Edition, August 2001).

The CPA of June 25, 2001 was a proper CPA under 37 CFR 1.53(d) and was entitled to a filing date of June 25, 2001 as a CPA under 37 CFR 1.53(d). Accordingly, the CPA was entered and processed in application No. 09/416,101 and an Office action was mailed in the CPA on June 5, 2002.

Furthermore, it is noted that a petition under 37 CFR 1.182 to disregard a previously filed request for a CPA and to treat the papers as a filing under 37 CFR 1.53(b) cannot be granted once the request for a CPA has been entered into the prior application and the request to expressly abandon the prior application has been acknowledged. If applicants intended to file a second application (either a continuation or a divisional) without abandoning the prior application, applicants can still achieve that result without loss of benefit of the original filing date by continuing the prosecution of the CPA and filing a new continuation or divisional application under 37 CFR 1.53(b) claiming the benefit of the CPA and its parent application under 35 U.S.C. 120 during the pendency of the CPA. See MPEP 201.06(d), page 200-42 (Eighth Edition, August 2001).

Since the original application papers have been located, the petition is dismissed as moot. No petition fee is required and none has been charged.

A request for continued examination (RCE) under 37 CFR 1.114 was filed on August 8, 2001. Since prosecution in the CPA is not closed, the RCE is improper. **The time period set forth in the Office action mailed June 5, 2002, continues to run**.

The application is being forwarded to Technology Center Art Unit 2664 for processing of the RCE filed August 8, 2001, as an improper RCE and to await any reply to the Office action mailed June 5, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
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

APR - 5 2002

Paper No. #15

Peter S. Dardi, Ph. D.
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2100

In re Application of John G. Stark et al Serial No. : 09/416,192 Filed : October 11, 1999 For : System for Orthopedic Treatment	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed March 13, 2002, to review the holding of abandonment mailed February 21, 2002, for failure to respond to the Office action mailed July 19, 2001. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a three-month extension of time request and a copy of a PTO stamped receipt dated February 12, 2002. The communication received February 12, 2002 includes a certificate of mailing dated January 18, 2002.

In view of the above, the Notice of Abandonment mailed February 21, 2002, 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 February 12, 2002.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/4/2/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 03 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 9

Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, Minnesota 55402

In re Application of: David R. Tushie et al.	)	**DECISION ON PETITION**
Application No.: 09/416,252	)	**UNDER 37 C.F.R. § 1.181 TO**
Filed: October 12, 1999	)	**WITHDRAW HOLDING OF**
For: SYSTEM AND APPARATUS FOR	)	**ABANDONMENT**
SMART CARD PERSONALIZATION	)	

This is a decision on the request for reconsideration filed September 24, 2001 in response to the decision mailed July 20, 2001 on the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment, filed May 29, 2001.

This application was held abandoned for failure to file a timely response to the Office action of mail date June 16, 2000. A Notice of Abandonment was mailed on March 22, 2001.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

In support of the petition, Applicant asserts that the Office action was not received, and that no record of said Office action was found in the Attorney's file for this application. Petitioner supplies a copy of a docket record consisting of 4 pages bearing the title "Office Actions Received 6/16/2000-9/16/2000" (dated 23-April-01).

Petitioner's submission now meets the criteria set out in MPEP § 711.03(c). Petitioner has included the statement that the copy of the docket record provided represents the record or report "where the nonreceived Office communication would have been entered had it been received".

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Technology Center support staff. The Office action of June 16, 2000 will be remailed to the address noted above with the three month Shortened Statutory Period restarted to run from the date of remailing.

Margaret A. Focarino

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 2 0 2001

Technology Center 2100

Paper No. 7

Schwegman, Lundberg, Woessner & Kluth
P.O. Box 2938
Minneapolis, Minnesota 55402

In re Application of: David R. Tushie et al.	)	**DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT**
Application No.: 09/416,252	)	
Filed: October 12, 1999	)	
For: SYSTEM AND APPARATUS FOR SMART CARD PERSONALIZATION	)	

This is a decision in response to the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment, filed May 29, 2001, in response to a Notice of Abandonment.

This application was held abandoned for failure to file a timely response to the Office action of mail date June 16, 2000. A Notice of Abandonment was mailed on March 22, 2001.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

In support of the petition, Applicant asserts that the Office action was not received, and that no record of said Office action was found in the Attorney's file for this application. Petitioner supplies a copy of a docket record consisting of 4 pages bearing the title "Office Actions Received 6/16/2000-9/16/2000" (dated 23-April-01).

Petitioner has not met the criteria set out in MPEP § 711.03(c). The 4 page listing, referred to as a "copy of the docket record", appears to be a computer generated report based on underlying records. No assertion is found in the petition indicating that the copy of the docket record provided represents the record or report "where the nonreceived Office communication would have been entered had it been received".

Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Margaret A. Focarino

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

FEB 23 2007

OFFICE OF PETITIONS

In re Application of :
David r. Tushie et al :
Application No. 09/416,252 : ON PETITION
Filed: October 12, 1999 :
Attorney Docket No. 457.003US3 :

This is a decision on the petition, filed February 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 19, 2007 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 3694 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 24 2008

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILCON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of
Bradley S. TEMPLETON
Application No. 09/416,278
Filed: October 14, 1999
Attorney Docket No. 21892-03950

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fenwick & West LLP has been revoked by the assignee of the patent application on May 22, 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: BRADLEY S. TEMPLETON
1113 LOCHINVAR AVENUE
SUNNYVALE, CA 94087

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 24 2008

OFFICE OF PETITIONS

CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re Application of
Bradley S. TEMPLETON
Application No. 09/416,278
Filed: October 14, 1999
Attorney Docket No. PA4280US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2007.

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 Steven M. Colby on behalf of all attorneys of record associated with Customer No. 22830.

All attorneys/agents of record associated with Customer No. 22830 have been withdrawn.

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

All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BRADLEY S. TEMPLETON
1113 LOCHINVAR AVENUE
SUNNYVALE, CA 94087-5102

cc: STEVEN M. COLBY
PETERS VERNY, LLP
425 SHERMAN AVE.
SUITE 230
PALO ALTO, CA 94306-1840

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/416,278	10/14/1999	BRADLEY S. TEMPLETON	PA4280US

CONFIRMATION NO. 5956

POWER OF ATTORNEY NOTICE

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

OC000000026624033

Date Mailed: 11/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/03/2007.

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

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

Paper No. 12

IP Administration
Legal Department, 20BN
Hewlett-Packard Company
P. O. Box 10301
Palo Alto, CA 94303-0890

COPY MAILED
SEP 2 8 2001
OFFICE OF PETITIONS

In re Application of	:	
Robert Paasch	:	
Application No. 09/416,618	:	ON PETITION
Filed: October 12, 1999	:	
Attorney Docket No. 10980780-1	:	

This is a decision on the petition, filed September 24, 2001, 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 21, 2001 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.

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

The application is being forwarded to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Morgan

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. 6242513
Issue Date: June 5,2001
Application No. 09416706
Filed: October 12,1999
Attorney Docket No. 36130/VGG/J1

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

This is a decision on the electronic petition, filed August 4,2009 ,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 4,2009 .
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)
6242513	2001-06-05	09416706	1999-10-12	N-JM36130

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	/Jane E. Gennaro/	Date (YYYY-MM-DD)	2009-08-04
Name	Jane E. Gennaro	Registration Number	34884

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

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

COPY MAILED

DEC 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Atencio et al.	:	
Application No. 09/416,735	:	ON PETITION
Filed: October 13, 1999	:	
Attorney Docket No. 016930-003920US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 18, 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 March 25, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 26, 2004. A Notice of Abandonment was mailed October 20, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600 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

UNITED STATES 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

HOWREY SIMON ARNOLD & WHITE LLP
BOX NO. 34
1299 PENNSYLVANIA AVENUE N.W.
WASHINGTON, DC 20004-2402

COPY MAILED

JUN 02 2004

OFFICE OF PETITIONS

In re Application of :
John McCafferty et al :
Application No. 09/416,902 :
Filed: October 13, 1999 :
Attorney Docket No. 05569.0004.DVUS06 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 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 September 18, 2000, 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) was obtained. Accordingly, the above-identified application became abandoned on October 19, 2000.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The application file is being forwarded to Technology Center AU 1627 for further processing.

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

cc:

David W. Clough
Howrey Simon Arnold & White, LLP
321 N. Clark Street, Suite 3400
Chicago, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWREY LLP – DC
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
John McCafferty et al :
Application No. 09/416,902 : ON PETITION
Filed: October 13, 1999 :
Attorney Docket No. 05569.0004.DVUS06

This is a decision on the petition, filed July 17, 2008 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 17, 2008 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 1639 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

---

[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.
09/416,902	10/13/1999	JOHN MCCAFFERTY	05569.0004.DVUS06	6750

22930 7590 11/06/2009
HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER
STEELE, AMBER D

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
11/06/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 0 6 2009

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of:
McCafferty et al.
Serial No.: 09/416,902
Filed: October 13, 1999
Attorney Docket No.: **05569.0004.DVUS06**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed November 2, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that some of the Documents subjected to a Protective Order which are attached in a sealed envelope and marked accordingly be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/23/2010

Applicant	: JOHN MCCAFFERTY	: DECISION ON REQUEST FOR
Patent Number	: 7635666	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/416,902	: OF WYETH
Filed	: 10/13/1999	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 7057655 B1 (09/417097)

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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

Should refers. cited be enter as requested?

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

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

Comments:

_____

_____

_____

_____

_____

SPE _____ Art Unit _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 7057655 B1 (09/417097)

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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

Should refers. cited be enter as requested?

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

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

Comments:

DAVID OMETZ
SUPERVISORY PATENT EXAMINER
SPE

2622
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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

FEB 2 4 2004

OFFICE OF PETITIONS

In re Application of
Cahoon et al.
Application No. 09/417,251
Filed: October 13, 1999
Attorney Docket No. BB1085-US-NA

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 30, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 1, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Enclosed is a copy of the Examiner's Response to Rule 312 Communication.

The file is now being forwarded to the Publishing Division for processing into a patent.

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

Enclosure: PTOL-271 (Response to Rule 312 Communication)

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/417,251	CAHOON ET AL.	
	Examin r	Art Unit	
	Jane Zara	1635	

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

1. ☒ The amendment filed on *22 October 2003* under 37 CFR 1.312 has been considered, and has been:

a) ☒ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

The amendment addressed the inadvertent inclusion of previously canceled claim 17 in the allowed claims listed on the Notice of Allowability. Claim 17, however, was not printed as an allowed claim, it was merely included by number inadvertently in the Notice of Allowability.

UNITED STATES 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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED
APR 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Rebecca E. Cahoon et al :
Application No. 09/417,251 : DECISION GRANTING PETITION
Filed: October 13, 1999 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. BB1085-US-NA :

This is a decision on the petition, filed April 2, 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 October 20, 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 1635 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 35

Date : April 8, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/417,251**

Applicant(s) : Rebecca E. Cahoon et al
Application No. : 09/417,251
Filed : October 13, 1999

The above-identified application has been assigned Patent No. 6,720,474 and an issue date of April 13, 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 April 13, 2004:

"All reference to Patent No. 6,720,474 to Rebecca E. Cahoon et al of Delaware for PLANT PROTEIN DISULFIDE ISOMERASES appearing in the Official Gazette of April 13, 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: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
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. 31

BRINKS HOFER GILSON & LIONE
P.O. BO 10395
CHICAGO IL 60611

COPY MAILED

SEP 04 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Samuel George Maropis et al
Application No. 09/417,266
Filed: October 12, 1999
Attorney Docket No. 8285/238

This is a decision on the petition, filed September 3, 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 12, 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 2645 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

COPY MAILED
JUN 22 2006
OFFICE OF PETITIONS

In re Application of	:
Maropsis, et al.	: DECISION ON APPLICATION
Application No. 09/417,266	: FOR PATENT TERM ADJUSTMENT
Filed: August 24, 2005	:
Attorney Docket No. 8285/238-1	:

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT", filed August 24, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **twenty-two (22) days**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **twenty-two (22) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is twenty-four (24) days.

The Office initially determined a patent term adjustment of twenty-four (24) days based on an adjustment for PTO delay of one hundred eleven (111) and eighty-seven (87) days, pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by thirty-one (31) days and ninety-four (94) days of applicant delay pursuant to 37 C.F.R. §1.704(b), and twenty-eight (28) and twenty-one (21) days pursuant to 37 C.F.R. §1.704(c)(8).

A review of the record reveals that Applicants should have been assessed an additional delay of two (2) days. A Notice of Allowance was mailed on March 10, 2003. Applicants did not file the issue fee until June 12, 2003, made timely for purposes of avoiding abandonment by including a Certificate of Mailing dated June 9, 2003. However, under 37 C.F.R. §1.704(f), Certificates of Mailing are not taken into account in the PTA calculation.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **twenty-two (22) days** (198 (87+111) days of PTO delay, reduced by 176 (21+94+2+28+31) days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, no fee was required.

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

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

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

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES 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. 10

ANTHONY C. MURABITO
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET, 3RD FLOOR
SAN JOSE, CA 95113

COPY MAILED

APR 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert Bedichek et al	:	
Application No. 09/417,332	:	NOTICE
Filed: October 13, 1999	:	
Attorney Docket No. TRANS09		

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2183.

Irvin Dingle
Petitions Examiner
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)
6724352	2004-04-20	09/417,407	1999-10-13	4443/0451PUS1

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 McKinney Muncy/	Date (YYYY-MM-DD)	2008-12-22
Name	Joe McKinney Muncy	Registration Number	32334

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. 6724352
Issue Date: April 20,2004
Application No. 09417407
Filed: October 13,1999
Attorney Docket No. 4443/0451PUS1

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

This is a decision on the electronic petition, filed December 22,2008 ,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 December 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

BEYER WEAVER & THOMAS
P.O. BOX 778
BERKELEY CA 94704-0778

COPY MAILED

NOV 2 6 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Chris Cheah
Application No. 09/417,456
Filed: October 13, 1999
Attorney Docket No. CTC1P001

This is a decision on the petition, filed November 26, 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 July 31, 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 2154 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

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

DEC - 6 2001

#16

In re Application of
McCafferty, et al
Serial No.: 09/417,478
Filed: October 13, 1999
Attorney Docket No.: 13839-00010(28111-32729B)

This is in response to applicants' "RESPONSE TO COMMUNICATION FROM COMMISSIONER AND PETITION UNDER 37 C.F.R. 1.181 AND 1.183" filed October 5, 2001, requesting withdrawal of the requirements for a Sequence Listing.

The petition was filed in response to a communication from the examiner mailed July 30,2001, in which the examiner stated that the instant application failed to comply with the requirements of 37 C.F.R. 1.821-1.825. Specifically, applicant failed to provide a computer readable form (CRF) and a paper copy of the sequence listing along with a statement that the contents of the paper copy and CRF are the same and that no new matter has been added.

A review of the application history shows that instant application was filed as a divisional application of U.S. patent application Serial No. 08/484,893, filed June 7, 1995, which was a continuation of U.S. patent application Serial No. 07/971,857, filed January 8, 1993, which was the U.S. national stage of PCT/GB91/01134, filed July 10, 1991. The exemption from filing a sequence listing is limited to the national stage filing under 37 C.F.R. 371. Therefore, the exemption only applied to 07/971,857 application which is the national stage of PCT/GB91/01134 which was filed before the implementation of equivalent PCT Administrative Instructions, Annex C. Divisional application 08/484,893 and instant application are treated as new applications and thus are required to comply with the sequence rules.

Applicants state that compliance with 37 C.F.R. 1.821-1.825 may be waived under "exceptional circumstances" and cites MPEP2421.01. Applicants submit that requiring the present application to comply with the sequence listing rules would place undue hardship on the applicants because

the sequence data found in the present application is currently not available in CRF. Applicants further state that it would require a huge expenditure of time and expense to manually enter and format numerous peptide and nucleotide sequences without providing commensurate benefit to either the USPTO or the public especially in view of the fact that none of the sequence are being claimed. Finally, applicants submit that amending the specification and the drawings to recite SEQ ID. NOs. would add to the examiner's burden in examining the instant application.

Applicants' arguments have been carefully considered and found unpersuasive for the following reasons:

1) With regard to the huge expenditure of time and expense to manually enter and formate numerous peptide and nucleotide sequences, applicants should note that the submission of the CRF increases accuracy of the search and reproduction, and reduces cost. Applicants can down load PatentIn 3.1 software program from USPTO website, for assistance please call General Information Service at (800) 786-9199 or (703) 308-4357 or e-mail to patin3help@uspto.gov. To reduce errored sequence listing, please use the CHECKER VERSION 3.0 Program which can be down loaded from the USPTO website at: http://www.uspto.gov/web/offices/pac/checker.

2) With regard to the burden of filing a second "substitute specification", applicants please note that compliance with the sequence rules does not necessarily result in the need of filing a substitute specification.

For sequences found in the specification, SEQ ID Nos need to be inserted for those sequences. For Figures, the SEQ ID Nos need to be inserted to both drawings and corresponding Brief Description of Drawings of those sequences. In addition, a sequence listing needs to be added by amendment to the specification.

As to the claims, since no sequences are claimed, no amendment to the claims is required.

Applicants' statement of " ....excessively time consuming, prohibitively expensive..." is noted. The amendments may be complex and lengthy, it is not likely to be excessively expensive.

3) With regard to the statement of " ...without commensurate benefit to the PTO or the public..." , compliance with sequence rules reduces the difficulties in analysis and searching within the Office and outside the Office. Once the patent issued, the description must be sufficient to aid in the resolution of questions of infringement. As a general rule, the more standardized information that is provided for a particular sequence, the better the examiner or public will be able to compare the identity and characteristics of the sequence with prior art.

Accordingly, the petition is **DENIED**.

Applicant is required to comply with the requirements of 37 C.F.R. 1.821-1.825 as set forth in paper no. 14 mailed July 30, 2001. It is noted that applicants requesting for an extension of time for two-months if Petitioners are mistaken. The extension of time for two-months is Granted.

Bruce Kisliuk
Director of Technology 1600

David W Clough, Ph.D.
KATTEN MUCHIN ZAVIS
525 w. Monroe Street, Suite 1600
Chicago, IL 60661

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

DAVID W CLOUGH PHD
KATTEN MUCHIN ZAVIS
525 WEST MONROE
SUITE 1600
CHICAGO IL 60661-3693

COPY MAILED

NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of
McCafferty, et al.
Application No. 09/417,478
Filed: October 13, 1999
Attorney Docket No. 213839-00010

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2002 (Certificate of Mailing dated July 15, 2002), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures, mailed July 30, 2001, which set a shortened statutory period for reply of one (1) month. Applicant purchased a two month extension of time and filed a petition under 37 CFR 1.181 and 1.183 on October 5, 2001, requesting withdrawal of the requirements of a Sequence Listing. This petition was denied in a decision mailed on December 6, 2001. No Sequence Listing with an extension of time having been received, the above-identified application became abandoned on October 31, 2001. A Notice of Abandonment was mailed on July 2, 2002.

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 a sequence listing, paid the petition fee, and made the proper statement of unintentional delay.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's sequence listing, filed July 22, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

AUG 4 2003

#25

DAVID W. CLOUGH, PH.D.
KATTEN MUCHIN ZAVIS
525 WEST MONROE
SUITE-1600
CHICAGO IL 60661-3693

In re Application of	:
John McCafferty et al	:
Serial No.: 09/417,478	: PETITION DECISION
Filed: October 13, 1999	:
Attorney Docket No.: 213839-00010	:

This is a response to the petition under 37 CFR 1.59(b), filed November 25, 2002, to expunge information from the above identified application. The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that documents submitted as a Proprietary Information Disclosure Statement under a court Protective Order be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid. It is noted that applicants identify three specific documents contained in the envelope as material to be returned. However, the envelope contains four additional documents whose return is not specifically requested. Thus it is not completely clear whether only three documents are to be returned or all seven. A renewed petition at the close of prosecution should clarify this inconsistency.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified documents are considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant upon close of prosecution. See, in general, M.P.E.P. 724.02.

The petition is at this time **DISMISSED** subject to submission of a renewed petition at the time of allowance or abandonment of the application. No additional petition fee will be required for the renewed petition.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230

Bruce M. Kisliuk
Director, Technology Center 1600

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.
09/417,478	10/13/1999	JOHN MCCAFFERTY	05569.0004.DVUS07	8812

22930 7590 02/17/2010
HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER
LIU, SUE XU

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
02/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 1 7 2010

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of:
McCafferty et al.
Serial No.: 09/417,478
Filed: October 19, 1999
Attorney Docket No.: **05569.0004.DVUS07**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 12, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that documents transmitted with the Information Disclosure Statement submitted to the Patent Office on November 20, 2002 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

NINA L. PEARLMUTTER
GENOME THERAPEUTICS CORPORATION
100 BEAVER STREET
WALTHAM, MA 02421-4799

COPY MAILED

JAN 07 2003

OFFICE OF PETITIONS

In re Application of	:	
Keith G. Weinstock et al	:	
Application No. 09/417,507	:	NOTICE
Filed: October 14, 1999	:	
Attorney Docket No. PATH99-10	:	

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 Office of Initial Patent Examination.

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. 17

RICHARD J. RODRICK ESQ.
BECTON DICKINSON AND COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417

COPY MAILED

APR 16 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Paul G. Alchas
Application No. 09/417,671
Filed: October 14, 1999
Attorney Docket No. P-4498

ON PETITION

This is a decision on the petition, filed March 28, 2001, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

This application will be held in the Office of Petitions for **one month**. If a reply to this decision is not received within **one month**, this application will be returned to Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

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

Paper No. 21

RICHARD J. RODRICK ESQ.
BECTON DICKINSON AND COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417

COPY MAILED

APR 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Paul G. Alchas :
Application No. 09/417,671 : ON PETITION
Filed: October 14, 1999 :
Attorney Docket No. P-4498 :

This is a decision on the renewed petition, filed by facsimile transmission on April 23, 2001, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 9, 2001 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.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
JUN 27 2006
OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
John M. Marynowski et al	:	
Application No. 09/417,774	:	ON PETITION
Filed: October 14, 1999	:	
Attorney Docket No. 048289-5002	:	

This is a decision on the petition, filed June 26, 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 May 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

STEUBING AND MCGUINESS & MANARAS LLP
125 NAGOG PARK
ACTON MA 01720

MAIL

OCT 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Loa ANDERSSON, et al.
Application Serial No.: 09/417,864
Filed: October 13, 1999
For: VIRTUAL PRIVATE NETWORK MANAGEMENT SYSTEM

DECISION ON PETITION

This is a decision on the petition filed September 21, 2004 under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The petition is **DENIED**.

The application is held abandoned for failure to submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 10, 2004. A Notice of Abandonment was mailed September 13, 2004.

Subsequent to the mailing of the Notice of Allowance, applicant filed Part B-Fee(s) Transmittal with an authorization to charge issue fee. However the authorization was not signed.

Petitioner urges that the application file should not be abandoned because a transmittal letter was attached to the Notice of Allowance indicating that "...any deficiency or credit (of) any overpayment (should be made) to Deposit Account 502569." There is no specific language in this statement that the 'issue fee' or 37 CFR 1.18 fees be charged. MPEP 1306 states that "...any such payment must be specifically authorized by reference to the 'issue fee' or 'fees due under 37 CFR 1.18." (Emphasis added.)

35 USC 151 states in part "...a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or portion thereof, which shall be paid within three months thereafter. ...if payment is not timely made, the application shall be regarded as abandoned." (Emphasis added.)

Petitioner is given **TWO MONTHS** from the date of this decision to request reconsideration. This period is not extendable under 37 CFR 1.136(a). Petitioner may wish to consider filing a petition to revive an abandoned application in accordance with 37 CFR 1.137(b).

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

STEUBING AND McGUINESS & MANARAS LLP
125 NAGOG PARK
ACTON, MA 01720

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
Loa Andersson et al	: DECISION ON PETITION
Application No. 09/417,864	: UNDER 37 CFR 1.137(b)
Filed: October 13, 1999	:
Attorney Docket No. 2204/189	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue fee on or before May 10, 2004 as required by the Notice of Allowance and Fee(s) Due mailed February 10, 2004. A Notice of Abandonment was mailed on September 13, 2004.

The petition satisfies the requirements for a grantable petition in that the reply in the form of the issue fee of $1,370; the petition fee of $1,370; and the required statement of unintentional delay have been submitted. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

ANTHONY C. MURABITO
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

COPY MAILED

MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Linus Torvalds et al :
Application No. 09/417,979 :
Filed: October 13, 1999 :
Attorney Docket No. TRANS22

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2183.

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

WAGNER MURABITO & HAO LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:
Linus Torvalds et al	:
Application No. 09/417,980	: DECISION GRANTING PETITION
Filed: October 13, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TRANS12	:

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 11, 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 2183 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

COPY MAILED
JUL 28 2006
OFFICE OF PETITIONS

ROBERT E BUSHNELL AND LAW FIRM
1522 K STREET N W SUITE 300
WASHINGTON DC 20005-1202

In re Reissue Application No. 09/418,151	:	
Filed: October 13, 1999	:	
Original Patent No. 5,677,732	:	
Issue Date: October 14, 1997	:	Decision on Petition
Original Application No. 08/575,866	:	
Filed: December 20, 1995	:	
Inventor: Kyung-Ho Moon	:	

This is a decision on the petition filed under 37 CFR 1.47(b) February 7, 2005, which is being treated as a petition under 37 CFR 1.183 to waive the requirements of the rules where they would require execution of a supplemental reissue declaration by the sole inventor.

The decision is granted.

A supplemental reissue declaration must satisfy 37 CFR 1.175, and 37 CFR 1.63 (37 CFR 1.175(a); MPEP 1414.01), and be signed by the inventor(s). 37 CFR 1.172; In re Hayes, 53 USPQ2d 1222, 1224 (Comm'r Pat. 1999) (37 CFR 1.175(b)(1), taken in conjunction with Section 1.172, requires a supplemental declaration be signed by the inventor; when the inventor who signed an original declaration under 37 CFR 1.63 refuses, or cannot be located, to sign a **required** supplemental declaration, the requirement may be waived under 37 CFR 1.183. See MPEP 1414.01; see also MPEP 603. It is agreed in view of the circumstances recounted in the petition, that justice would be served by waiver of the rules and acceptance of the current and any forthcoming supplemental, reissue declaration.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 271-3217.

Brian Hearn
Petitions Examiner

Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No. 9418151

09418151

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: HEARN, BRIAN

Count (1) - Palm Credit 09/418,151

Decision Type: 503 - 37 CFR 1.183 -SUSPEND/WAIVE EXAMINING-RELATED RULE & WAIVER

Decision: GRANT

Time Period for Reply: n/a

COPY MAILED
JUL 28 2006
OFFICE OF PETITIONS

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

_____ Initials of Approving Official (if required)

Printed on: *7/27/06*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

COPY MAILED

DEC 11 2002

OFFICE OF PETITIONS

In re Application of :
Nagesh K. Mahanthappa :
Application No. 09/418,221 : NOTICE
Filed: October 14, 1999 :
Attorney Docket No. CIBT-P02-043 :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1646.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Lawrence W. Granatelli
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAILED

OCT 23 2003

Technology Center 2100

In re Application of:	)	
Krishna A. Bharat	)	
Application No. 09/418,418	)	**DECISION ON REQUEST FOR**
Filed: October 15, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD FOR RANKING HYPERTEX SEARCH RESULTS BY ANALYSIS OF HYPERLINKS FROM EXPERT DOCUMENTS AND KEYWORD SCOPE	)	

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.

James R. Matthews

JM 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 PATENT AND TRADEMARK OFFICE

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

G VICTOR TREYZ
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1104

COPY MAILED

SEP 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Knudson et al. :
Application No. 09/418,461 : ON PETITION
Filed: October 15, 1999 :
Attorney Docket No. UV-33-CONT :
Title of Invention: Interactive Television :
Program Guide System with Pay Program
Package Promotion

This is a decision on the petition under 37 CFR §1.137(b), filed July 29, 2005 to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.
The petition filed under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application was held abandoned for failure to timely reply to the non final Office Action mailed July 8, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on October 9, 2004. A Notice of Abandonment was mailed on June 1, 2005.

Petitioner maintains that a response to the non-final Office Action was mailed on October 7, 2004. Petitioner acknowledges a typographical error resulted in the last two digits of the application number being transposed. The amendment did contain the correct art unit, name of the examiner, attorney docket number, confirmation number filing date and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a stamped post card receipt and Express Mail Label.

The amendment, and terminal disclaimer have been located in the correct application (09/418,**461**). Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly

imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

AUG 24 2000

Group 2700

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

Paper No. 5

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT PC
1755 JEFFERSON DAVIS HIGHWAY 4TH FLOOR
ARLINGTON , VA 22202

In re Application of	:	
David Rochon, et al.	:	
Application No.: 09/418,509	:	
Filed: October 15, 1999	:	
For: SYSTEM AND MEETHOD FOR	:	DECISION ON PETITION
DELIVERING TARGETED PRODUCT	:	TO MAKE SPECIAL
SAMPLES AND MEASURING	:	
CONSUMER ACCEPTANCE VIA A	:	
COMPUTER NETWORK	:	

This is a decision on the petition to treat the above-identified application as special and advance the examination thereof, filed August 2, 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

OIPE JC79
JUL 16 2004
PATENT & TRADEMARK

OFFICE OF INTELLECTUAL
PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY

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

SEP 1 8 2000

Paper No.

RUDOLPH P HOFFMANN, JR.
3M INNOVATIVE PROPERTIES COMPANY
P. O. BOX 33427
ST. PAUL, MN 55133-3427

REFERRED TO RPH pre

COPY MAILED

SEP 1 4 2000

#4

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Gina M. Biccellato, et al.
Application No. 09/418,730
Filed: October 15, 1999
Attorney Docket No. 55124USA1A/002

ON PETITION

This is a decision on the petition under 37 CFR 1.313(b)(5), filed September 12, 2000, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

Petitioner requests that the application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continued prosecution application filed of even date.

The application is withdrawn from issue.

Petitioner is advised that the issue fee paid on July 24, 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 September 12, 2000.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2800 for processing of the CPA.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RUDOLPH P HOFFMANN, JR.
3M INNOVATIVE PROPERTIES COMPANY
P. O. BOX 33427
ST. PAUL, MN 55133-3427

COPY MAILED

SEP 1 4 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Gina M. Biccellato, et al.
Application No. 09/418,730
Filed: October 15, 1999
Attorney Docket No. 55124USA1A

ON PETITION

This is a decision on the petition under 37 CFR 1.313(b)(5), filed September 12, 2000, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

Petitioner requests that the application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continued prosecution application filed of even date.

The application is withdrawn from issue.

Petitioner is advised that the issue fee paid on July 24, 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 September 12, 2000.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2800 for processing of the CPA.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Date : September 14, 2000

TO : Director, Office of Publication and Dissemination

FROM : Office of the Assistant Commissioner for Patents

SUBJECT : Withdrawal from Issue of

Applicant : Gina M. Biccellato, et al.
Application No. : 09/418,730
Filed : October 15, 1999

The above-identified application has been assigned Patent No. 6,123,428 and an issue date of September 26, 2000.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 26, 2000:

> "All reference to Patent No. 6,123,428 to GINA M. BICCELLATO, ET AL of EAGAN, MINNESOTA for ARTICLE EXHIBITING DRY AND WET RETROREFLECTIVITY appearing in the Official Gazette of September 26, 2000 should be deleted since no patent was granted."

This application is being forwarded to Technology Center 2800 for processing the CPA.

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-920 (FAX-305-8755)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)

UNITED STATES 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.

3M INNOVATIVE PROPERTIES
COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,966,660	:	
Buccellato et al.	:	
Issue Date: November 22, 2005	:	DECISION ON APPLICATION
Application No. 09/418,730	:	FOR
Filed: October 15, 1999	:	PATENT TERM ADJUSTMENT
Atty Docket No. 55124USA7A	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154," filed November 14, 2005. Then applicants requested reconsideration of the patent term extension on the basis that the Office mailed the first Office action under 35 U.S.C. 132 more than fourteen months after the filing of a continued prosecution application (CPA) in this application. See § 1.703(a)(1).

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Patentees are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment (not extension) for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On March 17, 2005, the Office mailed a Determination of Patent Term Extension under 35 U.S.C. 154(b) in the above-identified application[1]. The Notice stated that the patent term extension to date is 0 days. This initial determination did not include a period of adjustment for Office delay in mailing the first Office action. PALM records indicate that the issue fee payment was received in the Office on June 9, 2005. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 9, 2005. Accordingly, it is appropriate to dismiss this petition as untimely filed.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 13-3723, as authorized. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] As implicitly recognized by applicants, by virtue of the filing of a continued prosecution application (CPA) on September 12, 2000, this application became eligible for patent term adjustment due to examination delay.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAULA D. MORRIS
MORRIS & AMATONG
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042-3110

COPY MAILED

JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Walter V. Klemp et al	:	
Application No. 09/418,902	:	ON PETITION
Filed: October 15, 1999	:	
Attorney Docket No. P01896USO	:	

This is a decision on the petition, filed January 20, 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 November 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) 272-3208.

The examiner of Technology Center AU 3761 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).

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

MAILED: JAN 17 2001

PAPER NO.: 5

In re Application of
David Simpson, et al.
Serial No.: 09/419,009
Filed: October 13, 1999
For:MULTI-LAYER STRETCH CLING FILM

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 C.F.R. 1.102 -
II. INFRINGEMENT

This is a decision on the petition filed on December 4, 2000, requesting that the above identified application be granted Special Status under Sections 37 C.F.R. 1.102 and M.P.E.P 708.02 II.

The petition has been considered and found to comply with the requirements set forth under the above noted sections. Accordingly, the petition is granted.

The petition is GRANTED.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Richard S. Meyers Jr
Waddey & Patterson
414 Union Street Suite 2020
Bank of America Plaza
Nashville, TN 37219

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

Paper No. 10

AUG 2 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of:
Lundell et al
Application No. 09/419,171
Filed: October 15, 1999
For: **METHOD OF CELL RE-SELECTION, AND NETWORK PART, AND SUBSCRIBER TERMINAL**

DECISION
ON PETITION

This is a decision on the petition filed May 19, 2003 to reset the period for reply under MPEP § 710.06.

An Advisory action was mailed to Applicant's attorney at the address of record on April 2, 2003.

Petitioner asserts that the Advisory action was received on May 5, 2003, after more than one month from the mailing of the Advisory action.

An Advisory Action does not set the time period for reply, so there is no period to reset.

Since the Applicant replied within two (2) months of the date of the final Office action, the shortened statutory period would therefore expire three (3) months from the date of the final (i.e. March 3, 2003) or on the date the advisory action is mailed (i.e. April 2, 2003), whichever is later. However, in no event can the statutory period for reply expire later than six (6) months from the date of the final rejection, i.e. later than June 3, 2003. See MPEP § 706.07(f).

According to 37 CFR § 1.181(f), the "mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings." Since the application is currently under final rejection, a proper response thereto must consist of either an amendment which places the case in condition for allowance, a Notice of Appeal (with appeal fee), or a Request for Continued Examination (RCE) in compliance with 37 CFR § 1.114 in order to avoid abandonment. See 37 CFR §§ 1.113 and 1.116. 37 CFR § 1.116(a) provides: "[t]he admission of, or refusal to admit, any amendment after final rejection, and any related proceedings, will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or save the application from abandonment under § 1.135."

Since it has been determined that the request for reconsideration filed on February 3, 2003 and the amendment filed March 3, 2003 do not place the application in condition for allowance and there was no Notice of Appeal or RCE filed, the application became abandoned June 4, 2003 and remains abandoned in fact. It is unfortunate that applicant received the Advisory Action late. However, this circumstance does not relieve the application of its status as described above.

Accordingly, Petitioner's request to reset the time period is **DISMISSED** as moot.

Any request for reconsideration must be filed within **TWO MONTHS** from the mailing date of this decision.

Applicant should consider filing a petition under 37 C.F.R. 1.137(b) to revive an unintentionally abandoned application.

The application file is being forwarded to the Examiner for preparation of a Notice of Abandonment.

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

Paper No. 12

MAIL

DEC 03 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of :
Lundell et al. :
Application No. 09/419,171 : DECISION ON PETITION
Filed: October 15,1999 :
For: METHOD OF CELL RE-SELECTION, AND NETWORK PART, AND SUBSCRIBER TERMINAL :

This is a decision on the paperwork filed September 4, 2003, which is being treated as a petition under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application was held abandoned for failure to respond in a timely manner to the Final Rejection mailed December 3, 2002. Applicant filed an Amendment After-Final on March 3, 2003, in response to the final rejection mailed December 3, 2002. An Advisory Action was mailed in response to the Amendment After-Final informing the applicant of non-entry of the After-Final Amendment on April 2, 2003. The application became abandoned when no further response was received. No Notice of Abandonment was mailed.

Petitioner alleges to have timely submitted a response to the Office Action. In support, the Petitioner has included a copy of the return postcard stamped may 30, 2003, itemizing a Request for Continued Examination (RCE), and a request for one (1) month extension of time with a fee of $110. A review of the Revenue, Accounting and Management (RAM) records show that a fee of $110 was applied toward one (1) month extension of time along with $750 for Request for Continued Examination (RCE) on May 30, 2003. The petition includes a copy of these papers.

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. In view of the above, the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application will be forwarded to Technology Center's technical support staff for processing of the Request for Continued Examination (RCE), and entry of the response. From there, the file will be forwarded to the examiner for examination in due course

Mark R. Powell

Mark Powell, 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

In re Patent No. 6449523
Issue Date: September 10,2002
Application No. 09419172
Filed: October 15,1999
Attorney Docket No. 1015-002

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

This is a decision on the electronic petition, filed May 23,2007 ,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 23,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,449,523	2002-09-10	09419172	1999-10-15	1015-002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mikio Ishimaru/	Date (YYYY-MM-DD)	2007-05-23
Name	Mikio Ishimaru	Registration Number	27449

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 17 2000

Group 2700

Paper No. 5

JOSEPH W PRICE
PRICE GESS & UBELL
2100 S E MAIN ST
STE 250
IRVINE , CA 92614

In re Application of:
Makoto Tatebayashi, et al.
Application No.: 09/419,240
Filed: October 15, 1999
For: DIGITAL CONTENT PROTECTION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

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
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 12 2007

Leslie Morioka, Esq.
Patent Department
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036-2787

In Re: Patent Term Extension
Application for
U.S. Patent No. 6,143,771

DECISION DENYING APPLICATION FOR PATENT TERM EXTENSION FOR U.S. PATENT NO. 6,143,771

This is in response to the application for extension of the term of U.S. Patent No. 6,143,771 ("the '771 patent") under 35 U.S.C. § 156, filed in the United States Patent and Trademark Office (USPTO) on May 25, 2005, and the request for reconsideration, filed on January 27, 2006. The application was filed by AstraZeneca AB ("Applicant"). Extension is sought based upon the premarket review under § 505 of the Federal Food, Drug, and Cosmetic Act of the human drug product known by the tradename NEXIUM® I.V., having the active ingredient esomeprazole sodium, which was approved for commercial use and sale by the Food and Drug Administration (FDA) on March 31, 2005. Because NEXIUM® I.V. (esomeprazole sodium) does not constitute the first permitted commercial marketing or use of the product under the provision of law under which the regulatory review period occurred, Applicant's request for extension of the patent term of the '771 patent is **DENIED**.

A. Factual Background

On March 31, 2005, Applicant received a letter from the FDA indicating that NEXIUM® I.V. (esomeprazole sodium), the subject of NDA 21-689, was approved for commercial marketing or use.

On May 25, 2005, Applicant filed its application for patent term extension ("PTE Application") under 35 U.S.C. § 156(d)(1) and 37 C.F.R. § 1.720(f) with the USPTO in compliance with 37 C.F.R. § 1.740 to extend the term of the '771 patent. Applicant asserts that the '771 patent claims NEXIUM® I.V. (esomeprazole sodium). The '771 patent was issued on November 7, 2000, and expires on May 27, 2014.

On July 28, 2005, the USPTO mailed a notice of final decision, dismissing the PTE Application on grounds that NEXIUM® I.V. (esomeprazole sodium) did not constitute the first permitted commercial marketing or use of the product under the provision of law under which the regulatory review period occurred in light of the FDA's previous approval of NEXIUM® (esomeprazole magnesium) ("Dismissal"). The USPTO gave Applicant the opportunity to request reconsideration of the dismissal.

On January 27, 2006, Applicant requested reconsideration of the USPTO determination that the '771 patent is not eligible for extension under 35 U.S.C. § 156.

B. Decision

1. The Plain Language of 35 U.S.C. 156(f) Shows That NEXIUM® I.V. (esomeprazole sodium) Is Not the First Permitted Commercial Marketing or Use of the "Product" As Required by 35 U.S.C. § 156(a)(5)(A)

In accordance with 35 U.S.C. § 156(e)(1), the USPTO has reviewed Applicant's PTE Application and has determined, based on the previous approval of NEXIUM® (esomeprazole magnesium), that the '771 patent, which protects NEXIUM® I.V. (esomeprazole sodium), is not eligible for a term extension. Section 156(a) of Title 35 sets forth several requirements that must be met before the Director can extend the term of a patent. See 35 U.S.C. §§ 156 (a)(1)-(a)(5), (d)(1), & (e)(1). Section 156(a)(5)(A) requires that

> the permission for the commercial marketing or use of the product . . . [be] the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred.

35 U.S.C. §156(a)(5)(A) (emphasis added). The term "product" as used in section 156(a)(5)(A) is defined in section 156(f)(1) as a "drug product," and the term "drug product" is defined in section 156(f)(2) as the "active ingredient of [a] new drug, antibiotic drug, or human biological product . . . including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient." 35 U.S.C. § 156(f) (emphasis added). Hence, by the explicit terms of section 156(f)(2), "product" means "active ingredient," and "any salt or ester of the active ingredient."

By distinguishing "active ingredient" from salts and esters, the statutory language makes clear that the active ingredient cannot be a salt or an ester, but is instead the underlying molecule itself. The term "product" thus includes: (i) a non-salified and non-esterified form of a molecule (i.e., the "active ingredient"); and (ii) a salt or ester of the molecule (i.e., the "salt or ester of the active ingredient"). Because a "product" includes all three forms, i.e., the underlying molecule and its salts and esters, a non-salified, non-esterified form of a molecule is statutorily the same "product" as a salt or ester of that molecule for purposes of the patent term extension provisions in § 156.

Prior to the approval of NEXIUM® I.V. (esomeprazole sodium), the FDA approved NEXIUM® (esomeprazole magnesium). There is no dispute that esomeprazole is present in both NEXIUM® and NEXIUM® I.V. as the underlying molecule, formulated either as a magnesium salt in NEXIUM® or as a sodium salt in NEXIUM® I.V. Consequently, the approved "product" is the same for both NEXIUM® and NEXIUM® I.V. under § 156: esomeprazole and any salt or ester of esomeprazole. As such, the later approved NEXIUM® I.V. (esomeprazole sodium) does

not represent the first permitted commercial marketing or use of the "product" under the provision of law under which such regulatory review occurred. The USPTO must therefore deny Applicant's PTE Application because it does not satisfy the requirements of section 156(a)(5)(A).

2. Judicial Precedent Confirms That NEXIUM® I.V. (esomeprazole sodium) Is Not the First Permitted Commercial Marketing or Use of the "Product" As Required by 35 U.S.C. § 156(a)(5)(A)

Judicial precedent confirms that the USPTO's application of the definition of "product," as that term is used in section 156(a)(5)(A), is correct. In Fisons v. Quigg, 1988 WL 150851 (D.D.C. 1988) ("Fisons I"), the district court addressed the meaning of the term "product." The district court considered both the plain language of section 156(a)(5)(A) and its legislative history. With respect to the latter, the district court observed:

> Upon examination, the specific purpose of Section 156(a)(5)(A) appears to have been relatively narrow—to restore lost patent life only for "pioneer" drugs. A report by the Congressional Office of Technology Assessment ("OTA") to the 97th Congress provided the factual foundation for the restriction of patent restoration benefits to new chemical entities. The OTA report stated: "Although important pharmaceutical innovations may result from new therapeutic applications of existing chemicals . . . many of the pharmaceutical breakthroughs that have occurred have resulted from NCE (new chemical entity) research and the development of NCEs generally has required more time and money than other types of innovation and has involved greater risks." The House Committee on Energy and Commerce explained that the bill "requires extensions to be based on the first approval of the product because the only evidence available to Congress showing that patent time has been lost is data on so-called class I, new chemical entity drugs."

Fisons I, 1988 WL 150851 at *7. After making these observations, the district court found that "Congress's intent was to restore patent life only to new chemical entities." The district court thus construed section 156(a)(5)(A) in a straightforward way:

> In the definitional provision of Section 156, the term "product" is defined as a "human drug product." 35 U.S.C. § 156(f)(1)(A). This term is further defined in the next subparagraph as "the active ingredient of a new drug, antibiotic drug, or human biological product ... including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient." 35 U.S.C. § 156(f)(2) (emphasis added). Substituting this definition directly back into Section 156(a)(5)(A) yields the statement that a patent is ineligible for extension if it is not the first permitted commercial marketing or use of the active ingredient contained in that approved patented product.

Id. at *5.

The Federal Circuit affirmed the district court's interpretation. Fisons v. Quigg, 876 F.2d 99 (Fed. Cir. 1989) ("Fisons II"). The Federal Circuit stated: "In sum, we hold that the district court correctly applied the definition given in 35 U.S.C. § 156(f) to the term 'product' used in section 156(a)(5)(A). We are convinced that such an interpretation comports with the intent of Congress as expressed in the statute." Fisons II, 876 F.2d at 102.

The Federal Circuit later interpreted the term "active ingredient" in Pfizer, Inc. v. Dr. Reddy's Labs., Ltd., 359 F.3d 1361 (Fed. Cir. 2004). There, the Federal Circuit accepted the FDA's definition of the term "active ingredient" as meaning "active moiety." Id. at 1366 (citing Abbreviated New Drug Application Regulations: Patent and Exclusivity Provisions, 59 Fed. Reg. 50,338, 50,358 (F.D.A. Oct. 3, 1994). It likewise accepted that "active moiety" means "the molecule or ion excluding those appended portions of the molecule that cause the drug to be an ester, salt . . . responsible for the physiological or pharmacological action of the drug substance" based upon the FDA's regulations. Id. (quoting 21 C.F.R. § 314.108(a)) (omission in original). Hence, the Federal Circuit has construed the term "active ingredient" as used in section 156(f)(2) to mean the molecule or ion responsible for the physiological or pharmacological action of the drug, excluding those appended portions of the molecule that cause the drug to be an ester or salt (hereinafter "underlying molecule").

Substituting this definition for the word "active ingredient" as it appears in section 156, the term "drug product" in section 156(f)(2) must mean the underlying molecule as well as any salt or ester of the underlying molecule since it is defined as "active ingredient . . . including any salt or ester of the active ingredient." Further, because "product" is defined as "drug product" in section 156(f)(1)(A), "product" likewise must mean the underlying molecule as well as to any salt or ester of the underlying molecule. That definition conforms with the plain language of section 156(f). What is more, the Federal Circuit confirmed in Pfizer that only the first approval for any given "active ingredient" can trigger a patent term extension under 35 U.S.C. § 156, regardless whether that first approval was for an underlying molecule, a salt of the underlying molecule, or an ester of the underlying molecule. Pfizer, 359 F.3d at 1366 ("The statute [referring to 35 U.S.C. § 156] foresaw variation in the salt or ester of an active ingredient, and guarded against the very loophole now urged. . . . [T]he text of the statute shows that it was not intended to be defeated by simply changing the salt.").

Here, before approving NEXIUM® I.V. (esomeprazole sodium) in 2005, the FDA approved NEXIUM® (esomeprazole magnesium) in 2001. Esomeprazole is the underlying molecule in both NEXIUM® I.V. and NEXIUM®. Esomeprazole is simply formulated differently, as a magnesium salt in NEXIUM® and as a sodium salt in NEXIUM® I.V. However, that difference does not matter for purpose of section 156. The statutory definition of "product" includes the underlying molecule as well as any salt or ester of the underlying molecule. Accordingly, NEXIUM® I.V. (esomeprazole sodium) is not the first permitted

commercial marketing or use of the "product" as required by 35 U.S.C. § 156(a)(5)(A) because of the earlier approval of NEXIUM® (esomeprazole magnesium).

In the Dismissal, the USPTO explained that it "understands that esomeprazole sodium, the active ingredient of NEXIUM® I.V., is not the same active ingredient as PRILOSEC® (omeprazole), NEXIUM® (esomeprazole magnesium) or PRILOSEC® OTC (omeprazole magnesium). The difference between the active ingredient in NEXIUM® I.V. and NEXIUM® is a sodium salt and a magnesium salt of the active moiety, esomeprazole, respectively." The Dismissal incorrectly stated in the first quoted sentence that NEXIUM® I.V. and NEXIUM® do not have the same active ingredient. However, the Dismissal was correct in stating that NEXIUM® I.V. does not have the same active ingredient as PRILOSEC® (omeprazole) and PRILOSEC® OTC (omeprazole magnesium). Nevertheless, as evidenced in the second quoted sentence, the USPTO has always viewed the active moiety in both NEXIUM® I.V. (esomeprazole sodium) and NEXIUM® (esomeprazole magnesium) as being the same, namely, esomeprazole. And, as explained above, because the active moiety in NEXIUM® I.V. (esomeprazole sodium) and NEXIUM® (esomeprazole magnesium) is the same, the requirements of section 156(a)(5)(A) are not satisfied. Hence, Applicant's citation of the first quoted sentence as support for its contention that NEXIUM® I.V. (esomeprazole sodium) meets the requirements of section 156(a)(5)(A) and that the '771 patent is thereby eligible for extension is misplaced.

Finally, the FDA has issued a regulation defining the term "active ingredient" of a pharmaceutical "product" for purposes of patent term extension under 35 U.S.C. § 156. Specifically, 21 C.F.R. § 60.1 (a) states that "[t]his part [referring to Part 60] sets forth procedures and requirements for the [FDA]'s review of applications for the extension of the term of certain patents under 35 U.S.C. § 156." And, that provision further states that "[FDA] actions in this area include [inter alia] "[a]ssisting the [USPTO] in determining eligibility for patent term restoration." 21 C.F.R. § 60.1(a)(1). Section 60.3 then provides a series of definitions to be used in Part 60 in addition to the definitions already contained in 35 U.S.C. § 156. 37 C.F.R. § 60(b)(2) defines "active ingredient" for purposes of a patent extension to mean a drug's active moiety, i.e., its therapeutically active component. It states:

> Active ingredient means any component that is intended to furnish pharmacological activity or other direct effects in the diagnosis, cure, mitigation, treatment or prevention of disease, or to affect the structure or function of the body of man or of animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect.

21 C.F.R. § 60.3 (b)(2). Applying the FDA's regulations in this case, one cannot reach a conclusion other than that esomeprazole is the "active ingredient" of both NEXIUM® and NEXIUM® I.V., formulated as a magnesium salt in the former and as a sodium salt in the latter.

3. Applicant's Arguments Are Unpersuasive

Applicant challenges the USPTO's dismissal of its PTE Application in several ways. First, Applicant asserts that Glaxo Operations UK, Ltd v. Quigg, 894 F.2d 392 (Fed. Cir. 1990), is binding precedent and requires the USPTO to grant its PTE Application. Second, Applicant contends that Pfizer does not apply because that case stemmed from an enforcement proceeding interpreting 35 U.S.C. § 156(b) and did not involve an eligibility determination interpreting 35 U.S.C. § 156(a). Third, Applicant argues that the policy rationale of the Drug Price Competition and Patent Term Restoration Act of 1984 ("Hatch-Waxman Act") favors granting a patent term extension for the '771 patent because an extension will not harm any generic producers but would instead harm the innovator drug company. The USPTO will address each of Applicant's arguments in turn.

a. Glaxo Remains Binding Precedent

In the Dismissal, the USPTO stated that "Glaxo must be treated as overruled" by Pfizer. The USPTO is persuaded by Applicant's arguments that Glaxo remains binding precedent and the USPTO erred in stating otherwise. Applicants correctly cite to Federal Circuit Rule 35, which explicitly provides that "only the court en banc may overrule a binding precedent." Applicants also correctly rely on Federal Circuit case law[1] indicating that a second panel may not overrule a first panel unless the second panel involves the full court, i.e., an en banc decision. Thus, the USPTO acknowledges that both Glaxo and Pfizer constitute binding Federal Circuit precedent. Nevertheless, Glaxo supports the USPTO's determination that the '771 patent is not eligible for a patent term extension for reasons explained below.

b. Pfizer Is Applicable

Applicant argues that Glaxo addressed the meaning of "product" in the context of eligibility under 35 U.S.C. § 156(a) whereas that Pfizer involved the scope of patent claims in an extended patent under the "rights derived" section of 35 USC § 156(b) during an enforcement action. Applicant's procedural distinction is unavailing.

Pfizer is applicable here because it addresses not only the exact statutory provision in dispute—section 156—but also the exact subparagraph in dispute—section 156(f)(2)—and the exact term in dispute—"product." It is a well-established canon of statutory construction, *in pari materia,* that a legislative body generally uses a particular word with a consistent meaning in a given context. See Erlenbaugh v. United States, 409 U.S. 239, 244 (1972). As the Supreme Court has explained, "'identical words used in different parts of the same act are intended to have the same meaning.'" Sorenson v. Sec'y of the Treasury of the United States, 475 U.S. 851, 860 (1986) (quoting Atl. Cleaners & Dryers, Inc. v. United States, 286 U.S. 427, 433 (1932)).

---

[1] George E. Warren Corp. v. United States, 341 F.3d 1348 (Fed. Cir. 2003); Newell Cos. v. Kenney Mfg. Co., 864 F.2d 757 (Fed. Cir. 1988); and Kimberly-Clark Corp. v. Fort Howard Paper Co., 772 F.2d 860 (Fed. Cir. 1985).

Moreover, section 156(f) makes clear that the definition of "product" is to be applied throughout section 156. Section 156(f) explicitly states that its provisions are "for purposes of this section." Thus, the term "product" as used throughout 35 U.S.C. § 156—for eligibility under section 156(a) and for enforcement under section 156(b)—has but one meaning. And, as explained above, it means the "active ingredient" of a new drug, "including any salt or ester of the active ingredient" based on the plain language of 35 U.S.C. § 156(f)(2).

Applicant also argues that NEXIUM® I.V. (esomeprazole sodium) has a different active ingredient than NEXIUM® (esomeprazole magnesium). As such, Applicant contends that NEXIUM® I.V. (esomeprazole sodium) represents the first commercial marketing or use of the "product" under 21 U.S.C. § 355, thereby rendering the '771 patent eligible for a patent term extension. Applicant relies on Glaxo for support, analogizing the facts here to those in Glaxo. Further, Applicant contends that Glaxo "supports the proposition that two different salt forms of the same therapeutically active substance constitute separate 'products' under 35 U.S.C. § 156(f)(1) for the purposes of eligibility for patent term extension." Applicant likewise asserts that the Federal Circuit rejected a definition of "active ingredient" as encompassing an entire active moiety including all of the salts and esters of a therapeutically active compound, the definition applied by the USPTO in this case.

Starting with Applicant's reading of Glaxo, Applicant misapprehends the scope of that decision. In Glaxo, the Federal Circuit did not address the definition of "active ingredient." Rather, the Federal Circuit focused on the USPTO's argument that the term "product" did not have the literal meaning set forth in section 156(f)(2), but instead meant "any 'new chemical entity,' i.e., 'new active moiety.'" Rejecting that argument, the Federal Circuit explained that Congress provided a definition of the term "product" in section 156(f)(2) and that Congress "selected terms with narrow meanings that it chose from among many alternatives." Glaxo, 894 F.2d at 399 (footnoting as examples of other possible words "new molecular entity," "active moiety," and "new chemical entity"). The Federal Circuit did not discuss the definition of the term "active ingredient" because, unlike here, the determination of the active ingredient was not in dispute in Glaxo.

The most that can be said about Glaxo is that the Federal Circuit acknowledged that the term "product" was not expressly defined by Congress to mean "active moiety," since those words do not appear in section 156(f)(2). However, Glaxo does not hold that the term "active ingredient" as used in section 156(f)(2) does not mean "active moiety." In fact, the Federal Circuit later accorded the term "active ingredient" with that precise definition in Pfizer. See Pfizer, 359 F.3d at 1366. Accordingly, the USPTO's determination that the '771 patent is ineligible is supported by, and consistent with, Glaxo.

Turning to Applicant's analogy, Glaxo is factually distinguishable. As mentioned above, unlike here, the parties in Glaxo did not dispute the identification of the active ingredient. The Federal Circuit observed at the outset that "[i]t is undisputed that cefuroxime axetil is the active ingredient of CEFTIN[®] tablets." Id. at 394. The Federal Circuit also observed that cefuroxime axetil is the ester of the underlying organic acid, cefuroxime. Thus, the only issue in Glaxo was

whether a patent protecting the ester CEFTIN® was eligible for a term extension in light of earlier approvals of two salts of the underlying organic acid, cefuroxime. The Federal Circuit concluded, after applying the plain meaning of section 156(f)(2), that the patent was eligible because the earlier salts were neither salts nor esters of the ester CEFTIN®, the "product" for which the extension was sought. Id. at 394.

The facts here are the opposite. The earlier approved drug, NEXIUM® (esomeprazole magnesium), is a salt of esomeprazole, the "product" for which the extension is now sought, i.e., NEXIUM® I.V. (esomeprazole sodium). That is, esomeprazole magnesium is the magnesium salt of esomeprazole, and esomeprazole is the "active ingredient" in the drug NEXIUM® I.V. (esomeprazole sodium). Esomeprazole is simply formulated as a sodium salt in NEXIUM® I.V. (esomeprazole sodium). Applicant even concedes that esomprazole, formulated as either the magnesium salt or sodium salt, is the active ingredient in both NEXIUM® and NEXIUM® I.V., respectively. Therefore, Glaxo, in addition to Pfizer, supports the denial of Applicant's PTE Application.

c. Policy Does Not Favor Extension of the '771 Patent

Applicant argues that policy rationale weighs in favor of granting a patent term extension for the '771 patent protecting NEXIUM® I.V. (esomeprazole sodium). Specifically, Applicant claims that a denial will harm the interests of the innovator drug company, but will not harm the interests of generic producers. Applicant is mistaken. If the USPTO granted a certificate of extension for the amount of term that Applicant asserts in its PTE Application that it is eligible to receive, a generic producer would have to wait 793 days beyond the original expiration date of the '771 patent to enter the market and sell a generic version of NEXIUM® I.V. (esomeprazole sodium). Because of this potential delay, a generic producer and the public could be harmed by the present eligibility determination.

Moreover, an extension of the '771 patent would contravene Congress's intent in enacting section 156. As the district court in Fisons I explained, Congress sought to permit a patentee to extend a patent covering an "active moiety"—the molecule or ion that causes the physiological or pharmacological action of a drug—only once. See Fisons I, 1988 WL 150851 at *7. Congress did so by enacting the provisions of section 156(a)(5)(A), requiring the approved drug to represent the first commercial marketing or use of the "product" under the provision of law under which such regulatory review period occurred. Here, Applicant is attempting to circumvent that precise prohibition set up by Congress by seeking a term extension for the '771 patent protecting NEXIUM® I.V. (esomeprazole sodium) while at the same time acknowledging that NEXIUM® (esomeprazole magnesium) was previously approved. Thus, the policy rationale of the Hatch-Waxman Act weighs against an extension of the '771 patent.

C. Conclusion

For the above-stated reasons, the application for patent term extension under 35 U.S.C. § 156 is **DENIED**. This is a final agency decision.

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

By mail: Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-7755

Telephone inquiries related to this determination should be directed to Mary C. Till at (571) 272-7755. E-mail inquiries should be directed to Mary.Till@uspto.gov.

Robert W. Bahr
Senior Patent Counsel
Office of Deputy Commissioner for Patent Examination Policy
Commissioner for Patents
United States Patent and Trademark Office

cc: Office of Regulatory Policy
HFD - 7
5600 Fishers Lane
Rockville, MD 20857
Attention: Beverly Friedman

RE: NEXIUM® I.V. (esomeprazole sodium)

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 3 1 2004

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

Paper No. 21

Steven F. Weinstock
Abbott Laboratories
100 Abbott Park Road
Dept. 377/AP6A
Abbott Park, IL 60064-6008

In re Application of Omar S. Khalil et al Serial No. : 09/419,461 Filed : October 15, 1999 For : Method for Modulating Light Penetration Depth in Tissue and Diagnostic Applications Using Same	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed February 2, 2004, to review the holding of abandonment mailed January 20, 2004 for failure to take action following the decision by the Board of Patent Appeals and Interferences dated September 24, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response (a Request for Continued Examination (RCE) that included an Information Disclosure Statement and an amendment), and a copy of a PTO stamped receipt indicating the response was received, timely, on November 24, 2003.

In view of the above, the Notice of Abandonment mailed January 20, 2004, 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, processing and consideration of the RCE.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/3/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 25 2005

Paper No. 092004

LAWRENCE E. LAUBSCHER, SR.
745 SOUTH 23RD STREET, SUITE 300
ARLINGTON, VA 22202

In re Application of:	:	
BARRY J. MARKWITZ et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 09/419,475	:	
Filed: October 15, 1999	:	
Attorney Docket No.: **19491**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 22, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of James A. Hudak was filed on January 29, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

for

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: JAMES A. HUDAK
29425 CHAGRIN BOULEVARD
SUITE 304
CLEVELAND, OH 44122-4602

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)
6267395	2001-07-31	09419636	1999-10-18	1270.34 US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/makammer34197/	Date (YYYY-MM-DD)	2010-01-07
Name	Mark A. Kammer	Registration Number	34197

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. 6267395
Issue Date: July 31,2001
Application No. 09419636
Filed: October 18,1999
Attorney Docket No. P-101.34

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

This is a decision on the electronic petition, filed January 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND & TOWNSEND AND CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Amr A. Awadallah et al	:	
Application No. 09/419,704	:	DECISION ON PETITION
Filed: October 14, 1999	:	TO WITHDRAW
Attorney Docket No. 017887-007520US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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 applicants.

This application is being referred to Technology Center AU 3625.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE
YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/419,704	10/14/1999	AMR A. AWADALLAH	VIVAP002

CONFIRMATION NO. 1665

OC000000018905302

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 05/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2006.

- 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).

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/419,704	10/14/1999	AMR A. AWADALLAH	VIVAP002

CONFIRMATION NO. 1665

OC000000018905313

56020
BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 05/23/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2006.

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.

WAN LAYMON
OP (571) 272-3220

ATTORNEY/APPLICANT COPY

2-13-09

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

Patent No.: : 6,298,174 B1
Applicant : David B. Lantrip, et. al.
Issued : October 2, 2001
Docket No. : E-1505 CON2
For : THREE-DIMENSIONAL DISPLAY OF DOCUMENT SET

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 Rules 1.322 and 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, not correction is in order here under Rules 1.322 or 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent

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

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

Eva James
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext.124 or 125

Allan C. Tuan
Battelle Memorial Institute
P.O. Box 999, M/S K1-53
Richland, WA 99352

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 19 2001

Paper No. 9

In re Application of
Robert A. Luciano *et al*
Application No. 09/419,748
Filed: October 16, 1999
Attorney Docket No. 732.341

: DECISION ON PETITION

This is a decision on the petition to revive filed on April 25, 2001. The petition has been referred to the undersigned for consideration as a petition under 37 CFR 1.181 to withdraw the holding that this application stands abandoned for failure to file a reply to the Office letter dated July 18, 2000. No fee is required for the petition, and a refund of the $55.00 fee tendered with the petition will be made in due course.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was in fact filed on October 30, 2000, and that the reply was timely filed by reason of a concurrently filed petition for a one month extension of time and the fee therefor. In support of this allegation, petitioners have submitted copies of the papers, and a copy of a postcard receipt for the papers showing that the papers were received in the Office on October 30, 2000. Office financial records also show that the fee for the one month extension was received and applied. Based upon this showing, 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 for Patent Examining Group 3720 to refund the $55.00 petition fee by crediting deposit account No. 50-0913. Thereafter, the application will be forwarded to the examiner for action on the reply filed on October 30, 2000.

PETITION GRANTED.

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

Ian F. Burns & Associates, P.C.
P.O. Box 20038
Reno, NV 89515

UNITED STATES 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.

BROWN RAYSMAN MILLSTEIN
FELDER & STEINER, LLP
1880 CENTURY PARK EAST
12TH FLOOR
LOS ANGELES CA 90067

COPY MAILED

SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Luciano et al.	:	DECISION ON PETITION
Application No. 09/419,748	:	
Filed: October 16, 1999	:	
Atty Docket No. 10407-1031	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR §1.181" filed June 5, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed February 13, 2002. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on May 14, 2002. A Notice of Abandonment was mailed on May 18, 2006.

In response, applicants filed the instant petition. Petitioner states that a response to the non-final Office action was timely filed via facsimile on August 13, 2002 with a three-month extension of time. The former attorney of record submitted this response. In support thereof, petitioner submits *inter alia* a copy of the response as filed with a certificate of facsimile transmission signed and dated August 13, 2002 and a copy of their facsimile confirmation showing successful transmission of 14 pages to the referenced USPTO number on August 13. (In addition, petitioner submits evidence that the response as filed on August 13, 2002 was resubmitted by the former attorney of record on August 11, 2004).

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of its facsimile transmission on August 13, 2002. The record includes no evidence that the Office was unable to charge the required extension of time fee to the Deposit Account as authorized.

Accordingly, the Notice of Abandonment mailed May 18, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required for the petition under § 1.181.

A request to charge the required extension of time fee to the Deposit Account pursuant to the authorization originally received August 13, 2002 is being forwarded to the Finance

Department for processing. In the event that, such fee cannot be charged, the required three-month extension of time charge (at the rate in effect on August 13, 2002) will be charged to petitioner's Deposit Account, pursuant to their authorization to charge any required fees. (The fee is required to consider the response timely received and to withdraw the abandonment).

Technology Center AU 3724 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the non-final Office action resubmitted on petition filed June 5, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 25

Baker & McKenzie
805 Third Avenue
New York, NY 10022

COPY MAILED

SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of
Tad Deffler et al.
Application No. 09/419,749
Filed: October 16, 1999
Attorney Docket No. 22074661-25

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 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 21, 2001, which set a shortened statutory period for reply of three (3) months. A three-month extension of time was obtained on June 26, 2002. Accordingly, the application became abandoned on June 22, 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 3624 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

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

COPY MAILED

JAN 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Masaru Fuku et al
Application No. 09/419,787
Filed: October 18, 1999
Attorney Docket No. Q56151

This is a decision on the petition under 37 CFR 1.313(a) and (c), filed January 6, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 24, 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 Wan Laymon at (703) 306-5685.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

MAIL

MAR 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Arent Fox Kintner Plotkin & Kahn PLLC
1050 Connecticut Avenue NW Suite 400
Washington DC 20036-5339

In re Application of
Wada et al.
Application No. 09/419,793
Filed: October 18, 1999
For: HEAD SUSPENSION ASSEMBLY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment filed February 21, 2003 and resubmitted on December 5, 2003,pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On April 10, 2002, a non-final Office action was mailed (paper No. 6) in the subject application. A response from Applicants was not received. On January 13, 2003, a Notice of Abandonment was mailed (paper No. 8).

Petitioner alleges that the Office action of April 10, 2002 (paper No. 6) was not received. In support of this allegation, Petitioner provides evidence of an e-mail exchange concerning a change of address for customer number 04372.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the subject application reveals that there was a change of address request received via facsimile communication on December 19, 2002 and entered into the application. A

duplicate copy of the facsimile request for change of address was received and postmark receipt on January 9, 2003. Both change of address request were for the above listed address. However, the non-final Office action from which the current application became abandoned for failure to respond, was mailed on April 10, 2002, i.e., eight months prior to the change of address requests.

Applicant's submission of an e-mail chain requesting change of address based upon the customer number, is insufficient given that the e-mail chain does not specifically set forth the correspondence address.

The petitioner has not made a sufficient showing of non-receipt of the non-final Office action (paper No. 6, mailed April 10, 2002) in accordance with the requirements set forth in MPEP §711.03(c), reproduced above. The instant petition lacks a statement ***from the practitioner*** of record (at the time of mailing the Office action), indicating: (1) that the non-final Office action (paper No. 6, mailed April 10, 2002) was not received, (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received and (3) reference to attached docketing records within practitioner's statement.

Therefore, for the above reasons, the petition is **DENIED.**

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

Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper 14

ARENT FOX KINTNER PLOTKIN & KAHN PLLC
1050 CONNECTICUT AVENUE NW SUITE 400
WASHINGTON DC 20036-5339

COPY MAILED

JUN 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Takeshi Wada
Application No. 09/419,793
Filed: October 18, 1999
Attorney Docket Number: P185-9025

This is a decision on the request for reconsideration filed April 21, 2004, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 11, 2002, after the applicant failed to timely file a proper reply to the non-Final Office Action mailed April 10, 2002. A Notice of Abandonment was mailed January 13, 2003.

Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that a change of address for all applications associated with customer number 04372 was filed sometime before May 22, 2001 and that in response, an error report was generated by the USPTO and communicated to the petitioners by way of email. A twenty-seven (27) page excel spreadsheet was submitted by the petitioner with the serial numbers of all the applications for which addresses should be changed corresponding with customer number 04372. Further the record reveals that petitioners responded to the USPTO with the requested information regarding the address change, by email, on May 31, 2001.

Additionally, petitioners have provided copies from their docketing system, a statement that a search of their docket records wherein receipt of the non-Final Office Action mailed April 10, 2002 would have been filed, had it been received, in an effort to show that the Notice mailed April 10, 2002 was not received.

In that a request to change the address for the above referenced application was not properly heeded and the non-Final Office Action mailed April 10, 2002 was mailed to an

incorrect address, and in that a statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action, was mailed April 10, 2002, it is apparent that the non-Final Office Action was not received. The evidence submitted corroborates non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and thus, the petition fee in the amount of $130.00, paid with the petition filed February 21, 2003, will be credited to deposit account no. 01-2300.

The file is being forwarded to Technology Center 2652 for the remailing of the non-Final Office Action originally mailed on April 10, 2002. Telephone inquiries concerning the remailing of the Notices should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/23/2007

TO SPE OF : ART UNIT 2800 (2879)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,396,207

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***ok to enter claim dependency in claims 14 & 15 as req. in Cof C ?**

Ernest C. White, LIE (703) 308-9390x122

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

All changes are approved.

/Nimeshkumar D. Patel/ 2879

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

Paper No. 8

Brian B. Shaw
HARTER, SECREST & EMERY LLP
700 Midtown Tower
Rochester, New York 14604

JUN 20 2001

In re Application of	:	
Krivitski & Drost	:	
Application No. 09/419,849	:	**DECISION ON PETITION**
Filed: October 19, 1999	:	**TO MAKE SPECIAL**
Attorney Docket No. 86017.000010	:	

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed February 6, 2001, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I) and allege facts under oath or declaration to show, or indicate why it is not possible to show, that:

1. there is an infringing device or product actually on the market or method in use,

2. when the alleged infringing device, product or method was first discovered; supplemented by an affidavit or declaration of the applicant's attorney to show :

3. that a rigid comparison on the alleged infringing device, product or method with the claims of the application was made,

4. that the claims are unquestionably infringed,

5. that a careful search of the prior art was made or that applicant has good

knowledge of the pertinent prior art, and

6. that applicant believes all of the claims in the application are allowable.

The petition meets the above-listed requirements for special status.

The petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and she should make a rigid search for such, she 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 it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502
hhp/vb

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. 13

Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601 SW Second Avenue
Portland, OR 97204-3407

COPY MAILED
SEP 2 9 2003
OFFICE OF PETITIONS

In re Application of :
Larry A. Westerman et al. :
Application No. 09/420,321 :
Filed: October 18, 1999 :
Attorney Docket No. KLR:7146.044 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 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 25, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 26, 2002.

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

The application file is being forwarded to Technology Center AU 2174 for processing the Request for Continued Examination pursuant to 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

#12

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

Dennison Associates
Suite 301
133 Richmond Street West
Toronto,
M5H2L7
Canada

MAILED
FROM DIRECTORS OFFICE

JAN 11 2005

TECHNOLOGY CENTER 3600

In re Application of
John Rice
Application No. 09/420,419
Filed: October 19, 1999
For: BRACKET FOR CONCRETE FORMS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on September 15, 2004 in the United States Patent and Trademark Office.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt dated_____.

☒ USPTO return facsimile receipt dated March 25, 2002, which identifies the application by serial number and the type of Response that was filed on that date.

☐ 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 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 _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Response filed with the petition, then to the examiner for prompt action on the response.

KJD/rwg: 1/06/05

KENNETH J. DORNER
SPECIAL PROGRAMS 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
www.uspto.gov

Paper No. 11

AT&T Corporation
PO Box 4110
Middletown, NJ 07748-4110

COPY MAILED

MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Nicholas G. Duffield et al. :
Application No. 09/420,565 :
Filed: October 19, 1999 :
Attorney Docket No. 113605 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is Granted.

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 February 26, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on May 27, 2003.

The application file is being forwarded to Technology Center AU 2664 for processing the Request for Continued Examination 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

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)
6625151	2003-09-23	09/420,909	1999-10-20	6563-53988(3

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 J. Danielson/	Date (YYYY-MM-DD)	2008-02-05
Name	Mark J. Danielson	Registration Number	40580

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. 6625151
Issue Date: September 23,2003
Application No. 09420909
Filed: October 20,1999
Attorney Docket No. 6563-53988(3

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

This is a decision on the electronic petition, filed February 5,2008 ,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 February 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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

MAILED

APR 0 7 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:)
Stephen C. Kenyon)
Serial Number: 09/420,945)
Filed: October 19, 1999)
For: METHOD AND APPARATUS FOR AUTOMATICALLY RECOGNIZING INPUT AUDIO AND/OR VIDEO STREAMS)

DECISION ON PETITION

This is a decision on the petition filed January 2, 2003 under 37 C.F.R. § 1.102(d), to make the above-identified application special.

A grantable petition under 37 CFR 1.102(d) and MPEP 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually 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 has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will maintain its special status throughout its entire course of prosecution at 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 is being forwarded to the examiner for expedited prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 34

BENJAMIN ADLER
8011 CANDLE LANE
HOUSTON, TX 77071

COPY MAILED

SEP 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Timothy J. O'Brien :
Application No. 09/421,213 :
Filed: October 20, 1999 :
Attorney Docket No. D6064CIP :

ON PETITION

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

The petition is **GRANTED**.

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 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, 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 February 6, 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 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

In re Patent No. 6291794
Issue Date: September 18,2001
Application No. 09421428
Filed: October 19,1999
Attorney Docket No. LSP-27

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

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

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)
6,291,794	2001-09-18	09/421,428	1999-10-19	LSP-27(old) 69012-35(new)

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	/W. Scott Harders/	Date (YYYY-MM-DD)	2007-08-15
Name	W. Scott Harders	Registration Number	42629

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

Paper No. 32

HICKMAN PALERMO TRUONG & BECKER
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
David C. Chapman :
Application No. 09/421,437 :
Filed: October 19, 1999 :
Attorney Docket No. 50265-018 :

ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed March 18, 2005, to defer issuance of the instant application into a patent.

The petition is **GRANTED**.

In the absence of an extraordinary circumstance, it has been the policy of the Office to defer issuance of a patent, upon request, for a period of up to one month only. Note MPEP 1306.01. Accordingly, the deferral period has now passed.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-67893.

The application file is being forwarded to Technology Center AU 2825 for resolution of the issue concerning the Amendment under 37 CFR 1.312 concurrently filed with the instant petition.

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

28

Paper No. 28

Wesley B. Ames
Brobeck Phleger & Harrison
12390 El Camino Real
San Diego, CA 92130

COPY MAILED
JUN 17 2003
OFFICE OF PETITIONS

In re Application of :
Salvatore Albani :
Application No. 09/421,506 : ON PETITION
Filed: October 19, 1999 :
Attorney Docket No. 246/285 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed October 18, 2002, which set a shortened statutory period for reply of three months. Not extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 19, 2003.

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 $465 extension of time submitted with the petition on June 4, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund of the extension of time fee by writing the Office of Finance, Refund Section.

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 Daniel M. Chamber appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Daniel M. Chamber 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 file will be directed solely to the address of record until otherwise instructed.

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 1644.

Latrice Bond

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

cc: Biotechnology Law Group
658 Marsolan Avenue
Solana Beach, CA 92075-1931

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

WORLDCOM, INC.
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED

APR 16 2003

OFFICE OF PETITIONS

In re Application of
Dugan et al.
Application No. 09/421,590
Filed: October 20, 1999
Attorney Docket No. COS-98-021

ON PETITION

This decision concerns the February 16, 2000 petition under 37 CFR 1.47(a).[1]

The petition is **DISMISSED.**

Five inventors are named in this application. The petition, accompanied by a declaration signed by all of the inventors except Allen Holmes ("Holmes") ("2/16/00 Declaration"), asserts that Holmes refuses to sign the declaration and requests that the available inventors be allowed to file this application on behalf of themselves and Holmes.

Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Holmes provided that a *bona fide* attempt has been made to present to Holmes, for review and signature, a copy of the **entire application (specification including claims; drawings)**; and that the latter refuses to join in this application.[2]

To show that Holmes 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 Holmes at his last known address,[3] and his subsequent refusal.[4]

---

[1] This petition was recently forwarded to the Office from the Examiner. The Office sincerely apologizes for any inconvenience caused by the delay.

[2] See *infra* note 4.

[3] 37 CFR 1.47(a); MPEP section 409.03(e) (Aug. 2001).

[4] 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 petition encloses an affidavit by Albert M. Crowder, Jr. ("Crowder") ("Crowder Affidavit"), counsel for Assignee, setting forth that:

(1) Holmes, "when contacted regarding execution of the declaration and assignment relating to the . . . application, . . . refused to join in . . .";[5]

(2) In September of 1999, a copy of the application "was delivered to [Holmes at] his last known address";[6]

(3) Holmes "informed MCI WorldCom that he refused to join in this application" but Crowder went ahead and sent Holmes a reminder letter in February of 2000;[7] and

(4) Holmes has declined to reply.[8]

However:

-The petition does not specify who made the contact with Holmes, and in what manner [(1) above]; or to whom in MCI did Holmes indicate his refusal to join in this application [(3) above];

-It is unclear who delivered, or had delivered, to Holmes, a copy of the application in September of 1999; or whether that copy of application was complete with the specification including claims, as well as drawings [(2) above];

-The petition provides no explanation how Crowder reached his conclusion in (4), that Holmes declined to reply [to Crowder's requests]; or that Holmes' lack of response represents his refusal to join in this application.[9]

Consequently, the Office is unable to conclude that the Crowder Affidavit constitutes the "statement of facts" required for granting a petition under 37 CFR 1.47(a). The instant petition is thus dismissed, and the 2/16/00 Declaration is not accepted.

---

[5] Crowder Affidavit, page 1, paragraph 3.

[6] Crowder Affidavit, page 1, paragraph 4, 2nd sentence.

[7] Petition, page 1, paragraph (II)(2), 2nd to the last sentence.

[8] Petition, page 1, paragraph (II)(2), last sentence; Crowder Affidavit, page 1, paragraph 4, last sentence: "Holmes has steadfastly refused to reply to our requests."

[9] There is no evidence that counsel has confirmed with Holmes regarding his receipt of the application papers delivered in September of 1999.

Options

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** from the mailing date of this decision:[10]

(1) An oath/declaration properly executed by **all** of the inventors, including Holmes;[11]

OR,

(2) A renewed petition under 37 CFR 1.47(a) (no fee) that:

-includes appropriate statement(s) regarding: the fact that a copy of the entire application (specification including claims; drawings) was provided to Holmes at his last known address; and, those facts relied upon to conclude that Holmes refuses to join in this application; and

-is addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Attn: Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

As authorized in the instant petition, the $130 petition fee has been charged to Deposit Account No. 13-2491.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[10] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained. See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) to avoid abandonment.).

[11] Submit directly to the Office of Initial Patent Examination, along with a copy of this decision.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

WORLDCOM, INC.
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED

JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of
Dugan et al.
Application No. 09/421,590
Filed: October 20, 1999
Attorney Docket No. COS-98-021

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This decision concerns the June 11, 2003 renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on February 16, 2000, was dismissed on April 16, 2003 for lacking the requisite showing that a *bona fide* attempt had been made to provide the non-signing inventor with a copy of the entire application before concluding that he refused to join in this application.

The instant renewed petition and the accompanying exhibits indicate that a copy of the entire application had been sent by Federal Express to the non-signing inventor, Allen Holmes, at his last known address on May 8, 2003; and that as of June 9, 2003, when the instant renewed petition was being prepared for filing, counsel for Assignee did not hear from Allen Holmes regarding this application. The petition is thus granted.

The declaration executed by the available inventors and filed on February 16, 2000 is hereby accepted. The application is now complete.

No petition fee is owed. The $130 charged to Deposit Account No. 13-2491 on June 11, 2003 has been credited to the same deposit account.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Allen Holmes at his last known address indicated in the instant renewed petition:

5375 Chambrey Drive
Colorado Springs, CO 80919

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being returned to Technology Center 2100 for continued examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
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

Allen Holmes
5375 Chambrey Drive
Colorado Springs, CO 80919

COPY MAILED

JUL 07 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Dugan et al.
Application No. 09/421,590
Filed: October 20, 1999
For: METHOD AND APPARATUS FOR DEPLOYING SERVICE MODULES AMONG SERVICE NODES DISTRIBUTED IN AN INTELLIGENT NETWORK

Dear Mr. Holmes,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to he undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

cc: Eden U.I. Stright, Esq.
WorldCom, Inc.
Technology Law Dept.
1133 19th Street, N.W.
Washington, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCI, INC
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED

JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Ajay P. Deo, et al. :
Application No. 09/421,590 :
Filed: October 20, 1999 :
Attorney Docket No. COS-98-021 :

ON PETITION

This is a decision on the petition, filed June 30, 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 23, 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 2141 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : July 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Ajay P. Deo, et al.
Application No. : 09/421,590
Filed : October 20, 1999

The above-identified application has been assigned Patent No. 6,917,959 and an issue date of July 12, 2005.

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 12, 2005:

> "All reference to Patent No. 6,917,959 to AJAY P. DEO, ET AL. of TEXAS for METHOD AND APPARATUS FOR DEPLOYING SERVICE MODULES AMONG SERVICE NODES DISTRIBUTED IN AN INTELLIGENT NETWORK appearing in the Official Gazette of July 12, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 30 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of
Larry A. Winter et al.
Application No. 09/421,713
Filed: October 20, 1999
For: METHOD AND SYSTEM FOR FACILITATING, COORDINATING AND MANAGING A COMPETITIVE MARKETPLACE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

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 December 26, 2002 and supplemented on May 18, 2003.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action dated March 13, 2002, and a notice to that effect was mailed on November 19, 2002.

Any petition to withdraw the holding of abandonment based upon a Returned Post Card must include the following requirements:

(1) A copy of the response and

(2) A copy of the postcard identifying the response including a USPTO Mail Room receipt date.

The returned postcard included in the petition bears a USPTO Mail Room receipt date of September 23, 2002. This is unacceptable evidence of a timely filed response since the six-month statutory period for response expired on September 13, 2002.

However, the copy of the response included with the petition includes a Certificate of Mailing dated September 13, 2002. A statement by Judith Tess was received on May 18, 2003, which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Amendment filed with the petition, and then to the Examiner for prompt action on the merits of the claims.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 5/21/03

MJS-SSR

UNITED STATES PATENT AND TRADEMARK OFFICE

A128c

MJS

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

09201/514C2

RECEIVED
APR 19 2004
DUFT SETTER OLLILA & BORNSEN LLC

#31

COPY MAILED
APR 09 2004
OFFICE OF PETITIONS

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

In re Application of
Joseph Michael Christie
(deceased), Michael Joseph
Gardner, William Lyle Wiley,
Albert Daniel Duree and Tracy
Lee Nelson
Application No. 09/421,718
Filed: October 20, 1999
Title: SYSTEM AND METHOD FOR
INTERFACING A LOCAL
COMMUNICATION DEVICE

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 20, 1999. The application was recently forwarded to this office for consideration of the petition.

The petition is **granted**.

Petitioner has shown that the legal representatives of the non-signing inventor, Joseph S. Christie and Jean M. Christie, have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the legal representatives of the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

APR 12
Date docketed: 4/12/04
Docketed by:
See:
Atty:

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph Michael Christie (deceased)
c/o Legal Representatives:
Joseph S. Christie and Jean M. Christie
R.D. #1, Box 435
Mt. Pleasant, PA 15666

COPY MAILED

APR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Joseph Michael Christie (deceased), Michael Joseph Gardner, William Lyle Wiley, Albert Daniel Duree and Tracy Lee Nelson
Application No. 09/421,718
Filed: October 20, 1999
Title: SYSTEM AND METHOD FOR INTERFACING A LOCAL COMMUNICATION DEVICE

Joseph Michael Christie (deceased) is 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 Joseph Michael Christie (deceased) will be designated therein as a joint inventor.

As the Legal Representatives of Joseph Michael Christie (deceased), 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 Edward Tannouse at (703) 306-9200. 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).

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

SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNISYS CORPORATION
MS 4773
PO BOX 64942
ST. PAUL MN 55164-0942

COPY MAILED

SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
James A. SIEVERT	:	
Application No. 09/422,018	:	ON PETITION
Filed: October 21, 1999	:	
Attorney Docket No. RA-5236(USYS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 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 April 7, 2004, which set a shortened statutory period for reply of three (3) months. While a reply to the final Office action was filed June 7, 2004, that reply did not *prima facie* place this application in condition for allowance, as indicated by the Advisory Action of July 14, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained; however, the Advisory Action mailed July 11, 2005 states that the period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later, and that in no event will the statutory period for reply expire later than six months from the mailing date of the final rejection. Accordingly, the above-identified application became abandoned on October 8, 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 a Notice of Appeal and $500 appeal fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly,

the reply to the final Office Action of April 7, 2004 is accepted as having been unintentionally delayed.

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 two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2) runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2193.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: CRAWFORD MAUNU PLLC
1270 Northland Drive, Suite 390
Saint Paul, MN 55120

OIPE JC132
MAY 2 9 2002
PATENT & TRADEMARK OFFICE

06-03-02

#4 DAC #

PTO/SB/61 (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First named inventor: SANG G. SONG

Group Art Unit: 1711

Application Number: 09/422,025

Examiner: TERRESSA M. BOYKIN

Filed: 10-20-99

Title: DECORATIVE STICKERS FROM INKJET PRINTING AND METHOD THEREFOR

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay

1. Petition fee

☒ small entity - fee $ 55 (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ other than small entity - fee $_____(37 CFR 1.17(l)).

RECEIVED
JUN 0 5 2002
OFFICE OF PETITIONS

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of AMENDMENT UNDER RULE 111 (identify the type of reply):

☐ has been filed previously on _____.
☒ is enclosed herewith.

B. The issue fee of $ _____
~~Rel~~ has been paid previously on_____.
☐ is enclosed herewith.

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

05/05/2002 CVO111 00000008 09422025
01 FC:240 55.00 OP

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity of $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

5-29-02
Date

Signature

BEN E. LOFSTEDT
Typed or printed name

Telephone Number: (714) 738-8822

P.O. Box 4189
Address

FULLERTON, CA 92831

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Typed or printed name of person signing certificate

PTO/SB/61 (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

5-29-02
Date

Signature

BEN E. LOFSTEDT
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

(Please attach additional sheets it additional space is necessary)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

COPY MAILED

JUN 1 4 2002

OFFICE OF PETITIONS

ON PETITION

BEN E. LOFSTEDT
P O BOX 4189
FULLERTON CA 92831

In re Application of
Sang G. Song
Application No. 09/422,025
Filed: October 20, 1999
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(a), filed May 29, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of petition 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 "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply in a timely and proper manner to the non-fianl Office action mailed May 15, 2001, which set a statutory period for reply of three (3) months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No reply was received within the allowable period, and the application became abandoned on August 16, 2001. A Notice of Abandonment was mailed on March 26, 2002.

A grantable petition under 37 CFR 1.137(a)[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(1); (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 required by 37 CFR 1.137(c).

The instant petition lacks item (3) above.

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

[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.

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 judgement 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] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[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' 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).

[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 nonawarness 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.

US 0942202509P1

Creation date: 08-26-2003
Indexing Officer: SBELETE - SEBLE BELETE
Team: OIPEBackFileIndexing
Dossier: 09422025

Legal Date: 07-11-2002

No.	Doccode	Number of pages
1	LET.	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

OIPE JC95
OCT 2 1 2002
PATENT & TRADEMARK OFFICE

#8

PTO/SB/64 (10-01)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 1580.03

First named inventor: Song, Sang G.

Application No.: 09/422,025 Art Unit: 1711

Filed: October 20, 1999 Examiner: Teressa Boykin

Title: Decorative Stickers Made From Inkjet Printing Application

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
[X] Small entity-fee $640.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

[ ] Other than small entity - fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Office Action (identify type of reply):
[ ] has been filed previously on _____.
[X] is enclosed herewith.

B. The issue fee of $_____.
[ ] has been paid previously on _____.
[ ] is enclosed herewith.

RECEIVED
OCT 2 2 2002
OFFICE OF PETITIONS

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

10/22/2002 BNGUYEN1 00000028 09422025
01 FC:2453 640.00 OP

PTO/SB/64 (10-01)
Approved for use 10/31/2002. 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.

3. Terminal disclaimer with disclaimer fee

XX Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

9/24/2002
Date

Signature

Telephone Number: (__) 310-530-9965

Sang G. Song
Typed or printed name

612-25 Sangdong,
Suosung-Gu, Taegu, Korea
Address c/o IdeaStix, Inc.
2535 W. 237th St., Suite 122
Torrance, CA 90505

Enclosures: XX Fee Payment
XX Reply
☐ Terminal Disclaimer Form
XX Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

XX deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Oct. 17, 2002
Date

Signature

John K. Park
Type or printed name of person signing certificate

RECEIVED
OCT 22 2002
OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

COPY MAILED

OCT 3 0 2002

OFFICE OF PETITIONS

BEN E LOFSTEDT
P O BOX 4189
FULLERTON CA 92831

In re Application of
Sang G. Song
Application No. 09/422,025
Filed: October 20, 1999
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2002, 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 15, 2001, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 16, 2001. A Notice of Abandonment was mailed on March 26, 2002.

The address as cited on the instant petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address of record. Petitioner is advised that all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 1700 for review of the "Response to Office Action" filed October 21, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Sang G. Song
c/o IdeaStix, Inc.
2535 W. 237th Street, Suite 122
Torrance, CA 90505

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)
6,358,731	2002-03-19	09/422,030	1999-10-20	HSU-094A

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	/Sherman D. Pernia/	Date (YYYY-MM-DD)	2007-02-06
Name	Sherman D. PERNIA	Registration Number	34404

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. 6358731
Issue Date: March 19,2002
Application No. 09422030
Filed: October 20,1999
Attorney Docket No. HSU-094A

:

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

:

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

UNITED 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.8

MAIL

MAR 03 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of
BARTON
Application No. 09/422,121
Filed: October 20, 1999
For:
DATA STORAGE MANAGEMENT AND SCHEDULING SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on January 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 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 files repository.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

Cc: Hickman Palermo Truong & Becker LLP
1600 Willow Street
San Jose, CA 95125-5106

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **March 27, 2009**

TO SPE OF : ART UNIT **2161**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/422139** Patent No.: **6728713 B1**

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

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

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

DO NOT SEND TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: It is OK to enter the correction for the specification as requested by applicant.

Inventor names were left out by mistake.

SPE

2161
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. 13

JAMES BUCH
ENGATE INCORPORATED
1302 E FOREST AVENUE
WHEATON IL 60187

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Bennett, et al. :
Application No. 09/422,202 : ON PETITION
Filed: October 19, 1999 :
Attorney Docket No. P99-00-E :
For: DOWN-LINE TRANSCRIPTION SYSTEM
USING AUTOMATIC TRACKING AND
REVENUE COLLECTION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 3, 2005 to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the October 24, 2003 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on January 25, 2004. A Notice of Abandonment was mailed on June 30, 2004.

Applicants have submitted an amendment in reply to the October 24, 2003 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 24, 2003 non-final Office action, and the petition fee.

The petition is **GRANTED**.

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.

After the mailing of this decision the application will be forwarded to Technology Center 2100's technical support staff for processing the amendment filed on February 3, 2005.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: McAndrews, Held & Malloy, Ltd.
500 West Madison Street
Chicago, IL 60661

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)
6,496,594	2002-12-17	09/422,273	1999-10-21	07650013IP

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	/Clyde R Christofferson/	Date (YYYY-MM-DD)	2007-11-06
Name	Clyde R Christofferson	Registration Number	34138

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. 6496594
Issue Date: December 17,2002
Application No. 09422273
Filed: October 21,1999
Attorney Docket No. 21461

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 09/422,539	:	ON PETITION
Filed: October 21, 1999	:	
Attorney Docket No. 10981786-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 25, 2005, 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.

This application became abandoned for failure to timely reply to the final Office action mailed June 16, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 17, 2004. A Notice of Abandonment was mailed April 19, 2005.

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]

---

[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).

The instant petition lacks item (1). The response submitted with the instant petition failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED
JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 09/422,539	:	ON PETITION
Filed: October 21, 1999	:	
Attorney Docket No. 10981786-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 25, 2005, to revive the above-identified application. The previous decision mailed on March 22, 2006, is hereby withdrawn, as the examiner has reconsidered the amendment submitted with the petition.

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 to Advisory Action; (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 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

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
www.uspto.gov

In re Patent No. 6673782
Issue Date: January 6,2004
Application No. 09422571
Filed: October 21,1999
Attorney Docket No. 960296.96765

:

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

:

This is a decision on the electronic petition, filed April 1,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 1,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,673,782	2004-01-06	09/422,571	1999-10-21	960296.96765

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	/Keith H. Heidmann/	Date (YYYY-MM-DD)	2008-04-01
Name	Keith H. Heidmann	Registration Number	61774

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

MAILED

APR 21 2004

Technology Center 2100

Paper No. 32

Christopher R. Glembocki
Banner & Witcoff, LTD
1001 G Street, N.W.
Washington, DC 20001

In re Application of: Matthews III, et al. Application No. 09/422,654 Attorney Docket No. 03797.84665 Filed: October 22, 1999 For: USER FRIENDLY REMOTE SYSTEM INTERFACE WITH MENU HIGHLIGHTING	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181 (A)**

This is a decision on the request to withdraw the notice of abandonment, filed March 24, 2004, of the above-identified application. The request is being treated as a petition under 37 CFR §1.181. This application was held abandoned for failure to file a timely response to the decision by the Board of Patent Appeals and Interference rendered on October 31, 2003. A Notice of Abandonment was mailed on February 24, 2004 (Paper No. 29).

The practitioner has submitted a copy of the document filed on December 31, 2003 that contained a certificate of mailing, and a statement from Mr. Glembocki who signed the original certificate of mailing. In addition, the Office has the original document that was not timely matched to the file.

The petition is **GRANTED**. The holding of abandonment is withdrawn. The Office regrets any inconvenience caused by the administrative error in this application.

The application file will be returned to the Board of Patent Appeals and Interference. Telephone inquiries should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16 2007

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No. 09/422792 patent No.: 7102676

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.

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

Comments: _____

LIN YE
SUPERVISORY PATENT EXAMINER

SPE

AU2622
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

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

WENDEROTH LIND & PONACK LLP
2033 K STREET N W
SUITE 800
WASHINGTON, DC 20006

In re Application of :
Southern : DECISION ON PETITION
Application No. 09/422,803 :
Filed: October 22, 1999 :
Atty. Docket: 00263/PP/IR/ :

This is a decision on the petition under 37 CFR 1.182, filed November 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 1.182." This is not a final agency decision.

A review of the application file discloses that a terminal disclaimer was filed in the instant application on August 27, 2001 to obviate a double patenting rejection with U.S. Pat. No. 6,054,270. Petitioner herein requests withdrawal of the terminal disclaimer filed August 27, 2001 with respect to U.S. Pat. No. 6,054,270.

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent. Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR 1.182 requesting withdrawal of the recorded terminal disclaimer.

After careful review of the record, it has been found that there remains an obviousness type doubling patenting as between U.S. App. No. 09/422,803 and U.S. Pat. No. 6,054,270. Accordingly, the terminal disclaimed filed August 27, 2001 with respect to U.S. Pat. No. 6,054,270 will not be withdrawn.

This application is being directed to Technology Center 1600 for further processing.

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

12 MAY 2000

David J. Wetiz
WILSON, SONSINI, GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, California 94304-1050

In re Application of	:	
Zhong-Ru GAN	:	
Serial Nos.: 09/423,100 and 09/423,107	:	
PCT No.: PCT/CN98/00052	:	COMMUNICATION
Int. Filing Date: 31 March 1998	:	
Priority Date: None	:	
Attorney's Docket Nos.: 20700-703 & 20700-702	:	
For: CHIMERIC PROTEIN CONTAINING AN INTERMOLECULAR CHAPERONE-LIKE SEQUENCE AND ITS APPLICATION TO INSULIN PRODUCTION	:	

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 31 March 1998, applicant filed international application PCT/CN/00052. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 1999. Accordingly, the twenty-month period for paying the basic national fee to enter the national stage in the United States expired at midnight on 01 December 1999.

On 29 October 1999, applicant filed two sets of papers for entry into the national stage in the United States under 35 U.S.C. 371 bearing Attorney Docket Numbers 20700-702 and 20700-703. Filed with the Transmittal Letters were, inter alia, the requisite basic national fee

as required under 35 U.S.C. 371(c)(1), a purported copy of the International Application[1] and a separate Preliminary Amendment for each set cancelling all 77 claims in the international application and substituting them with completely different claims. The papers bearing Attorney Docket Number 20700-703 were assigned application number 09/423,100 and those bearing Attorney Docket Number 20700-702 were given serial number 09/423,107 for identification purposes.

DISCUSSION

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

Applicant is hereby notified that the set of papers bearing Attorney Docket Number 20700-703 and containing amended claims 78-130 has been assigned serial number 09/423,100 and will be processed as the national stage application of PCT/CN98/00052.

The papers bearing Attorney Docket No. 20700-702, including the preliminary amendment, will merely be placed in the 09/423,100 application file with no further action thereon. Applicant may file a preliminary amendment adding claims corresponding to unentered claims 78-137 if so desired. It should also be noted that amended claims 78-137 in papers bearing Attorney Docket Number 20700-702 have invalid dependency since claims 79-97 depend on deleted claim 77.

CONCLUSION

In view of the above discussion, the papers filed in 09/423,107 have been placed in application number 09/423,100.

The fees associated with serial number 09/423,107, consisting of $970 basic national fee (fee code 960), $130 surcharge for submitting an oath after 20 months (fee code 154) and $720 fee for extra claims (fee code 966) will be refunded to Deposit Account No. 23-2415.

The specification filed by applicant is not a true copy of the originally filed international application. For example, the published application does not include a "table of contents" at page 1 thereof. The copy of the international application provided by WIPO will be used in national stage processing and the copy provided by applicant will not be entered.

Applicant should use application number 09/423,100 in all future communications with the United States Patent and Trademark Office in regards to the U.S. national stage of international application PCT/CN98/00052.

This application is being returned to the DO/EO for further processing, including the refund of $1820 to Deposit Account No. 23-2415.

Boris Milef
PCT Legal Examiner
PCT Legal Office
NNH/BM:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office
Tel: (703) 308-6508
Fax: (703) 308-6459

SEP 0 7 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 2023
www.uspto.gov

Townsend and Townsend and Crew L.L.P.
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of	: NOTICE OF
GAN, Zhong-Ru	:
US Application No.: 09/423,100	: VACATION OF
PCT Application No.: PCT/CN98/00052	:
Int. Filing Date: 31 March 1998	: NOTIFICATIONS
Priority Date: 31 March 1998	:
Attorney's File Reference: 20167000120	: OF DEFECTIVE
For: CHIMERIC PROTEIN CONTAINING AN	:
INTRAMOLECULAR CHAPERONE-	: RESPONSE AND
LIKE SEQUENCE AND ITS	:
APPLICATION TO INSULIN	: ABANDONMENT
PRODUCTION	:

This decision vacates the Notification of Defective Response (Form PCT/DO/EO/916) and Notification of Defective Declaration (Form PCT/DO/EO/917) mailed on 22 February 2001. This decision also vacates the Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 May 2001.

BACKGROUND

On 31 March 1998, applicant filed, in English, international application number PCT/CN98/00052, which did not include a priority claim. The applicant did not file a Demand for international preliminary examination. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 1999. Accordingly, the twenty-month period for paying the basic national fee in the United States of America expired at midnight on 30 November 1999.

On 29 October 1999, applicant filed a transmittal letter for entry into the national stage in the United States of America, which was accompanied by, inter alia, the basic national fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration after the twenty-month deadline.

On 04 August 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements which indicated, inter alia, that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within one month

declaration in compliance with 37 CFR 1.497(a) and (b) must be filed within one month from the mailing date of the notification. The notification also stated that failure to properly respond to the notification would result in abandonment but that extensions of time were available under 37 CFR 1.136(a).

On 11 December 2000, the applicants filed, inter alia, a request for a four-month extension of time along with an executed declaration in compliance with 37 CFR 1.497(a) and (b).

On 22 February 2001, the DO/EO/US mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) which indicated that the applicant's response and request for extension of time of 11 December 2000 had been received but that the requirements set forth in the Notification of Missing Requirements of 04 August 2000 had not been completed. A "Notification of Defective Oath or Declaration" (Form PCT/DO/EO/917) was attached to the notification. The Notification of Defective Oath or Declaration indicated that the declaration did not comply with 37 CFR 1.497(a) and (b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The Notification of a Defective Response indicated that the applicant must complete the response within one month from the date of the Notification of a Defective Response.

On 20 March 2001, applicants filed, inter alia, a "Substitute Declaration for Utility or Design Application" also in compliance with 37 CFR 1.497(a) and (b).

On 14 May 2001, the DO/EO/US mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) which stated that the above-identified international application was abandoned as to the United States of America because the applicants had failed to properly respond to the Notification of Missing Requirements mailed 04 August 2000.

DISCUSSION

Both the declarations filed on 11 December 2000 and 20 March 2001 meet all of the requirements of 37 CFR 1.497(a) and (b). Accordingly, the Notification of Defective Response and the Notification of a Defective Oath or Declaration mailed on 22 February 20001 and the Notification of Abandonment mailed on 14 May 2001 were all mailed erroneously.

CONCLUSION

For the above reasons, the holding of abandonment is hereby **WITHDRAWN** and the Notification of Defective Response and Notification of a Defective Oath or Declaration mailed 22 February 2001 and the Notification of Abandonment mailed 14 May 2001 are all hereby **VACATED**.

This application has a date under 35 USC 371 of 11 December 2000.

This application is being forwarded to the United States Designated/Elected Office for continued processing in accordance with this decision.

Diana L. Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone: 703-308-0890

Conferee: Leonard Smith
PCT Legal Examiner
PCT Legal Office

08 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bierman Muserlian & Lucas
600 Third Avenue
New York, NY 10016

In re Application of PARIS et al	:	
U.S. Application No.: 09/423,108	:	
PCT Application No.: PCT/FR99/02587	:	
Int. Filing Date: 25 October 1999	:	DECISION
Attorney Docket No.: GEI-074	:	
For: CONTRACEPTIVE MEDICINE BASED ON A PROGESTATIONAL AGENT AND AN OESTROGEN AND PREPARATION METHOD	:	

This is in response to applicant's "Petition Under 37 CFR § 1.182" filed 04 June 2004.

BACKGROUND

On 25 October 1999, applicant filed international application PCT/FR99/02587, which did not designate the United States.

On 29 October 1999, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US), including the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 September 2001, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 01 June 2001, applicant filed an executed declaration.

On 04 June 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

An international application which did not designate the United States cannot attain national stage entry in the United States.

Pursuant to 35 U.S.C. 111(a)(4), the filing date of an application shall be the date on which the specification and any required drawing are received in the USPTO. In the present case, the papers submitted on 29 October 1999 contained a specification which did not require any drawings. Thus, the 29 October 1999 submission is entitled to a filing date under 35 U.S.C. 111(a).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including: (1) applying the submitted fees towards the filing fee for a regular United States application under 35 U.S.C. 111(a) and (2) forwarding the application to the Office of Initial Patent Examination for processing as an application under 35 U.S.C. 111(a) with a filing date of 29 October 1999.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

Dkt. 04046

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JACQUES PARIS et al

Serial No. 09/423,108

Filed: June 12, 2001

Group Art Unit: 1616

Examiner: Sabiha Naim Qazi

ATTENTION: Leonard Smith, PCT

For: HORMONAL COMPOSITION BASED ON A PROGESTATIONAL AGENT AND AN OESTROGEN AND USE THEREOF

PETITION UNDER 37 CFR § 1.182

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RECEIVED
04 JUN 2004
Legal Staff
International Division

Sir:

Applicants hereby request that the filing status of the above-identified application be changed from an application filed under 35 USC § 371 to an application filed under 35 USC § 111.

The present application was filed in the U.S. Patent and Trademark Office on October 29, 1999, as a U.S. National phase application based upon PCT/FR99/02587 filed on October 25, 1999. Applicants have determined recently that the filing under 35 USC § 371 was made in error and that present application should not have been filed as a National phase application because the United States was not one of the

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA, VIRGINIA 22314-2700
703 837-9600

designated countries in the PCT filing. Nevertheless, a Notification of Acceptance of the application under 35 USC § 371 was mailed by the U.S. Patent and Trademark Office on September 10, 2001.

The present application was allowed on March 1, 2004, and the issue fee will be paid separately by the due date of June 1, 2004.

The fee for this Petition is paid herewith by credit card, and a new inventors' declaration and a certified copy of the PCT application will be submitted as soon as they are available. The new inventors' declaration will claim the priority of PCT/FR99/02587 under 35 USC 119.

Based upon the above facts, a conversion of this application to an application filed under 35 USC § 111 is respectfully requested.

Respectfully submitted,

Ira J. Schultz
Registration No. 28666

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA, VIRGINIA 22314-2700
703 837-9600

06/04/2004 15:24 1-703-837-0980 DENNISON SCHULTZ PAGE 02/02

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6653
RECIPIENT ADDRESS	1 703 837 0980
DESTINATION ID	
ST. TIME	06/04 15:28
TIME USE	00'37
PGS.	2
RESULT	OK

Dkt. 04046

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JACQUES PARIS et al

Serial No. 09/423,108

Filed: June 12, 2001

Group Art Unit: 1616

Examiner: Sabiha Naim Qazi

ATTENTION: Leonard Smith, PCT

For: HORMONAL COMPOSITION BASED ON A PROGESTATIONAL AGENT AND AN OESTROGEN AND USE THEREOF

SUPPLEMENTAL PETITION UNDER 37 CFR § 1.182

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Supplemental to the Petition Under 37 CFR § 1.182 submitted by fax on May 27, 2004, Applicants submit herewith a new inventors' declaration claiming the priority of PCT/FR99/02587 under 35 USC § 119.

Respectfully submitted,

Ira J. Schultz
Registration No. 28666

LAW OFFICES
DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
SUITE 105
1727 KING STREET
ALEXANDRIA, VIRGINIA 22314-2700
703 837-9600

RECEIVED
01 JUN 2004
Legal Staff
International Division

Attorney Docket Number: 04046

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION

As a below named Inventor, I hereby declare that:
My residence, post office address, and citizenship are as stated below next to my name.
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which patent is sought on the invention entitled:
CONTRACEPTIVE MEDICINE BASED ON A PROGESTATIONAL AGENT AND AN OESTROGEN AND PREPARATION METHOD
the specification of which
☐ is attached hereto OR ☒ was filed on **Oct. 29, 1999** as United States Application Number **09/423,108** or PCT International Application Number and was amended on (if applicable).
I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.
I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application No.	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed Yes	Priority Claimed No	Certified Copy Attached Yes	Certified Copy Attached No
PCT/FR99/02587	PCT	10/25/1999	☒	☐	☐	☒
			☐	☐	☐	☐

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. or PCT Parent Application No.	Parent Filing Date (MM/DD/YYYY)	Parent Patent No. (if applicable)

I HEREBY APPOINT THE ATTORNEYS ASSOCIATED WITH CUSTOMER NUMBER 23338 TO TRANSACT ALL BUSINESS IN CONNECTION WITH THIS APPLICATION. CONDUCT CORRESPONDENCE WITH THE FOLLOWING ATTORNEY:

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 King Street, Suite 105
Alexandria, VA 22314-2700

Ira J. Schultz
(703) 837-9600, Ext. 23
Facsimile: (703) 837-0980

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: Jacques **PARIS**

Inventor's Signature: JACQUES PARIS Date: May 28, 2004
Residence: Nice, France Citizenship: France
Post Office Address: 31, avenue Cap de Croix, Le Clos de Cimez, Bat.E-Port 1, 06100 Nice, France

Name of Second Inventor: Jean Louis **THOMAS**

Inventor's Signature: JEAN-LOUIS THOMAS Date: June 1, 2004
Residence: Charenton-Le-Pont, France Citizenship: France
Post Office Address: 16, rue Gabriel Peri, 94220 Charenton-Le-Pont, France

Name of Third Inventor:

Inventor's Signature:_____ Date:_____
Residence: Citizenship:
Post Office Address:

Name of Fourth Inventor:

Inventor's Signature:_____ Date:_____
Residence: Citizenship:
Post Office Address:

Name of Fifth Inventor:

Inventor's Signature:_____ Date:_____
Residence: Citizenship:
Post Office Address:

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6628
RECIPIENT ADDRESS	1 703 837 0980
DESTINATION ID	
ST. TIME	06/01 11:13
TIME USE	00'53
PGS.	3
RESULT	OK

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Aksel Buchter-Larsen, et al.
Application No. 09/423,126
Filed: November 5, 1999
Attorney Docket No. 674509-2020

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 31, 2005.

The application became abandoned for failure to pay the issue fee on or before June 24, 2004. It is noted that petitioner submitted an issue fee payment of $665 on June 28, 2004. In view of this submission as a small entity, status will be changed accordingly.

The petition is **GRANTED**.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,180	11/02/1999	PETER HEILAND	H98HEL1148US	6457

7590 05/13/2008
M ROBERT KESTENBAUM
11011 BERMUDA DUNES NE
ALBUQUERQUE, NM 87111

EXAMINER
SHRIVASTAV, BRIJ B

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
05/13/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

M Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

In re Application of:	:	
Peter Heiland	:	DECISION ON PETITION
Serial No.: 09/423,180	:	TO WITHDRAW HOLDING
Filed: November 2, 1999	:	OF ABANDONMENT
Attorney Docket No.: H98HEL1148US	:	

This is a decision on the petition filed on May 5, 2008 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 timely file a response to the Office action (an Ex Parte Quayle action) mailed on February 12, 2001. A Notice of Abandonment was mailed on December 4, 2001.

The present petition was submitted via facsimile transmission after a conversation between petitioner's Office Manager Laurie Kestenbaum and Quality Assurance Specialist Edward Westin that took on May 5, 2008. During that conversation, it was indicated that the present petition is a copy of a petition that was originally filed via facsimile transmission on October 12, 2001. As noted in the petition, the original petition was filed after the examiner called petitioner to determine if the application was being intentionally abandoned.

The original petition is not in the application file. However, the present petition includes a certification under 37 C.F.R. § 1.8(a) from the petitioner stating the date of transmission to be October 12, 2001. In addition, page 19 of the present petition is a copy of the sending unit's report that confirms transmission of 18 pages to facsimile number (703) 308-6097 on October 12, 2001. The evidence is accepted as establishing the original petition was timely filed on October 12, 2001.

During the conversation of May 5, 2008, the long period of time between the filing of present petition and the filing of the original petition was explained to Quality Assurance Specialist Edward Westin as being due to an extended illness of the petitioner (the attorney of record) who is the sole practitioner of the law office.

It is asserted in the present petition that applicant did not receive the Office action of February 12, 2001. The petition provides the required showing under MPEP § 711.03(c) to establish

nonreceipt of an Office action. It includes a statement from the practitioner stating that the Office action of February 12, 2001 was not received and attesting to the fact that a search of the file and docket records indicates that the Office action was not received. It also includes a copy of the docket record where the nonreceived Office action would have been entered had the Office action been received. The evidence is sufficient to establish that the Office action of February 12, 2001 was not received.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed December 4, 2001 is hereby **VACATED** and the holding of abandonment is withdrawn.

The petition includes a copy of a response to the Office action of February 12, 2001 that was prepared, as explained in the petition, after the examiner faxed a copy of the Office action to the petitioner. The response filed with the petition will be entered and the examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6392648
Issue Date: May 21,2002
Application No. 09423225
Filed: October 4,1999
Attorney Docket No. 43153/9050

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

This is a decision on the electronic petition, filed April 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6392648	2002-05-21	09/423,225	1999-10-04	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Isaiah Florenca/	Date (YYYY-MM-DD)	2008-04-08
Name	Isaiah Florenca		

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

Gregory L. THORNE
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

MAILED

MAR 17 2006

Technology Center 2100

In re Application of:
Antonius A.C.M. Kalker
Application No. 09/423,273
Filed: November 4, 1999
For: EMBEDDING AUXILIARY DATA IN A SIGNAL

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed July 25, 2005 under 37 CFR § 1.181(a) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRATNED**.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed March 30, 2004. A Notice of Abandonment was mailed on June 24, 2005.

In support of the petition, petitioner provides a copy of the Auto-Reply Facsimile Transmission listing a response to the March 30, 2004 Office action. Petitioner also provides copy of the amendment as listed on the Auto-Reply Facsimile Transmission.

A review of the Image File Wrapper (IFW) for the above-identified application, it reveals that the original response to Office action was received and captured into electronic images on July 30, 2004. Thus, applicant did timely file a response to the Office action mailed on March 30, 2004, and the instant application is not abandoned in fact.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby withdrawn.

The application is being forwarded to the Technology Center Support Staff to process and enter the response dated July 30, 2004. From there, the application will be forwarded to examiner for appropriate action.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
MAR 1 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Frank PUTTKAMMER	:	
Application No. 09/423,275	:	ON PETITION
Filed: January 27, 2000	:	
Attorney Docket No. HANN0001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed January 14, 2003, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 15, 2003.

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 corrected drawings; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing 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 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

David Bucci
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review, Form PTO-948

714.06 Amendments Sent to Wrong Technology Center

See MPEP § 508.01.

714.07 Amendments Not in Permanent Ink [R-3]

37 CFR 1.52(a) requires "permanent dark ink or its equivalent" to be used on papers which will become part of the record and *In re Benson*, 122 USPQ 279, 1959 C.D. 5, 744 O.G. 353 (Comm'r Pat. 1959), holds that documents on so-called "easily erasable" paper violate the requirement. The fact that 37 CFR 1.52(a) has not been complied with may be discovered as soon as the amendment reaches the TC or later when the application is reached for action. In the first instance, applicant is promptly notified that the amendment is not entered and is required to file a permanent copy within 1 month or to order a copy to be made by the U.S. Patent and Trademark Office at his or her expense. Physical entry of the amendment will be made from the permanent copy.

If there is no appropriate reply within the 1-month limit, a copy is made by the Patent and Trademark Office, applicant being notified and required to remit the charges or authorize charging them to his or her deposit account or credit card. See MPEP § 509.

In the second instance, when the nonpermanence of the amendment is discovered only when the application is reached for action, similar steps are taken, but action on the application is not held up, the requirement for a permanent copy of the amendment being included in the Office action.

A good direct or indirect copy, such as photocopy or facsimile transmission, on satisfactory paper is acceptable. But see *In re Application Papers Filed Jan. 20, 1956*, 706 O.G. 4 (Comm'r Pat. 1956). **

See MPEP § 608.01 for more discussion on acceptable copies.

**

714.10 Claims Added in Excess of **>Claims Previously Paid For< [R-3]

**>Applicant is required to pay excess claims fees for each claim that is in excess of 3 in independent form or in excess of 20 (whether dependent or independent). Fees for a proper multiple dependent claim are calculated based on the number of claims to which the multiple dependent claim refers (37 CFR 1.75(c)) and a separate fee is also required in each application containing a proper multiple dependent claim. See MPEP § 607. When applicant adds a new excess claim that is in excess of the number of claims that were previously paid for after taking into account claims that have been canceled, applicant must pay the required excess claims fees before the examiner considers the new claim. For example, in an application that contains 6 independent claims and 30 total claims for which the excess claims fees were previously paid, when applicant cancels 10 claims, 2 of which are independent, and adds 11 claims, 3 of which are independent, excess claims fees for a 7th independent claim and a 31st claim are required.<

714.11 Amendment Filed During Interference Proceedings [R-3]

See MPEP *>Chapter 2300<.

714.12 Amendments >and Other Replies< After Final Rejection or Action [R-3]

**>

37 CFR 1.116. Amendments and affidavits or other evidence after final action and prior to appeal.

(a) An amendment after final action must comply with § 1.114 or this section.

(b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):

(1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;

(2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or

(3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

(c) The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under §

1.135, or the reexamination prosecution from termination under § 1.550(d) or § 1.957(b) or limitation of further prosecution under § 1.957(c).

(d)(1) Notwithstanding the provisions of paragraph (b) of this section, no amendment other than canceling claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(2) Notwithstanding the provisions of paragraph (b) of this section, an amendment made after a final rejection or other final action (§ 1.113) in an ex parte reexamination filed under §1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 may not cancel claims where such cancellation affects the scope of any other pending claim in the reexamination proceeding except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(e) An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

(f) Notwithstanding the provisions of paragraph (e) of this section, no affidavit or other evidence can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77 (b)(1) of this title.

(g) After decision on appeal, amendments, affidavits and other evidence can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 41.50(c) of this title.<

Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments >filed after a final rejection, but before or on the date of filing an appeal,< complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). >Amendments filed after the date of filing an appeal may be entered if the amendment complies with 37 CFR 41.33. See MPEP § 1206.< Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § *>1206<.

>An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e). See 37 CFR 41.33 and MPEP § 1206 for information on affidavit or other evidence filed after appeal.<

The prosecution of an application before the examiner should ordinarily be concluded with the final action. However, one personal interview by applicant may be entertained after such final action if circumstances warrant. Thus, only one request by applicant for a personal interview after final should be granted, but in exceptional circumstances, a second personal interview may be initiated by the *examiner* if in his or her judgment this would materially assist in placing the application in condition for *allowance*.

Many of the difficulties encountered in the prosecution of patent applications after final rejection may be alleviated if each applicant includes, at the time of filing or no later than the first reply, claims varying from the broadest to which he or she believes he or she is entitled to the most detailed that he or she is willing to accept.

714.13 Amendments >and Other Replies< After Final Rejection or Action, Procedure Followed [R-3]

I. FINAL REJECTION — TIME FOR REPLY

If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action advising applicant of the status of the application, but in no event can the period extend beyond 6 months from the date of the final rejection. This procedure applies only to a first reply to a final rejection. The following language must be included by the examiner in each final rejection:

A SHORTENED STATUTORY PERIOD FOR REPLY TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST REPLY IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR REPLY EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

This wording is part of form paragraphs 7.39, 7.40, 7.40.01, 7.41, 7.41.03, and 7.42.09. Form paragraph 7.39 appears in MPEP § 706.07. Form paragraphs 7.40 and 7.40.01 appear in MPEP § 706.07(a). Form paragraphs 7.41, 7.41.03, and 7.42.09 appear in MPEP § 706.07(b).

For example, if applicant initially replies within 2 months from the date of mailing of a final rejection and the examiner mails an advisory action before the end of 3 months from the date of mailing of the final rejection, the shortened statutory period will expire at the end of 3 months from the date of mailing of the final rejection. In such a case, any extension fee would then be calculated from the end of the 3-month period. If the examiner, however, does not mail an advisory action until after the end of 3 months, the shortened statutory period will expire on the date the examiner mails the advisory action and any extension fee may be calculated from that date. In the event that a first reply is not filed within 2 months of the mailing date of the final rejection, any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the end of the reply period set in the final rejection.

Failure to file a reply during the shortened statutory period results in abandonment of the application unless the time is extended under the provisions of 37 CFR 1.136.

II. ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR *>1.116(b)(3)< is expected in all amendments after final rejection. >An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e). See 37 CFR 41.33 and MPEP § 1206 for information on affidavit or other evidence filed after appeal.< Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to:

(A) an amendment complying with 37 CFR 1.116;

(B) a Notice of Appeal (and appeal fee); or

(C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e., an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e). RCE practice under 37 CFR 1.114 does not apply to utility or plant patent applications filed before June 8, 1995 and design applications.

Further examination of the application may be obtained by filing a continued prosecution application (CPA) under 37 CFR 1.53(d), if the application is a design application. See MPEP § 201.06(d). Effective July 14, 2003, CPA practice does not apply to utility and plant applications.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

See also MPEP § *>1206< and § 1211.

The U.S. Patent and Trademark Office does not recognize "conditional" authorizations to charge an appeal fee if an amendment submitted after a final Office action is not entered. Any "conditional" authorization to charge an appeal fee set forth in 37 CFR 1.17(b) will be treated as an unconditional payment of the fee set forth in 37 CFR 1.17(b).

III. ACTION BY EXAMINER

See also MPEP § 706.07(f).

In the event that a proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. If the proposed amendment presents new issues requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issues that would require further consideration and/or search. The reasons for non-entry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.

(B) The claims, if amended as proposed, would raise the issue of new matter.

(C) The claims as amended present new issues requiring further consideration or search.

(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

Examiners should indicate the status of each claim of record or proposed in the amendment, and which proposed claims would be entered on the filing of an appeal if filed in a separate paper. Whenever such an amendment is entered for appeal purposes, the examiner must indicate on the advisory action which individual rejection(s) set forth in the action from which the appeal was taken (e.g., the final rejection) would be used to reject the new or amended claim(s).

Applicant should be notified, if certain portions of the amendment would be acceptable as placing some of the claims in better form for appeal or complying with objections or requirements as to form, if a separate paper were filed containing only such amendments. Similarly, if the proposed amendment to some of the claims would render them allowable, applicant should be so informed. This is helpful in assuring the filing of a brief consistent with the claims as amended. A statement that the final rejection stands and that the statutory period runs from the date of the final rejection is also in order.

Advisory Action >Before the Filing of an Appeal Brief< form PTOL-303 should be used to acknowledge receipt of a reply from applicant after final rejection where such reply is prior to filing of an appeal brief and does not place the application in condition for allowance. This form has been devised to advise applicant of the disposition of the proposed amendments to the claims and of the effect of any argument or affidavit not placing the application in condition for allowance or which could not be made allowable by a telephone call to clear up minor matters.

Any amendment timely filed after a final rejection should be immediately considered to determine whether it places the application in condition for allowance or in better form for appeal. An examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office. In *all* instances, both before and after final rejection, in which an application is placed in condition for allowance, applicant should be notified promptly of the allowability of the claims by a Notice of Allowability form PTOL-37. If delays in processing the Notice of Allowability are expected, e.g., because an extensive examiner's amendment must be entered, and the end of a statutory period for reply is near, the examiner should notify applicant by way of an interview that the application has been placed in condition for allowance, and an Examiner Initiated Interview Summary PTOL-413B should be mailed. Prompt notice to applicant is important because it may avoid an unnecessary appeal and act as a safeguard against a holding of abandonment. Every effort should be made to mail the letter before the period for reply expires.

If no appeal has been filed within the period for reply and no amendment has been submitted to make the application allowable or which can be entered in part (see MPEP § 714.20), the application stands abandoned.

It should be noted that under 37 CFR 1.181(f), the filing of a 37 CFR 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application. See MPEP § *>1206< for appeal and post-appeal procedure. For after final rejection practice relative to affidavits or declarations filed under 37 CFR 1.131 and 1.132, see MPEP § 715.09 and § 716.

**>Form paragraph 7.169 may be used to notify applicant in the Advisory Action that the proposed amendment(s) will be entered upon appeal and how the new or amended claim(s) would be rejected.

¶ *7.169 Advisory Action, Proposed Rejection of Claims, Before Appeal Brief*

For purposes of appeal, the proposed amendment(s) will be entered and the proposed rejection(s) detailed below will be included in the Examiner's Answer. To be complete, such rejection(s) must be addressed in any brief on appeal.

Upon entry of the amendment(s) for purposes of appeal:

Claim(s) [1] would be rejected for the reasons set forth in [2] of the final Office action mailed [3].

Examiner Note:

1. In bracket 1, identify all the new or amended claim(s) that would be grouped together in a single rejection.
2. In bracket 2, identify the rejection by referring to either the paragraph number or the statement of the rejection (e.g., the rejection under 35 U.S.C. § 103 based upon A in view of B) in the final Office action under which the claims would be rejected on appeal.
3. Repeat this form paragraph for each group of claims subject to the same rejection(s).
4. Use this form paragraph if item 7 of the Advisory Action form, PTOL-303 (Rev. 9-04 or later) has been checked to indicate that the proposed amendment(s) will be entered upon appeal.

<

IV. HAND DELIVERY OF PAPERS

Hand carried papers for the Technology Centers (TCs) may only be delivered to the Customer Window which is located at:

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

Effective December 1, 2003, all official patent application related correspondence for organizations reporting to the Commissioner of Patents (e.g., TCs, the Office of Patent Publication, and the Office of Petitions) that is hand-carried (or delivered by other delivery services, e.g., FedEx, UPS, etc.) must be delivered to the Customer Window, with a few limited exceptions. See MPEP § 502. Hand-carried amendments and other replies after final rejection (37 CFR 1.116) will no longer be accepted in the TCs. Any courier who attempts delivery of such after final correspondence at a TC (or where it is no longer permitted) will be re-directed to the Customer Window. ** Patent application related compact disks (CDs) and other non-paper submissions that are hand-carried must be delivered to the Customer Window.

V. EXPEDITED PROCEDURE FOR PROCESSING AMENDMENTS AND OTHER REPLIES AFTER FINAL REJECTION (37 CFR 1.116)

In an effort to improve the timeliness of the processing of amendments and other replies under 37 CFR 1.116, and thereby provide better service to the public, an expedited processing procedure has been established which the public may utilize in filing amendments and other replies after final rejection under 37 CFR 1.116. In order for an applicant to take advantage of the expedited procedure, the amendment or other reply under 37 CFR 1.116 will have to be marked as a "Reply under 37 CFR 1.116 — Expedited Procedure - Technology Center (Insert Technology Center Number)" on the upper right portion of the amendment or other reply and the envelope must be marked "Mail Stop AF" in the lower left hand corner. The markings preferably should be written in a bright color with a felt point marker. If the reply is mailed to the Office, the envelope should contain only replies under 37 CFR 1.116 and should be mailed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia, 22313-1450." Instead of mailing the envelope to "Mail Stop AF" as noted above, the reply may be hand-carried to the Customer Window located at **>the above address.< The outside of the envelope should be marked "Reply Under 37 CFR 1.116 - Expedited Procedure - Technology Center (Insert Technology Center Number)."

Upon receipt by the U.S. Patent and Trademark Office from the U.S. Postal Service of an envelope appropriately marked "Mail Stop AF," the envelope will be specially processed by the Mail Center and for non-Image File Wrapper applications (non-IFW) forwarded promptly to the examining TC, via the Office of Finance if any fees have to be charged or otherwise processed. For IFW application processing, see IFW Manual. Upon receipt of the reply in the TC it will be promptly processed by a designated technical support staff member and forwarded to the examiner, via the supervisory patent examiner (SPE), for action. The SPE is responsible for ensuring that prompt action on the reply is taken by the examiner. If the examiner to which the application is assigned is not available and will not be available for an extended period, the SPE will ensure that action on the application is promptly taken to assure meeting the USPTO goal described below. Once the examiner has completed his or her consideration of the reply, the examiner's action will be promptly typed and printed, and mailed by technical support staff or other Office personnel designated to expedite the processing of replies filed under this procedure. The TC supervisory personnel, e.g., the supervisory patent examiner, supervisory applications examiner, and TC Director are responsible for ensuring that actions on replies filed under this procedure are promptly processed and mailed. The U.S. Patent and Trademark Office goal is to mail the examiner's action on the reply within 1 month from the date on which the amendment or reply is received by the U.S. Patent and Trademark Office.

Applicants are encouraged to utilize this expedited procedure in order to facilitate U.S. Patent and Trademark Office processing of replies under 37 CFR 1.116. If applicants do not utilize the procedure by appropriately marking the envelope and enclosed papers, the benefits expected to be achieved therefrom will not be attained. The procedure cannot be expected to result in achievement of the goal in applications in which the delay results from actions by the applicant, e.g., delayed interviews, applicant's desire to file a further reply, or a petition by applicant which requires a decision and delays action on the reply. In any application in which a reply under this procedure has been filed and no action by the examiner has been received within the time referred to herein, plus normal mailing time, a telephone call to the SPE of the relevant TC art unit would be appropriate in order to permit the SPE to determine the cause for any delay. If the SPE is unavailable or if no satisfactory reply is received, the TC Director should be contacted.

714.14 Amendments After Allowance of All Claims [R-3]

Under the decision in *Ex parte Quayle*, 25 USPQ 74, 1935 C.D. 11; 453 O.G. 213 (Comm'r Pat. 1935), after all claims in an application have been allowed the prosecution of the application on the merits is closed even though there may be outstanding formal objections which preclude fully closing the prosecution.

Amendments touching the merits are treated in a manner similar to amendments after final rejection, though the prosecution may be continued as to the formal matters. See MPEP § 714.12 and § 714.13.

See MPEP § 714.20 for amendments entered in part.

See MPEP § 607 for additional fee requirements.

>See MPEP § 714 for non-compliant amendments.<

Use form paragraph 7.51 to issue an *Ex parte Quayle* action.

¶ *7.51 Quayle Action*

This application is in condition for allowance except for the following formal matters: **[1]**.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Examiner Note:

Explain the formal matters which must be corrected in bracket 1.

714.15 Amendment Received in Technology Center After Mailing of Notice of Allowance [R-3]

Where an amendment, even though prepared by applicant prior to allowance, does not reach the Office until after the notice of allowance has been mailed, such amendment has the status of one filed under 37 CFR 1.312. Its entry is a matter of grace. For discussion of amendments filed under 37 CFR 1.312, see MPEP § 714.16 to § 714.16(e).

Form PTO-948 (Rev. 06/03)
Application No. 09/423,275

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 01/10/2006 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(e)

___ 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 03/09/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. ____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

UNITED STATES 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

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

COPY MAILED

JUL 2 4 2008

OFFICE OF PETITIONS

In re Patent No. 6,496,827 :
Issue Date: December 17, 2002 :
Application No. 09/423,378 :
Filed: January 28, 2000 :
Attorney Docket No. 026045.0107PTUS :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Receipt is acknowledged of the Change of Address filed with the instant petition.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions 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

COPY MAILED

OCT 20 2005

OFFICE OF PETITIONS

SCHIFF HARDIN & WAITE
PATENT DEPARTMENT
7100 SEARS TOWER
233 S.WACKER DRIVE
CHICAGO IL 60606-6473

Paper No. 10

In re Application of	:	
Kenth NILSSON et al.	:	
Application No. 09/423,383	:	ON PETITION
Filed: November 5, 1999	:	
Attorney Docket No. P99.2203	:	

This is a decision on the petition under 37 CFR 1.181, filed July 23, 2001, requesting withdrawal of the Notice of Abandonment mailed July 10, 2001.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed July 10, 2001 for failure to respond to the Office action mailed December 1, 2000 be withdrawn as petitioner timely filed a response. As evidenced by the attached postcard receipt with a mailroom date stamp of February 6, 2001 and the attached amendment with a certificate of mailing date of January 31, 2001 a response was timely filed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2855 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

RECEIVED
AUG 04 2000
Christie, Parker & Hale, LLP

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

DRK

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUL 31 2000

Daniel R. Kimbell
CHRISTIE, PARKER & HALE
P.B. Box 7068
Pasedena, CA 91109-7068

CASE # 36368 ACTION 1st Office act
REMIT DATE
DEADLINE 8/31/00

In re Application of
LI et al
Application No.: 09/423,401
PCT No.:
International Filing Date:
Priority Date Claimed: 06 November 1998
Attorney Docket Number: 36368/DRK
For: METHOD OR SELECTIVE POST-GROWTH TUNING OF AN OPTICAL BANDGAP OF A SEMI-CONDUCTOR HETEROSTRUCTURE AND PRODUCTS PRODUCED THEREFORE

Communication

A review of for the above-captioned application reveals that applicants have not provided the international application number (PCT number), or the international filing date with the transmittal letter and other documents submitted 05 November 1999.

Applicants must provide this information within ONE (1) MONTH from the mail date of this notification. Failure to respond will result in the abandonment of this application.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
Legal Examiner
PCT Legal Office

PLEASE SIGN AND RETURN TO ACKNOWLEDGE RECEIPT

Title METHOD OF SELECTIVE POST-GROWTH TUNING OF AN OPTICAL BANDGAP OF A SEMI CONDUCTOR HETEROSTRUCTURE AND PRODUCTS PRODUCED THEREOF

Ser/Pat/Reg No: 09/423,401
Filed/Issued : 11/5/99

____ Assigned Enclosed (List Assignee)

Client ID 1359
Case No 36366
Atty/Sec DRK/[illegible]
Date Mailed August 10, 2000
Date Due August 31, 2000
Cert of Mailing yes
Express Mail No. EL483174232US

Checked by: [illegible]

DOCUMENT TITLE:
(List enclosures)

Petition Under 37 C.F.R. 1.182 to Convert to an Application Under 35 U.S.C. 111(a)
Declaration and Power of Attorney
Small Entity Claim/Request for Refund
$130-petition fee
Copy of Communication

X PAT ____COP ____MARK ____DBA

ACKNOWLEDGE HERE

OIPE JC43 AUG 1 0 2000 PATENT & TRADEMARK OFFICE

REV 11/93 FORM P2

13 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Daniel R. Kimbell
CHRISTIE, PARKER & HALE
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of LI et al Application No.: 09/423,401 PCT No.: NA Int. Filing Date: NA Priority Date: 06 November 1998 Attorney's Docket No.: 36368/DRK For: METHOD OR SELECTIVE POST-GROWTH TUNING OF AN OPTICAL BANDGAP OR A SEMI-CONDUCTOR HETEROSTRUCTURE AND PRODUCTS PRODUCED THEREFORE	DECISION ON PETITION UNDER 37 CFR 1.182 AND UNDER 37 CFR 1.181

This is in response to applicant's petitions under 37 CFR 1.182, " PETITION UNDER 37 C.F.R. 1.182 TO CONVERT TO AN APPLICATION UNDER 35 U.S.C. 111(a)," and 37 CFR 1.181 "PETITION TO THE COMMISSIONER UNDER 37 C.F.R. 1.181" faxed to the United States Patent and Trademark Office (USPTO) on 26 November 2002 requesting that the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a) and that the petition was timely filed on 10 August 2000.

BACKGROUND

On 31 July 2000, this Office mailed a Communication to applicants informing them that they had not provided an international application number(PCT number), or the international filing date with the transmittal letter.

On 10 August 2000, applicants allegedly filed a petition that the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a).

On 26 November 2002, petitioner submitted the instant facsimile, which included copies of the papers filed on 10 August 2000. In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 10 August 2000.

I. PETITION UNDER 37 CFR 1.181

The postcard lists the items submitted on 10 August 2000.

MPEP 503 provides:

> 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.

Applicant's postcard is accepted as *prima facie* that a petition under 37 C.F.R. 1.182 the application from a filing under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a) was timely filed with the Patent and Trademark Office on 10 August 2000.

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

II. PETITION UNDER 37 CFR 1.182

Applicants state that this application was inadvertently filed along with a PCT transmittal letter, rather than with a direct national stage transmittal letter. They further indicate that the unexecuted Declaration and Power of Attorney accompanying the application correctly indicated that this application was not based upon a PCT application, but rather upon a Singapore patent application No. 9804027-2, with a filing date of 6 November 1998, and that there is no PCT number or international filing date to report.

A review of the file reveals that the filing under 35 U.S.C. 371 was improper for this application, and it should not be treated as a national stage application under 35 U.S.C. 371. Accordingly, it would be appropriate to consider the conversion of the application to an application under 35 U.S.C. 111(a) at this time.

Applicant's petition to convert the application from a filing under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a), can be granted. A certified copy of any priority document must be filed in order to obtain priority benefit under 35 U.S.C. 119.

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b) (May 29, 2000) may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111 and ending on the mailing date of this decision. See 37 CFR 1.704(a).

CONCLUSION

As construed above, the petition under 37 CFR 1.182 is **GRANTED**. The 35 U.S.C. 111(a) filing date is **05 November 1999.**

Application No.: 09/423,401

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

19 MAY 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

Armstrong, Westerman, Hattori,
McLeland & Naughton
1725 K Street, NW
Suite 1000
Washington, DC 20006

In re Application of Kanayama et al. Application No.: 09/423436 PCT No.: PCT/JP99/00776 Int. Filing Date: 22 February 1999 Priority Date: 24 February 1998 Attorney's Docket No.: 991238 For: Sliding Bearing for Internal Combustion Engine	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to the "Petition to Revive Under 37 CFR 1.137(b)" filed on 23 March 2000.

BACKGROUND

Applicants filed this international application on 22 February 1999, and claimed a priority date of 24 February 1998. The International Bureau transmitted a copy of the published international application to the United States Patent and Trademark Office on 02 September 1999. No Demand electing the United States appears to have been filed prior to the elapse of 19 months from the priority date. Accordingly, the twenty-month time period to pay the basic national fee in the United States expired as of midnight on 24 October 1999. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

Applicant filed a Transmittal Letter on 09 November 1999. The Transmittal Letter was accompanied by, *inter alia*, the required basic national fee, an English translation of the international application, a preliminary amendment, and a signed declaration of the inventors.

A Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants on 08 March 2000, indicating that this international application had become abandoned with respect to the United States for failure to pay the full basic national fee by twenty months from the priority date.

Applicants filed the instant petition, petition fee and accompanying papers on 23 March 2000.

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; (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 (c) of this section. This petition satisfies requirements (1), (2) and (4).

Regarding requirement (3), applicants' statement that "The delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional" is being construed as 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. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3). As such, it would be appropriate to grant the requested relief on the basis of the present record.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The 35 USC 102(e) and 35 USC 371 date of this application is **09 November 1999**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

COPY MAILED

APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Andre Kaup	:	
Application No. 09/423,458	:	DECISION ON PETITION
Filed: November 8, 1999	:	
Attorney Docket No. 0112740-467	:	

This is a decision on the "Petition Under 37 CFR 1.182 Requesting Withdrawal of Terminal Disclaimer to Obviate a Double Patenting Rejection," filed October 31, 2005. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

Applicant asserts that the previous double-patenting rejection is improper, and that the Terminal Disclaimer filed on May 5, 2005, was not necessary. Applicant requests withdraw of the earlier filed Terminal Disclaimer.

As the examiner has concurred, the requested relief can be favorably considered. Accordingly, the petition is granted.

The $400.00 petition fee will be charged to Deposit Account No. 02-1818, as authorized.

This matter is being referred to Technology Center Art Unit 2624 for correction of PALM and file records consistent with this decision.

Telephone inquiries regarding 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

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

BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO IL 60690

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Andre Kaup :
Application No. 09/423,458 : DECISION ON PETITION
Filed: November 8, 1999 :
Attorney Docket No. P99.2131 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2007, 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 June 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 26, 2007. Accordingly, the date of abandonment of this application is June 27, 2007. A Notice of Abandonment was mailed on July 11, 2007, subsequent to the filing of the present petition to revive.

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 $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

30 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morris E. Cohen
LEVISOHN, LERNER, BERGER & LANGSAM
757 Third Avenue, Suite 2400
New York, New York 10017

In re Application of	:	
Craig M. WHITEHOUSE, et al.	:	
Application No.: 09/423,471	:	DECISION ON
PCT No.: PCT/US97/08550	:	PETITION
Int. Filing Date: 17 May 1997	:	UNDER 37 CFR 1.181
Priority Date: NONE	:	AND
Attorney Docket No.: 840.059.301	:	PETITION TO REVIVE
For: CONFIGURATION OF AN	:	
ATMOSPHERIC PRESSURE ION	:	
SOURCE	:	

This decision in response to the "PETITION TO REINSTATE ABANDONED APPLICATION" and to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally..." filed 18 April 2002. The communications of 18 April 2002 are being treated as a petition under 37 C.F.R. 1.181 to accept a copy of the declaration of the inventors filed with the petition as being filed on 28 March 2000 and to withdraw the Notification of Abandonment (Form PCT/DO/EO/909) mailed 01 June 2001. The petition is **GRANTED** as follows:

No petition fee is required.

MPEP at section 503 states, in part:

> "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."

The evidence submitted by applicants, which includes a return receipt postcard itemizing all the papers filed on 28 March 2000 in connection with U.S. application serial number 09/423,471, is sufficient to establish that a Response to the Notification of Missing Requirements including a declaration of the inventors was received in the Office on that day. Accordingly, acceptance of a copy of the declaration of the inventors filed with the petition

as being filed on 28 March 2000 is appropriate. The Notification of Abandonment of 01 June 2001 indicating that "Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 07 JAN 2000 within the time period set therein" was mailed in error and is hereby VACATED. With the withdrawal of the Notification of Abandonment, the petition to revive the present application is unnecessary, and thus, the petition fee of $640.00 will be refunded to applicant's Deposit Account No. 02-2105.

A review of the Declaration of the inventors reveals that it is in compliance with 37 CFR 1.497(a), and therefore, applicants timely completed all the requirements of 35 U.S.C. 371 for entry into the national stage with the submission of the declaration of the inventors on 28 March 2000. However, it is noted that the declaration is not in compliance with 37 CFR 1.63 in that the complete residence and mailing address of the inventors are not given. Applicants should file another declaration.

Applicants are hereby notified that a $65.00 surcharge for submitting the declaration after 30 months from the filing date of 17 May 1997 (fee code 254) and a fee for a two months extension of time for response to the form PCT/DO/EO/905 in the amount of $190.00 (fee code 216) will be charged to Deposit Account 02-2105 as authorized in the communication of 28 March 2000.

Applicants' claim for priority is acknowledged. This application has an international filing date of **17 May 1997** under 35 U.S.C. 363 and a date of **28 March 2000** under 35 U.S.C. 371(c) and 102(e).

The application is returned to the United States Designated/Elected Office for processing in accordance with this decision, that is, a) for crediting $640.00 (fee code 241) to Deposit Account No. 02-2105, b) for charging $65.00 (fee code 254) and $190.00 (fee code 216) to same Deposit Account, and c) for issuance of a Notification of Acceptance (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

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 29 2000

TODD N. HATHAWAY
119 N. Commercial Street #620
Bellingham, WA 98226-4437

In re Application of	:	
AARONS, David John, et al.	:	
U.S. Application No.: 09/423,484	:	DECISION ON
PCT No.: PCT/GB98/01155	:	PETITION UNDER
International Filing Date: 07 May 1998	:	37 CFR 1.47(a)
Priority Date: 07 May 1997	:	
Attorney's Docket No.: P9153	:	
For: GAS DISCHARGE LAMP DRIVE	:	
CIRCUITRY	:	

This decision is issued in response to applicants' submission of a declaration executed by co-inventor David John AARONS but not by co-inventor John MULLENGER (applicants' claim that Mr. Mullenger has refused to sign the application papers). This submission is being treated as a petition under 37 CFR 1.47(a) for acceptance of the application without the signature of Mr. Mullenger. Applicants have paid the required petition fee.

BACKGROUND

On 07 May 1998, applicants filed international application PCT/GB98/01155 which claimed a priority date of 07 May 1997 and which designated the United States. On 12 November 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 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., 08 November 1999 (07 November 1999 was a Sunday).

On 08 November 1999, applicants filed a transmittal letter for entry into the national stage in the United States which indicates that it was accompanied by: (1) a copy of the international application; (2) an unexecuted declaration, and (3) a check in the amount of $970 for the basic national fee.

On 08 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 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 14 April 2000, applicants filed a "Submission Of Late Declaration And Surcharge" which indicates that it was accompanied by: (1) a petition for a one month extension of time to respond; (2) a check in the amount of $55 in payment of the small entity extension fee; (3) a declaration executed by one of the two inventors; (4) a check in the amount of $65 as the small entity surcharge for filing the declaration after the 30 month deadline; (5) a Statement Of Facts regarding the failure of the second inventor to sign the declaration; (6) a check in the amount of $130 as the petition fee; and (7) a small entity statement executed by one of the two inventors.

The materials submitted on 14 April 2000 are considered herein as a petition under 37 CFR 1.47(a). Based on the petition for a one month extension of time, the accompanying fee, and the certification that this submission was mailed on 10 April 2000, the 14 April 2000 filing is considered a timely response to the Notification Of Missing Requirements.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(i); (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventor on behalf of himself and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. As discussed below, applicants here have satisfied items (1) and (2), but have failed to satisfy items (3) and (4).

Regarding the petition fee, applicants have submitted a check for $130 as the appropriate petition fee. Item (1) is therefore satisfied. Also, the "Added Page To Combined Declaration And Power Of Attorney For Signature By Joint Inventor(s) On Behalf Of Nonsigning Inventor(s) Who Refuse(s) To Sign Or Cannot Be Reached (37 CFR 1.47(a))" sets forth the last known address for the nonsigning inventor, Mr. Mullenger. Accordingly, item (2) is satisfied.

Regarding item (3), section 409.03(a), of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have submitted a declaration executed by co-inventor David John Aarons and containing an unsigned signature block for the nonsigning inventor, John Mullenger. Pursuant to the MPEP, this declaration can be treated as having been signed by Mr. Aarons on his own behalf and on behalf of Mr. Mullenger. However, there is still a problem with the declaration submitted. The declaration identifies two separate applications as the specification to which it applies, the international application (PCT/GB98/01155) and the priority application (GB 9709075.7). It is therefore unclear which particular specification this declaration executes. Accordingly, the declaration does not satisfy the requirements of 37 CFR 1.497(a) and (b). Item (3) above is therefore not satisfied.

As for item (4), the factual proof required to demonstrate a refusal to execute the application documents is set forth in section 409.03(d) of the MPEP, which states, in part (emphasis added):

> Before a refusal can be alleged, **it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature**. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or the declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or the declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration

Based on the MPEP, a refusal cannot be alleged until after a copy of the **full** application has been forwarded to the nonsigning inventor. Evidence of this mailing must be provided by a person with firsthand knowledge. Here, in the Statement Of Facts executed by David Aarons and submitted in support of the petition, applicants have not provided sufficient, firsthand

evidence that "a copy of the application papers (specification, including claims, drawings, and oath or declaration)" was mailed to the nonsigning inventor for his signature. It appears that the only documents sent to the nonsigning inventor were the declaration and small entity statement (see Statement Of Facts, paragraph 7 and exhibits 3-5). Moreover, these documents were mailed by Leslie Aarons, not David Aarons. Thus, the Statement does not provide firsthand information regarding the mailing of these documents. In addition, the express refusal referred to in the Statement Of Facts involve a conversation between the nonsigning inventor and Mr. Aaron's Patent Attorney, Mr. McLean, and correspondence sent by the nonsigning inventor to Mr. McLean and Leslie Aarons (see Statement Of Facts, paragraphs 9-11 and Exhibits 7-9). As with the mailing of the application documents discussed above, David Aarons is not the proper person to be providing a statement with regard to these facts. Rather, firsthand statements from Mr. McLean and Leslie Aarons are required.

Based on the above, applicants have failed to satisfy items (3) and (4) of the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the petition cannot be granted in its present form.

It is noted that, because the application is not presently acceptable without the signature of Mr. Mullenger, the small entity statement submitted by applicants also cannot be accepted without the signature of all the applicants. Thus, applicants are required to pay full fees. Pursuant to the authorizations contained in the 08 November 1999 transmittal letter and the present petition for an extension of time, Deposit Account No. 08-1254 has been charged an additional $65 as the surcharge for filing the declaration after the 30 month deadline, and an additional $55 for the extension fee. These charges raise applicants' total payments for these fees to the required amounts.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file a proper response to this decision will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/BM:rmr

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

NOV 28 2000

TODD N. HATHAWAY
119 N. Commercial Street #620
Bellingham, WA 98226-4437

In re Application of	:	
AARONS, David John, et al.	:	
U.S. Application No.: 09/423,484	:	DECISION ON RENEWED
PCT No.: PCT/GB98/01155	:	PETITION UNDER
International Filing Date: 07 May 1998	:	37 CFR 1.47(a)
Priority Date: 07 May 1997	:	
Attorney's Docket No.: P9153	:	
For: GAS DISCHARGE LAMP DRIVE	:	
CIRCUITRY	:	

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed on 04 October 2000. No additional petition fee is required.

BACKGROUND

In a decision dated 29 June 2000, this Office dismissed applicants' original petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide: (a) an oath or declaration by the other inventor on behalf of himself and the non-signing inventor; and (b) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

On 04 October 2000, applicant filed the "Renewed Petition Under 37 CFR 1.47(a)" considered herein. Included with the renewed petition were the following: (1) a petition for a one month extension of time to respond to the previous decision, including payment for the extension; (2) a Response to the previous decision; (3) Affidavits executed by Leslie David Aarons and Robert A. McLean; (4) an executed declaration; and (5) a small entity statement. Based on the petition for a one month extension of time, the accompanying fee, and the certification that this submission was mailed on 29 September 2000, the 04 October 2000 filing is considered a timely response to the previous decision.

DISCUSSION

With respect to the declaration, applicants have corrected the previously filed declaration by crossing out the reference to the priority application on page two of the declaration, such action being initialed by the executing party. This resolves the ambiguity pointed out in the

previous decision regarding what specification was executed by this declaration. Accordingly, item (3) of the requirements for a grantable petition is now satisfied.

As for item (4), the previous decision stated that applicants had failed to satisfy this requirement because they did not provide adequate, firsthand evidence that the complete application papers had been sent to the nonsigning inventor, and because they did not provide a statement from the person to whom the nonsigning inventor had made his express refusal to sign. As part of the Renewed Petition, applicants have submitted an affidavit by Leslie David Aarons in which he states that, in addition to the declaration and small entity statement, he sent to the nonsigning inventor "a copy of the specification, claims, and drawings for the application" (paragraph 6). Applicants have also submitted an affidavit by Robert A. McLean to whom the nonsigning inventor made his express refusal to execute the application. These affidavits satisfy the deficiencies identified in the previous decision. Item (4) is therefore satisfied.

Based on the above, applicants have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the petition is granted, and the application is accepted without the signature of nonsigning inventor John Mullenger.

Finally, in response to the letter filed by applicants on 31 July 2000 requesting clarification of a $10 charge made to applicants' Deposit Account, applicants are informed that this $10 charge, when coupled with the separate $110 charge made to applicants' Deposit Account on the same date, represents the $120 in total additional fees required by the decision mailed on 29 June 2000 (an additional $65 as the surcharge for filing the declaration after the 30 month deadline, and an additional $55 for the extension fee, bringing applicants' total payments for these fees to the required amounts).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The declaration filed on 04 October 2000 is accepted without the signature of inventor John MULLENGER.

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

This application has an international filing date of 07 May 1998 under 35 U.S.C. 363 and a date of 04 October 2000 under 35 U.S.C. 102(e) and 371(c).

The application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903)

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

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

NOV 28 2000

Mr. John Mullenger
Green Farm, Wickham Skieth
Suffolk, IP23 8LX
United Kingdom

In re Application of AARONS, David John, et al.
U.S. Application No.: 09/423,484
PCT No.: PCT/GB98/01155
International Filing Date: 07 May 1998
Priority Date: 07 May 1997
Attorney's Docket No.: P9153
For: GAS DISCHARGE LAMP DRIVE CIRCUITRY

Dear Mr. Mullenger:

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

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

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

Counsel of Record:
TODD N. HATHAWAY
119 N. Commercial Street #620
Bellingham, WA 98226-4437

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALBIHNS STOCKHOLM AB
BOX 5581, Linnegatan 2
SE-114 85 STOCKHOLM; Sweden
STOCKHOLM SE
SWEDEN

COPY MAILED

FEB 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sjoblom :
Application No. 09/423,511 :
Filed: November 10, 1999 :
Attorney Docket No. 70324-69523 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 22, 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.

A final Office action was mailed on March 22, 2004.

An "Applicant Initiated Interview Request Form" was filed on April 16, 2004.

Petitioner states he never received a response to the written request for an interview. The file contains no indication a response was ever mailed to petitioner.

Petitioner contends he made many attempts to schedule an interview but the examiner and the examiner's supervisor failed to return his phone calls.

The MPEP indicates that the grant of an interview is discretionary and an applicant does not have the *right* to an interview after the mailing of a final Office action. An examiner *may* grant an interview if the examiner believes the interview would be beneficial.

MPEP 714.12 states,

> Once a final rejection . . . has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. . . . The prosecution of an application before the examiner should ordinarily be concluded with the final action. However, one personal interview by applicant may be entertained after such final action if circumstances warrant.

MPEP 713.09 states,

> Normally, one interview after final rejection is permitted. . . . Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration.

The examiner never exercised the option of granting an interview.

An amendment was filed on September 2, 2004, along with a request for a three month extension of time.

The examiner determined the amendment did not prima facie place the application in condition for allowance. Therefore, the application became abandoned by statute on September 22, 2004.

An advisory action was not mailed until September 22, 2004, resulting in the advisory action not being received by applicant until the maximum extendable period for reply had passed.

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

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).

"[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."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2]

In a non-provisional appliction abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal (and appeal fee)
(B) an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or
(C) the filing of a Request for Continued Examination (RCE).

See MPEP 711.03(c)(III)(A)(2).

The record fails to include any indication that petitioner was unable to file a Notice of Appeal or RCE. Petitioner had the option of taking steps that would ensure the application would not become abandoned.

Prior to the last day of the maximum extendable period for reply, petitioner was aware that the examiner had *not* indicated the filed amendment had been entered and the application would be allowed. At this point in time, petitioner had two choices:
(1) file a RCE or Notice of Appeal and guarantee the application would not become abandoned, or
(2) take no further action and risk abandonment.

Petitioner voluntarily chose not to take actions which would have eliminated the risk of abandonment. The instant petition contends the abandonment of the application was unavoidable. However, petitioner has not proven that a reasonable and prudent person, treating the application the same as he would treat his most important business, would voluntarily choose a course of action resulting in a risk of abandonment when he could instead choose a course of conduct that would guarantee the application would not become abandoned. The evidence fails to establish the abandonment was unavoidable.

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

It is regrettable that the Advisory Action was not mailed until the end of the statutory period set for response to the final Office action, however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. Petitioner may not rely upon non-receipt of an advisory action to establish that the delay was unavoidable. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c)(III)(C)(2).

A delay is not rendered "unavoidable" due to the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[3]

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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: (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: Form PTO/SB/66

---

[3] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALBIHNS STOCKHOLM AB
BOX 5581, Linnegatan 2
SE-114 85 STOCKHOLM; Sweden
STOCKHOLM SE
SWEDEN

COPY MAILED

APR 2 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Sjoblom	:	
Application No. 09/423,511	:	
Filed: November 10, 1999	:	
Attorney Docket No. 70324-69523	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed on March 22, 2004.

An amendment was filed on September 2, 2004, along with a request for a three month extension of time.

The examiner determined the amendment did not prima facie place the application in condition for allowance. Therefore, the application became abandoned by statute on September 22, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The examiner will be notified of the instant decision so that the examiner may review the Reply Brief filed with the petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 26

Jones Tullar & Cooper
PO Box 2266 Eads Station
Arlington, VA 22202

COPY MAILED
MAY 3 0 2003
OFFICE OF PETITIONS

In re Application of :
Hans Seiter :
Application No. 09/423,619 : ON PETITION
Filed: November 15, 1999 :
Attorney Docket No. n/a :

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 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 January 14, 2002, 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 March 15, 2002. See MPEP 1215.04.

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 3728 for processing the Request for Continued Examination (RCE) pursuant to 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

DEC 21 2005

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

Felix J. D'Ambrosio
Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria VA 22314-1176

In re Application of: SEITER	:	
Appl. No.: 09/423,619	:	DECISION ON PETITION
Filed: November 15, 1999	:	
For: INNER SOLE FOR A SHOE	:	

This is a decision on the petition filed on May 11, 2005, and re-submitted by petitioner on November 22, 2005 by which petitioner requests withdrawal of the holding of abandonment due to failure to timely file a proper reply to the Office letter mailed July 15, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was actually filed on October 15, 2003. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a post card filing receipt for the reply which shows that the reply was in fact received in the Office on October 15, 2003, a date within the period for filing a response to the Office letter in question. Based upon this evidence, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on October 15, 2003. Thereafter, the application will be forwarded to the examiner for action on both the October 15, 2003 and supplemental February 18, 2004 replies.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

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)
6,526,637	2003-03-04	09/423,809	2000-11-16	3142-000/JAB

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	/Jay A. Bondell/	Date (YYYY-MM-DD)	2008-01-11
Name	Jay A. Bondell	Registration Number	28188

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. 6526637
Issue Date: March 4,2003
Application No. 09423809
Filed: November 16,2000
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed January 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 11,2008 . 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.

JUN 15 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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

ELRIFI, Ivor R.
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111

In re Application of CREATIVE BIOMOLECULES, INC. Application No.: 09/423,821 PCT No.: PCT/US98/11025 Int. Filing Date: 28 May 1998 Priority Date: 29 May 1997 Attorney's Docket No.: 00960-543 For: MODULATORS OF MORPHOGEN EXPRESSION AND METHODS OF OF IDENTIFYING THE SAME	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to the "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b) " filed on 25 May 2001.

BACKGROUND

On 28 November 1998, this international application was filed, claiming an earliest priority date of 29 November 1997.

On 21 December 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 29 November 1999.

On 15 November 1999, applicant filed a Transmittal letter (Form PTO-1390) for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed oath or declaration was filed at such time.

On 05 January 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b) must be furnished within the time period set forth. The notification set a one month time limit or 31 months from the priority date for the application, whichever is later to respond.

On 22 December 2000, the United States Designated/Elected Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 05 January 2000 within the time period set.

On 15 May 2001, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, which was accompanied by, *inter alia*, an executed declaration.

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; (2) the petition fee as set forth in § 1.17(m); and (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 (c) of this section.

Applicant's statement that "The entire delay in filing the Response to Notification of Missing Requirement was unintentional" is being construed as 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. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Petitioner has provided: (1) the proper reply by submitting an executed declaration, (2) the petition fee set forth in §1.17(m). 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 reveals that the requirements under 35 U.S.C. 371 for entry into the national stage in the US have been satisfied.

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 371 date of this application is **15 May 2001**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

UNITED STATES 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. 6239515
Issue Date: May 29,2001
Application No. 09423870
Filed: March 13,2000
Attorney Docket No. 31439-150448

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

This is a decision on the electronic petition, filed July 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,239,515	2001-05-29	09423870	2000-03-13	3129A/001

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. Asher, #30,445/	Date (YYYY-MM-DD)	2009-07-08
Name	Robert M. Asher	Registration Number	30445

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

ROSSI & ASSOCIATES
PO BOX 826
ASHBURN VA 20146-0826

COPY MAILED
JAN 11 2008
OFFICE OF PETITIONS

In re Application of	:	
Naoki Ejima	:	
Application No. 09/423,930	:	DECISION ON PETITION
Filed: April 13, 2000	:	
Atty Docket No. MATS:024	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 4, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 5, 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(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In

re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

It is noted that petitioner indicates that the abandonment was recently discovered on or about April 18, 2007. However, the record indicates a Notice of Abandonment was mailed to petitioner on April 23, 2004. Further, it is noted that the Notice mailed April 23, 2004 includes a statement by the examiner stating "I spoke to the attorney of record, Marc Rossi, and he looked to see if he filed a response. I have not received a response." Therefore, there is a question regarding when petitioner first became aware of the abandonment of this application.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 5, 2003. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost four years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New

York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSSI & ASSOCIATES
PO BOX 826
ASHBURN, VA 20146-0826

COPY MAILED

OCT 08 2008

OFFICE OF PETITIONS

In re Application of
Naoki Ejima
Application No. 09/423,930
Filed: April 13, 2000
Attorney Docket No. MATS:024

ON PETITION

This is a decision in response to the renewed petition, filed July 14, 2008, 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 a non-final Office action mailed September 4, 2003. A Notice of Abandonment was mailed on April 23, 2004. On September 28, 2007, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed January 11, 2008. In response, on July 14, 2008, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the amendment filed September 28, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 06-05

Paper No: __

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

JUN 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,876,865 B1	:	
Issue Date: 5 April, 2005	:	
Application No. 09/424,006	:	ON PETITION
Filed: 7 March, 2000	:	
Attorney Docket No.: RIEB6.001APC	:	

This is a decision on the petition (with fees) filed on 10 March, 2005, expressly under 37 C.F.R. §1.182, and more properly considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 and §3.81. (The Issue Fee transmittal was submitted with an error as to the assignee identification.)

The petition(s) under 37 C.F.R. §1.183 (for waiver of §3.81) and §1.323 are **GRANTED**, and the Certificate of Correction and petitions fee are charged as authorized to Deposit Account 11-1410.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction (of the form and substance submitted) in due course consistent with the assignment (to Assignee **T-Mobile Deutschland GmbH**) recorded on 13 June, 2002, at REEL/FRAME 012967/0673.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 12 2002

Paper No. 15

In re Application of
Shinji Shimada *et al*
Application No. 09/424,056
Filed: November 18, 1999
Attorney Docket No. 104761

: DECISION ON PETITION

This is a decision on the petition filed on July 23, 2002 by which petitioners request supervisory review of the examiner's refusal to withdraw the requirement for election of species in this application, for a new, nonfinal action treating Unity of Invention practice in accordance with the regulations and the guidance provided in the Manual of Patent Examining Procedure, and for entry of the amendment after final rejection filed on April 10, 2002 and an action on the merits of all of the claims. No fee is required for the petition.

The petition is denied.

Petitioners argue that the requirement to elect species promulgated in paper No. 3, December 18, 2000, and made final in paper No. 5, dated April 11, 2001, is improper under 37 CFR 1.499 because it does not list the different groups of claims and does not explain why each group lacks unity with each other group as discussed in MPEP § 1893.03(d), and as petitioners apparently believe is required by 37 CFR 1.499.

A review of paper No. 3 shows that all of the claims are in fact discussed, and the proper legal standard, "unity of invention" was in fact applied by the examiner in requiring an election of species in this 35 USC 371 origin application. Petitioners may wish to review PCT Rules 13.1-13.4 which set forth the test for "unity of invention", and in particular, Annex B to the Administrative Instructions Under the PCT, particularly Part 1 which contain Instructions Concerning Unity of Invention. As noted therein, "unity of invention" is lacking when the claims lack a common "special technical feature", wherein "special technical feature" is defined as being the technical feature which defines the contribution that each of the inventions, considered as a whole, makes over the prior art. Item (c) of Part 1 of Annex B, in particular, discusses the manner of applying the appropriate test for "unity of invention", and notes, in particular, that it is applicable to the question of species claims as well as to generic claims that are not considered to define over the prior art.

While MPEP § 1893.03(d) does indicate that the different "groups of claims" must be "listed" and that the examiner must "explain why each group lacks unity with the other group", this language does not appear to be intended to override the formatting standards which the Office dictates must be used in formulating a requirement for an election of species. While restriction between distinct inventions (as for example, between claims to an article of manufacture and claims to a method of making that claimed article) are formulated by listing each group as a distinct invention (for example, group I is the article and group II is the method) and stating the claims which fall into each group), election of species requirements are formulated by merely listing the species, noting which claims, if any, are generic, and then requiring applicant to list those claims which read on each species. See MPEP § 809.02(a) governing the formulation of a requirement to elect species and compare with MPEP § 816 which governs the formulation of a restriction requirement to restrict between distinct inventions.

A review of paper No. 3 shows that the examiner in fact "listed" the inventions embodied in the various species to the extent required by Office election of species practice, and then in fact explained why each species was regarded as lacking "unity of invention" with respect to the other species by explaining that the species "special technical features" were attributed to each species, and why no common "special technical feature" was claimed by writing that:

> ("Some species have a projection on the handle while other have none at all, some have a projection on the neck and some have not at all. Moreover, not all of the bottles have the same cross section.").

This information was certainly sufficient information which would have permitted petitioners to explain why the examiner erred in identifying the "special technical feature" or "features", why all species indeed had a common "special technical feature" and what it was, and therefore why the examiner's requirement was in error. Moreover, the record shows that at present, no claim has been allowed. It is, therefore, difficult to perceive how there can possibly be a common "special technical feature" among the claims, since by definition, such feature must be that which defines the invention over the prior art. Again, attention is invited to Part 1 of Annex B, and in particular to subsections (b) and (c).

disposition no common special technical feature

In view of the foregoing, there does not appear to be a basis for granting the relief requested. Petitioners may request reconsideration of this decision, but any request for reconsideration must be filed within two months of the date of this decision. Petitioners are reminded that the filing of this petition, and the filing of any request for reconsideration, will not serve to stay the running of the shortened statutory period as set in the paper No. 11, dated April 10, 2002. See 37 CFR 1.181(f).

This application is being retained in the Technology Center 3700 Central Files pending appropriate action by petitioners.

PETITION DENIED.

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

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22302

25 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#18

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of SHIMADA et al	:	
U.S. Application No.: 09/424,056	:	
Int. Application No.: PCT/JP99/01405	:	DECISION
Int. Filing Date: 19 March 1999	:	
Priority Date: 20 March 1998	:	
Attorney Docket No.: 104761	:	
For: PLASTIC BOTTLE WITH HANDLE	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.181(a)(3) to Exercise the Supervisory Authority of the Commissioner" filed 01 October 2002.

FINDINGS OF FACT

On 19 March 1999, applicant filed international application PCT/JP99/01405 with the Japan Receiving Office (RO/JP).

On 22 June 1999, the Japan Patent Office International Searching Authority (ISA/JP) mailed an International Search Report in which independent claims 1 and 4 and dependent claims 2, 3, and 5-7 were found to lack inventive step under PCT Article 33(3). The International Search Report made no comment with respect to the remaining dependent claims 8-14.

On 18 November 1999, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) under 35 U.S.C. 371 based on international application PCT/JP99/01405. The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 18 December 2000, the examiner made a lack of unity of invention requirement with respect to the following different groups of claims:

Group I - claims 1-6, 10, 11
Group II - claims 1-7, 12
Group III - claims 1-7, 13
Group IV - claims 1-6, 8
Group V - claims 1-5, 9

Group VI - claims 1-6, 14
Group VII - claims 1-5, 8

In describing the special technical features of the different groups, the examiner stated, "Some species have a projection on the handle while others have none at all, some have a projection on the neck and some have none at all. Moreover, not all of the bottles have the same cross section."

On 17 January 2001, applicant elected claims 1-6, 10, and 11 with traverse.

On 11 April 2001, in response to applicant's traversal, the examiner provided the following additional explanation regarding the special technical features of the respective groups,

> In the first species, there is no hook on the handle for securing the fold and in the second specie [sic]. In the first species, elected, the hook on the bottom connects to the neck itself. In the third specie [sic] the bottle has a different cross section than the first or second specie [sic]. In the forth [sic] specie [sic] the bottle doesn't have a hook on the bottom or handle for securing, but a recess in the bottom and projection, not a hook, on the neck. I n [sic] the 5th specie [sic], the bottle doesn't have a hook on the bottom or handle but on the neck. [sic] which secure to a loop on the bottom. In the sixth specie [sic], the fastening is done without a hook on the handle but with a hook on the bottom which secures to a loop attached to the neck. In the last specie [sic], a hook isn't used. Instead, a projection is attached to the neck to secure to a races in the bottom portion.

The examiner made the lack of unity of invention requirement final and thus withdrew claims 7-9 and 12-14 from further consideration. Claims 1, 4, 6, and 11 were non-finally rejected over prior art, and claims 2, 3, 5, and 10 were objected to but indicated as having allowable subject matter.

On 11 July 2001, applicant amended independent claims 1 and 4 and added independent claim 15.

On 25 September 2001, the examiner issued a non-final Office action in which claims 1-6, 10, 11, and 15 were rejected on new grounds.

On 18 January 2002, applicant amended claims 1-4, 10, and 15.

On 10 April 2002, the examiner issued a final Office action in which claims 1-6, 10, 11, and 15 were rejected on new grounds.

On 09 July 2002, applicant filed a proposed amendment after final rejection which sought to cancel claim 15 and add claims 16-21 and which contained a request to reopen prosecution on

the basis of an improper lack of unity of invention requirement.

On 12 July 2002, the examiner issued an advisory action which denied entry of the proposed amendment filed on 09 July 2002 and which denied applicant's request to reopen prosecution.

On 23 July 2002, applicant filed a petition under 37 CFR 1.181 for withdrawal of the lack of unity of invention requirement.

On 12 August 2002, the examining group Director mailed a decision dismissing the 23 July 2002 petition.

On 01 October 2002, applicant filed the present petition under 37 CFR 1.181. The petition requests the Commissioner to reverse the 12 August 2002 decision of the examining group Director.

On 10 October 2002, applicant filed a notice of appeal of the final Office action mailed 10 April 2002.

DISCUSSION

Normally, the standard for review of an examining group Director's decision is based upon whether such decision is supported by a well-reasoned treatment of the facts and application of relevant rules. However, due to the examiner's lack of precision in making the lack of unity of invention requirement, this decision has been based upon a *de novo* review.

Because, the present application is a national stage application filed under 35 U.S.C. 371, it is governed by unity of invention practice. See MPEP 1893.03(d) and 37 CFR 1.499.

MPEP 1893.03(d) states in relevant part,

> When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.
>
> The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.

> A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For example, a corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key. Note also examples 1-17 of Annex B Part 2 of the PCT Administrative Instructions as amended July 1, 1992 contained in Appendix AI of the MPEP.
>
> * * *
>
> Note: the determination regarding unity of invention is made without regard to whether a group of inventions is claimed in separate claims or as alternatives within a single claim. The basic criteria for unity of invention are the same, regardless of the manner in which applicant chooses to draft a claim or claims.

The present petition states that the lack of unity of invention requirement was improper because the holding of a lack of unity of invention requires a search of the prior art when there are commonly recited technical features among the claims. (See petition, p.7, ¶1.) The petition cites PCT Administrative Instructions (AI), Annex B, as the authority for this assertion.

Assuming *arguendo* that the principles of PCT AI, Annex B, Part 1 apply to unity of invention practice in U.S. national stage applications, the lack of unity analysis should begin with the independent claims and, if necessary, proceed to the dependent claims.

PCT AI, Annex B, Part 1(c) states,

> Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of another claim and is in the same category of claim as that other claim (the expression "category of claim" referring to the classification of claims according to the subject matter of the invention claimed for example, product, process, use or apparatus or means, etc.)
>
> (i) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. Equally, no problem arises in the case of a genus/species situation where the genus claim avoids the prior art. Moreover, no problem arises in the case of a combination/subcombination situation where the subcombination claim avoids the prior art and the combination claim includes all the features of the subcombination.
>
> (ii) If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an

> objection of lack of unity *a posteriori* (that is, arising only after assessment of the prior art) may be raised. Similar considerations apply in the case of a genus/species or combination/subcombination situation.
>
> (iii) This method for determining whether unity of invention exists is intended to be applied even before the commencement of the international search. Where a search of the prior art is made, an initial determination of unity of invention, based on the assumption that the claims avoid the prior art, may be reconsidered on the basis of the results of the search of the prior art.

PCT AI, Annex B, Part 1(c)(iii) specifically sets forth that the determination of whether unity of invention exists is intended to be made before the international search in the international stage is conducted. PCT AI, Annex B, Part 1(c)(iii) further specifies that assumptions may be made in assessing whether the claims avoid the prior art, which provides further indication that a search is not a prerequisite for making a lack of unity of invention requirement. Whether the search was performed before or after the lack of unity determination does not affect the merits of the unity of invention requirement. To decide otherwise would exalt form over substance. Therefore, the examiner did not commit reversible error in making a lack of unity of invention requirement where an international search was performed in the international stage merely by not performing an additional prior art search in the national stage before making the lack of unity of invention requirement. In any event, as evidenced by the outstanding prior art rejection and by the International Search Report, the independent claims do not define any contribution over the prior art. More particularly, independent claims 1 and 4 have been rejected over prior art in the national stage application and have been found to lack inventive step during the international search. Because independent claims 1 and 4 do not define a contribution over the prior art, the independent claims by definition do not contain any special technical features.

As set forth in PCT AI, Annex B, Part 1(c)(ii), when the independent claims do not avoid the prior art, it must then be determined whether there remains an inventive link between the dependent claims. Such a determination is made *a posteriori*, i.e. after assessment of the prior art as set forth in PCT AI, Annex B, Part 1(c)(ii). Dependent claims 2, 3, and 5-7 contain technical features which are common to at least two of the groups of invention indicated by the examiner. It is noted that Group VII is generic to Group IV and is not considered a separate group. Claims 2, 3, and 5-7 were found to lack inventive step in the International Search Report. Thus, the determination as to whether these dependent claims share an inventive link was made after assessment of the prior art, i.e. after assessment of the International Search Report. Moreover, the examiner rejected the elected dependent claims 2, 3, 5, and 6 over prior art in the national stage application, which further evidences a lack of contribution over the prior art. Therefore, after assessment of the prior art, dependent claims 2, 3, and 5-7 have been determined to lack any special technical features.

With respect to the remaining dependent claims 8-14, these claims do not contain any common technical features (outside of the non-special technical features found in independent claim 4). This determination may be made without assessment of the prior art. To decide

otherwise would force the examiner to search and examine all of the claims to determine if unity of invention is present, thereby eliminating the rationale for making a lack of unity requirement whether or not unity of invention is ultimately found to be present. As the petition recognizes, the holding of a lack of unity of invention requires a search of the prior art only when there are commonly recited technical features among the claims. (See petition, p.7, ¶1, emphasis added). Because the common technical features of claims 8-14 are limited to those found within independent claim 4, and because independent claim 4 lacks any special technical features as discussed above, claims 8-14 similarly lack any common special technical features.

CONCLUSION

Independent claims 1 and 4 do not contain any special technical features, having been found to lack inventive step in the International Search Report and having been rejected over prior art in the national stage application. Dependent claims 2, 3, and 5-7, each of which contains subject matter common to at least two of the groups of invention indicated by the examiner, do not contain any special technical features, having been found to lack inventive step in the International Search Report and/or having been rejected over prior art in the national stage application. The remaining dependent claims 8-14 lack a common technical feature outside of the technical features in independent claim 4. Because the technical features in independent claim 4 are not special, i.e. they do not define a contribution over the prior art, claims 8-14 do not contain any common special technical features. Therefore, because claims 1-14 do not have any common special technical features, unity of invention is lacking.

Because the claims lack unity of invention based on the available evidence, any procedural error committed by the examiner on the holding of lack of unity of invention is harmless error and it was not unreasonable for the examining group director to have denied the 23 July 2002 petition for withdrawal of the lack of unity of invention requirement.

DECISION

For the reasons above, the present petition under 37 CFR 1.181 is DENIED.

This decision may be viewed as a final agency decision. See MPEP 1002.02.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to: 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.

Stephen G. Kunin
Deputy Commissioner for Patent Examination Policy

SGK:bst

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

JVN/ald.8

Paper No. 6

Office of Counsel (Patents)
Code 0205
David Taylor Research Center
Bethesda, MD 20084-5000

COPY MAILED

AUG 27 1991

DEPUTY ASST. COMM.

In re Application of
Blair M. Kipple, et al
Serial No. 07/661,932
Filed: February 28, 1991
Attorney Docket No. 71.838

ON PETITION

This is a decision on the petition, filed August 5, 1991, requesting refund of $8,460.

The petition is granted.

The application was filed with 55 claims (3 independent claims and 52 dependent claims). Forty one of the dependent claims were multiple dependent claims. The transmittal letter accompanying the application calculated the filing fee for this application to be $1,530 and authorized that amount to be charged to petitioner's deposit account. Additionally, the transmittal letter authorized any additional fee as may be required to also be charged to petitioner's deposit account. The filing fee was incorrectly calculated for the multiple dependent claims on the transmittal letter. Therefore, an additional $8,460 for the multiple dependent claims was charged to petitioner's deposit account as authorized.

Petitioner offers to file an amendment limiting the number of claims to 13, none of which would be a multiple dependent claim, if the Office could refund the $8,460.

This petition raises the question of whether a refund would be permitted by statute in situations where extra claim fees were charged to a deposit account based on claims presented in an application as filed, but later canceled before examination. 35 U.S.C. § 41 requires the Commissioner to charge for excess claims "on filing or on presentation at any other time ...."

Refunds of fees paid are authorized by 35 U.S.C. § 42(d), which provides that the Commissioner "may refund any fee paid by mistake

or any amount paid in excess of that required". It is further provided in 37 CFR § 1.26(a) that "[m]oney paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money ... will not entitle a party to demand such a return."

The facts of this case establish that the $8,460 was paid by mistake. The transmittal letter clearly envisioned a filing fee about $1,530, not the $9,990 filing fee actually due thereby evidencing that the $8,460 additional filing fee charged was paid by mistake. Since the petitioner has offered to cancel the multiple dependent claims prior to examination, it is appropriate to refund the $8,460. To the extent that 37 CFR § 1.26(a) would prohibit this refund due to "a change of purpose", that provision is waived in accordance with 37 CFR § 1.183.

The amendment filed on August 5, 1991 will be entered and $8,460 has been credited to Deposit Account No. 04-0814.

The application file is being forwarded to Group 230 for entry of the amendment.

Jeffrey V. Nase
Supervisory Petitions Examiner
Office of the Assistant Commissioner
for Patents

06 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of SHIMADA et al	:	
U.S. Application No.: 09/424,056	:	
Int. Application No.: PCT/JP99/01405	:	DECISION
Int. Filing Date: 19 March 1999	:	
Priority Date: 20 March 1998	:	
Attorney Docket No.: 104761	:	
For: PLASTIC BOTTLE WITH HANDLE	:	

This is in response to applicant's "Request for Reconsideration of Decision on Petition Under 37 C.F.R. § 1.181(a)(3) to Exercise the Supervisory Authority of the Commissioner" and "Request for Refund to Deposit Account" filed 09 May 2003.

FINDINGS OF FACT

The findings of fact are set forth in detail in the decision mailed 25 April 2003.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.181

The renewed petition states that the 25 April 2003 decision did not address the failure of the examiner to make a *prima facie* case of lack of unity of invention. Petitioner contends that such a failure requires the holding of lack of unity to be withdrawn and the examination of all claims on their merits. The renewed petition further states that the failure of the 25 April 2003 decision to address this point effectively denied applicants procedural and substantive due process under the Administrative Procedures Act.

The lack of unity of invention requirement was reviewed *de novo* by the Deputy Commissioner for Patent Examination Policy in the 25 April 2003 decision. Such *de novo* review revealed that claims 1-14 do not have any common special technical features and therefore lack unity of invention. As indicated in the 25 April 2003 decision, because the claims lack unity of invention, the examiner's precision in making the lack of unity of invention requirement still does not warrant a conclusion that the claims do not lack unity of invention, and therefore applicants are not entitled to an examination of all the claims on the merits.

Additionally, the renewed petition cites a decision by the European Patent Office (EPO) Board of Appeal (EPO Boards of Appeal, Case number W 0012/89 - 3.3.1) to support the notion that the EPO, with a view towards giving applicant fair treatment, does not assume that the claims contain no special technical features even where the International Search Report indicates that certain claims lack novelty. As an initial matter, it is noted that decisions of the EPO do not establish precedent for USPTO practice. In addition, the EPO Board of Appeal based its decision at least in part on its disagreement with the International Searching Authority's determination that unity of invention was lacking. In contrast, the claims in petitioner's case were found by both the examiner and by the review authority to lack unity of invention. As stated in the 25 April 2003 decision, whether the search was performed before or after the lack of unity requirement is made cannot be a determining factor as to whether the claims actually lack unity of invention. To decide otherwise would exalt form over substance. Since applicant's claims have been shown to lack unity of invention in view of the prior art, the examination of fewer than all of the claims on the merits does not deny applicant fair treatment.

II. Request for Refund

Applicant requests a refund of the $1,970.00 fee for a five-month extension of time for submission of the appeal brief. The request for refund states that applicant could not file an appeal brief until a decision on the 01 October 2002 petition under 37 CFR 1.181 was rendered. The request states that the petition decision had to be received before filing the appeal brief because the petition addressed the issues on which the appeal brief was to be based and thus the grounds of appeal would be significantly different depending on the outcome of the petition.

35 U.S.C. 42(d) states, "The Director may refund any fee paid by mistake or any amount paid in excess of that required." In the present case, the fee for a five-month extension of time was paid neither by mistake or in excess of the amount required. Rather, a fee is required by law (35 U.S.C. 41(a)(8)) to extend the period for filing an appeal brief. Thus, applicant is not entitled to a refund of such fee under 35 U.S.C. 42(d).

Furthermore, applicant has not adequately demonstrated that it was necessary for the decision on the 01 October 2002 petition to precede the filing of the appeal brief. The same appeal brief filed 09 May 2003 could have been filed within two months from the filing of the notice of appeal. See 37 CFR 1.181(f) (the mere filing of a petition will not stay any period for reply that may be running against the application nor act as a stay of other proceedings.) Thus, a refund of the five-month extension of time fee for filing the appeal brief is not indicated in the present case.

DECISION

For the reasons in §I above, the renewed petition under 37 CFR 1.181 is DENIED.

For the reasons in §II above, the request for refund is DENIED.

This decision may be viewed as a final agency decision. See MPEP 1002.02.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Stephen G. Kunin
Deputy Commissioner for Patent Examination Policy

SGK:bst

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

MAY 2 2000

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
CRYSTAL SQUARE FIVE FOURTH FLOOR
ARLINGTON, VA 22202

In re Application of VANDERBIST et al. Application No.: 09/424,247 PCT No.: PCT/BE98/00064 Int. Filing Date: 07 May 1998 Priority Date: 07 May 1997 Attorney Docket No.: 4068-0002-0 PCT For: DRY POWDER INHALER EXCIPIENT, PROCESS FOR ITS PREPARATION AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT	DECISION ON PETITIONS FOR REVIVAL UNDER 37 CFR §1.137(b) and TO ACCEPT DECLARATION UNDER 37 CFR §1.47(a)

This is a decision on applicants' "Petition to Revive An Unintentionally Abandoned Application Under 37 CFR §1.137(b)" and "Petition to Accept Declaration Under 37 CFR §1.47(a)" requesting the acceptance of the application without the signature of named inventor, Paul Maes. Both petitions were filed 30 November 1999 in the above-captioned application.

BACKGROUND

On 07 May 1998, applicants filed international application No. PCT/BE98/00064 which claimed a priority date of 07 May 1997, and which designated the United States.

No Demand was filed and 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 to expire 20 months from the priority date, at midnight 07 January 1999.

On 30 November 1999, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, basic national filing fee, a

petition to revive an unintentionally abandoned application under 37 CFR §1.137(b) and a petition to accept Declaration under 37 CFR §1.47(a).

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 delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR §1.137(c).

As to Item (1), the proper reply, the basic national fee of $840.00, was submitted. With regard to Item (2), the appropriate petition fee of $1,210.00 was provided.

With regard to item (3), applicants' statement that "the entire delay in filing this application in the U.S. Patent Office from the due date for entering the national stage 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 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.

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 non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Per applicants' authorization the $130 petition fee will be charged to applicants' deposit account no. 15-0030 to satisfy Item (1), the payment of the petition fee.

Regarding Item (3), the declaration proved gives last known address of the non-signing inventor, Paul Maes.

Regarding item (4) above, the declaration executed by Mr. Francis Vanderbist and Mr. Philippe Baudier is acceptable since it is clear that the co-inventors signed the declaration on behalf of the nonsigning inventor, Mr. Maes.

With regard to Item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), **Proof of Unavailability or Refusal**, 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.

No affidavit or declaration has been provided with the petition under 37 CFR §1.47(a). What is required is the declaration of co-inventor Philippe Baudier, the person having firsthand knowledge of Paul Maes' refusal to sign, providing details of the *bona fide* attempt that was made to present a copy of the declaration to the non-signing inventor for his signature. The petition itself indicates that Mr. Baudier forwarded a letter to Mr. Maes, dated September 27, 1999 in an effort to obtain Mr. Maes signature on the declaration and assignment forms. However, a copy of said letter from Mr. Baudier to Mr. Maes is not attached and referenced.

A copy of the envelope allegedly sent to Mr. Maes from Mr. Baudier was attached to the petition. The envelope was marked "Return to Sender" and "Moved Refused 1 October 1999". There is no indication that these notations were made by Mr. Maes. It appears that the address label covers a portion of the "Return to Sender" label. No explanation is given for this.

Furthermore, the label is addressed to Paul Maes at an address in Ontario, Canada. This is not the address listed for Paul Maes in either the publication or the declaration and no explanation is provided. It is not clear from the petition or the envelope itself that Mr. Maes refused to sign the declaration. Also attached to the petition is what appears to be a mailing receipt to Paul Maes; however, the receipt carries no receipt number or date-stamp nor is there any explanation as to its significance. The circumstances of Mr. Maes refusal have not clearly been provided as required under 37 CFR §1.47(a).

Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.137(b) is **GRANTED**.

The petition under 37 CFR §1.47(a) is **DISMISSED** without prejudice.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) 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 §1.47(a)." No additional petition fee is required. 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 Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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

NOV 29 2000

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
CRYSTAL SQUARE FIVE FOURTH FLOOR
ARLINGTON, VA 22202

In re Application of VANDERBIST et al. Application No.: 09/424,247 PCT No.: PCT/BE98/00064 Int. Filing Date: 07 May 1998 Priority Date: 07 May 1997 Attorney Docket No.: 4068-0002-0 PCT For: DRY POWDER INHALER EXCIPIENT, PROCESS FOR ITS PREPARATION AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT	DECISION ON REQUEST FOR RECONSIDERATION OF PETITION TO ACCEPT DECLARATION UNDER 37 CFR §1.47(a)

This is a decision on applicants' "Request for Reconsideration of Decision to Dismiss Petition Declaration of Philippe Baudier and Request for Extension of Time" requesting the acceptance of the application without the signature of named co-inventor, Paul Maes. The reconsideration was filed 27 September 2000 in the above-captioned application. The request for three month extension of time was accompanied by the appropriate fee and is granted.

BACKGROUND

On 07 May 1998, applicants filed international application No. PCT/BE98/00064 which claimed a priority date of 07 May 1997, and which designated the United States.

No Demand was filed and 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 to expire 20 months from the priority date, at midnight 07 January 1999.

On 30 November 1999, applicants filed a transmittal letter for entry into the national

stage in the United States which was accompanied by, *inter alia*, basic national filing fee, a petition to revive an unintentionally abandoned application under 37 CFR §1.137(b) and a petition to accept Declaration under 37 CFR §1.47(a).

In a decision mailed 02 May 2000, the petition to revive was granted; however, the petition to accept declaration under 37 CFR §1.47(a) was dismissed on the grounds that applicant had failed to provide factual proof that the non-signing joint inventor, Paul Maes, refused to execute the application or could not be reached after diligent effort.

On 27 September 2000, applicants' filed the instant Request for Reconsideration of Decision to Dismiss Petition Declaration of Philippe Baudier and Request for Extension of Time. The Reconsideration was accompanied by a declaration of Philippe Baudier and exhibits. The Exhibits include (1) an alleged assignment, written in French, from nonsigning inventor Paul Maes to Pharlyse, (2) a copy of an envelope addressed to Paul Maes, at Biovail Corporation International, marked "MOVED REFUSED 1 OCT 1999", (3) an envelope addressed to Paul Maes, at his last known residence as noted on the publication bearing a Belgium postmark of 14 July 2000 and (4) 14 August 2000 facsimile letter from Paul Maes, written in French, to Philippe Baudier.

DISCUSSION

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration **by the person to whom the refusal was made.** Statements by a party not present when an oral refusal is made will not be accepted. [Emphasis added.]
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or

> declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Furthermore, an application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning inventor. (See MPEP 409.03(e).) Mr. Baudier' affidavit indicates that Mr. Maes has provided a new address, at which he can be reached.

Here, Petitioner submitted an affidavit as to Facts under 37 CFR § 1.47(a)(2) executed by Philippe Baudier. Mr. Baudier's declaration indicates that on September 27, 1999, a letter was sent to Mr. Maes, in an effort to obtain Mr. Maes' signature (¶4). However, a copy of said letter is not attached (with an English language translation if necessary). Mr. Baudier does not profess first hand knowledge of the letter, that is, there is no indication that Mr. Baudier wrote the letter, knew the contents of the letter or that the correspondence included a complete copy of the application (that is, specification, claims and drawings for this application).

Petitioner has not demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 09/424,247 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature, sent to his last known address or identified Mr. Maes' refusal to sign, either in writing or by telephone.

The affidavit also advises that the French language facsimile, dated 14 August 2000, (Ex.4) indicates "that Paul Maes can be contacted at that location [another address for another Biovail facility" (¶7) and "since Paul Maes left SMB/Galephar Company for Biovail, he has attempted to obtain money in exchange for his signature on any further documents required for this application" (¶8). This is not evidence that Mr. Maes cannot be found or reached or that he refuses to sign. Mr. Baudier attests that the facsimile reveals Mr. Maes can be contacted at his new place of employment, at a U.S. address in Virginia, however, the evidence of record does not show that any attempt has been made to contact Mr. Maes at this address.

The exhibits, attached to the affidavit, do not illuminate the matter of Mr. Maes' refusal. Exhibit 1 is alleged to be an assignment from Paul Maes to Pharlyse. However, the document is written in French and is not accompanied by an English language translation. It is also noted that no assignment has been recorded in this application.

As for Exhibit 2, the label is addressed to Paul Maes at an address in Ontario, Canada which Mr. Baudier indicates was considered to be Mr. Maes' new employer's address. It is not clear from the petition or the envelope itself that Mr. Maes refused to sign the application. As part of Exhibit 2, a mailing receipt to Paul Maes is provided; however, the receipt carries no receipt number or date-stamp nor is there any explanation as to its significance. The circumstances of Mr. Maes' refusal have not clearly been provided by Exhibit 2, as required under 37 CFR §1.47(a).

Exhibit 3 is a copy of the envelope allegedly sent to Mr. Maes from Mr. Baudier, attached to the petition. The envelope was marked "Return to Sender" and "Moved Refused 1 October 1999". There is no indication that these notations were made by Mr. Maes. It appears that the address label covers a portion of the "Return to Sender" label. No explanation is given for this. In light of the above referenced facsimile which indicates a new address for Mr. Maes. Exhibit 3 does not provide evidence of refusal to sign.

In sum, the evidence submitted does not support a finding that the nonsigning inventor could not be found or reached or that he refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED** without prejudice.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) 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 §1.47(a)." No additional petition fee is required. Any further extensions of time available 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 Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard E. Smith
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/LES:cmk

Telephone 703-306-5467

SEP 2 5 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
CRYSTAL SQUARE FIVE FOURTH FLOOR
ARLINGTON, VA 22202

In re Application of VANDERBIST et al. Application No.: 09/424,247 PCT No.: PCT/BE98/00064 Int. Filing Date: 07 May 1998 Priority Date: 07 May 1997 Attorney Docket No.: 4068-0002-0 PCT For: DRY POWDER INHALER EXCIPIENT, PROCESS FOR ITS PREPARATION AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT	DECISION ON REQUEST FOR RECONSIDERATION OF PETITION TO ACCEPT DECLARATION UNDER 37 CFR §1.47(a)

This is a decision on applicants' "Request for Reconsideration of Decision on Request for reconsideration of Petition to Accept Declaration under 37 CFR 1.47(a)" requesting the acceptance of the application without the signature of named co-inventor, Paul Maes. The reconsideration was filed 29 May 2001 in the United States Patent and Trademark Office (USPTO) in the above-captioned application. The request for reconsideration was accompanied by a "Request for Extension of Time" of four months, which is granted.

BACKGROUND

On 30 November 1999, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, basic national filing fee, a petition to revive an unintentionally abandoned application under 37 CFR §1.137(b), a declaration executed by two of the three named inventors and a petition to accept Declaration under 37 CFR §1.47(a).

In a decision mailed 02 May 2000, the petition to revive was granted; however, the petition to accept declaration under 37 CFR §1.47(a) was dismissed on the grounds that applicant had failed to provide factual proof that the non-signing joint inventor, Paul Maes, refused to execute the application or could not be reached after diligent effort.

On 27 September 2000, applicants' filed a Request for Reconsideration of Decision to Dismiss Petition under 37 CFR 1.47(a). The Reconsideration was accompanied by a declaration of Philippe Baudier and exhibits. The Exhibits include (1) an alleged assignment, written in French, from nonsigning inventor Paul Maes to Pharlyse, (2) a copy of an envelope addressed to Paul Maes, at Biovail Corporation International, marked "MOVED REFUSED 1 OCT 1999", (3) an envelope addressed to Paul Maes, at his last known residence as noted on the publication bearing a Belgium postmark of 14 July 2000 and (4) 14 August 2000 facsimile letter from Paul Maes, written in French, to Philippe Baudier.

In a decision mailed on 29 November 2000, applicants' request for reconsideration was dismissed without prejudice on the grounds that applicant had failed to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 09/424,247 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature, sent to his last known address or identified Mr. Maes' refusal to sign, either in writing or by telephone.

On 29 May 2001, applicants filed a "Request for Reconsideration of Decision on Request for reconsideration of Petition to Accept Declaration under 37 CFR 1.47(a)" and "Request for Extension of Time" along with the appropriate fees and copies of relevant correspondence. Counsel also included a copy of an English translation of the assignment.

On 31 May 2001, applicant supplemented the request for reconsideration with a copy of a document entitled "Invention Process" signed by Francis Vanderbist and Philippe Baudier.

DISCUSSION

In his petition, counsel for applicant states that on 20 March 2001, he forwarded a copy of the application to Paul Maes. Petitioner has now demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 09/424,247 (specification, including claims, drawings, and a combined declaration and power of attorney) to the nonsigning inventor for his signature. Mr. Maes' reply dated 26 March 2001 indicates that he received the application.

Along with the request for reconsideration, counsel submitted copies of a series of written exchanges between himself and the non-signing inventor, including copies of his correspondence to Mr. Maes dated 20 March, 28 March, 29 March (with attached corrected declaration and power of attorney), 11 April, 19 April, and 11 May 2001. Counsel also included copies of letters, emails or facsimiles from Mr. Maes to counsel dated 26 March, 28 March, 30 March, 06 April, 27 April, 10 May, and 25 May 2001.

However, the evidence submitted with the request for reconsideration does not support the conclusion that Mr. Maes refuses to sign. Specifically, Mr. Maes' letter dated April 27, 2001 states, in pertinent part,: "I never said that I wouldn't sign the declaration, but given your history with Mr. Baudier and 'again' your apparent attempt to potentially remove my name from one of my inventions, **I have difficulty in giving you any power of attorney**." [Emphasis added.]

This statement of Mr. Maes is not considered a refusal to sign the application but a refusal to give counsel power of attorney to prosecute the application. Although counsel's numerous letters continue to request Mr. Maes' signature on the declaration, in actuality, counsel has requested Mr. Maes' signature on a combined declaration and power of attorney, provided by counsel. The inventor is not required to sign a power of attorney but to sign a declaration to continue prosecution of this case. Therefore, it cannot be concluded that the nonsigning inventor's conduct constitutes a refusal given the facts provided by the documentary evidence (Mr. Maes' letter).

Furthermore, counsel's petition does not satisfy 37 CFR 1.47(a) in that it does not Mr. Maes' last known address.

In sum, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) 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 §1.47(a)." No additional petition fee is required. Any further extensions of time available 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 Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/BM:cmk

Telephone 703-306-5467

31 MAY 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT
1755 JEFFERSON DAVIS HIGHWAY
CRYSTAL SQUARE FIVE FOURTH FLOOR
ARLINGTON, VA 22202

In re Application of VANDERBIST et al. Application No.: 09/424,247 PCT No.: PCT/BE98/00064 Int. Filing Date: 07 May 1998 Priority Date: 07 May 1997 Attorney Docket No.: 4068-0002-0 PCT For: DRY POWDER INHALER EXCIPIENT, PROCESS FOR ITS PREPARATION AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT	DECISION ON RENEWED PETITION UNDER 37 CFR §1.47(a)

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" originally filed 23 January 2002 in the United States Patent and Trademark Office (USPTO) in the above-captioned application, a copy of which was filed via facsimile on 07 May 2002. The renewed petition was accompanied by a "Request for Extension of Time" of two months, which is granted.

On 25 September 2001, a decision on applicant's petition under 37 CFR 1.47(a) was mailed to applicant indicating that the requirements of 37 CFR 1.47(a) had not been met and thus, the declaration could not be accepted without the signature of applicant/inventor Paul Maes.

On 07 May 2002, applicants submitted the instant communication with a copy of the USPTO itemized postcard receipt date-stamped "Jan 23 2002" indicating that a renewed petition under 37 CFR 1.47(a) and a declaration signed by applicant/inventor Paul Maes were filed on 23 January 2002 along with a request for a two month extension of time.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration for 09/424,247 was deposited with the USPTO on 23 January 2002. A review of the finance records for 09/424,247 indicates that the fee for a two month extension of time was paid on 23 January 2002.

The evidence submitted, which includes a copy of a postcard receipt with a USPTO mailroom stamped date of 23 January 2002 itemizing a "Combined Declaration, Petition and Power of Attorney" for "09/424,247", is sufficient to establish that the declaration for this application was received in the USPTO on 23 January 2002. The communication filed 07 May 2002 includes a copy of the declaration. Accordingly, it is appropriate to accept the copy of the

declaration as a replacement for the missing original declaration with a deposit date of 23 January 2002. Applicant's communication is considered responsive to an Office decision mailed on 25 September 2001.

A review of the declaration submitted on 23 January 2002 indicates that a declaration is executed by inventor Paul Maes only, who was previously alleged to be uncooperative. However, on page 4 of the declaration, a line has been drawn through the box dedicated to the third named inventor, Phillippe Baudier. This page has been initialed at the bottom. With this marking on the declaration, the declaration does not identify all the inventors as listed on the international application. Therefore, it does not comply with 37 CFR 1.497 and is unacceptable.

What is required is a new declaration executed by Paul Maes, which identifies all the inventors as listed on the international application or in the alternative, a renewed petition under 37 CFR 1.47(a). The renewed petition must include the last known address of the inventor Paul Maes and evidence of Mr. Maes' refusal to sign a declaration which identifies the inventors as listed on the international application.

Applicant has **TWO** (2) months within which to file a response. 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, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/BM:cmk

Telephone 703-306-5467

31 MAR 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

LOWE HAUPTMAN GILMAN & BERNER
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VA 22314

In re Application of VANDERBIST et al. Application No.: 09/424,247 PCT No.: PCT/BE98/00064 Int. Filing Date: 07 May 1998 Priority Date: 07 May 1997 Attorney Docket No.: 4619-009 For: DRY POWDER INHALER EXCIPIENT, PROCESS FOR ITS PREPARATION AND PHARMACEUTICAL COMPOSITIONS CONTAINING IT	DECISION ON RESPONSE UNDER 37 CFR §1.497

This is a decision on applicants' "Response on Renewed Petition under 37 CFR 1.47(a)" originally filed 30 October 2002 in the United States Patent and Trademark Office (USPTO) in the above-captioned application, a copy of which was filed via facsimile on 13 January 2003. The response is treated as a petition under 37 CFR 1.497. The renewed petition was accompanied by a "Request for Extension of Time" of three months, which is granted.

The long procedural history of this application will not be reiterated here as it has been set forth in earlier decisions. Suffice it to say that on 07 May 2002, applicants submitted a communication with a copy of the USPTO itemized postcard receipt date-stamped "Jan 23 2002" indicating that a renewed petition under 37 CFR 1.47(a) and a declaration signed by applicant/inventor Paul Maes were filed on 23 January 2002 along with a request for a two month extension of time. A declaration executed by the joint inventors Francis Vanderbist and Philippe Baudier was submitted on 30 November 1999.

A review of the 23 January 2002 declaration indicated that the declaration was executed by inventor Paul Maes only, who was previously alleged to be uncooperative. However, on page 4 of the declaration, a line was drawn through the box dedicated to the third named inventor, Philippe Baudier. This page was initialed at the bottom. With this marking on the declaration, the declaration did not identify all the inventors as listed on the international application and therefore, it did not comply with 37 CFR 1.497 and was unacceptable.

On 30 October 2002, applicant filed the instant response along with (1) request for a three month extension of time; (2) a newly executed declaration and appointment of attorney signed by Paul Maes; (3) revocation of power of attorney and appointment of new agent; and (4) notification of change of name and address.

The declaration submitted on 30 October 2002 is executed by Paul Maes and identifies each inventor and states the citizenship, residency and mailing address of each inventor on the declaration. Thus, the declaration now meets the requirements of 37 CFR 1.497.

For the above reasons, the request to accept the declaration under 37 CFR 1.497 is granted.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **30 October 2002.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467
Facsimile: 703-308-6459

CMK:cmk

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 20 2000

Thomas T. Moga
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of John W. WONG et al. Application No.: 09/424,431 PCT No.: PCT/US98/10389 Int. Filing Date: 22 May 1998 Priority Date: 23 May 1997 Attorney's Docket No.: 2873-000022/USA For: METHOD AND APPARATUS FOR DELIVERING RADIATION THERAPY DURING SUSPENDED VENTILATION	DECISION ON PETITION UNDER 37 CFR 1.48(a)

This decision is in response to the "Response to Notification of Missing Requirements Under 35 U.S.C. 371" filed 16 March 2000. The "Response to Notification of Missing Requirements" is being treated as a petition under 37 CFR 1.48(a) to add inventor John R. MUSSELWHITE. The requisite petition fee under 37 CFR 1.17(i) of $130.00 has been charged to Deposit Account No. 08-0750 per the authorization found in the 16 March 2000 "Response to Notification of Missing Requirements."

BACKGROUND

On 22 May 1998, applicants filed international application PCT/US98/10389, which claimed priority to U.S. provisional application 60/063,454, filed 23 May 1997. A Demand for international preliminary examination, in which the United States was elected, was filed 18 December 1998. Accordingly, the thirty month period for paying the basic national fee in the United States in accordance with 37 CFR 1.495(b), expired at midnight on 23 November 1999.

On 23 November 1999, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic national fee, as well as the requisite surcharge for furnishing the oath or declaration later than thirty months from the earliest claimed priority date.

On 24 January 2000, the United States Designated/Elected Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 was required. The Notification set a one (1) month period for response.

On 16 March 2000, applicants submitted a "Response to Notification of Missing Requirements Under 35 U.S.C. 371." The Response included, *inter alia*, a petition and requisite fee for a one month extension of time and a Declaration and Power of Attorney executed by inventors John W. WONG, David A. JAFFRAY, and Michael B. SHARPE originally listed in the international application, and also executed by additionally listed inventor John R. MUSSSELWHITE, and authorization to charge any other necessary fees.

DISCUSSION

A petition under 37 CFR 1.48(a) must be accompanied by (1) a petition including a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (2) an oath or declaration by the 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) if an assignment has been executed by any of the original inventors, the written consent of the assignee (see 37 CFR 3.73(b)). The petition lacks items (1) and (4) above.

With regard to item (1), the petition lacks a statement from John R. MUSSELWHITE that the error in inventorship occurred without deceptive intention on his part.

With regard to item (4), MPEP 201.03 states in part:

> The written consent of every existing assignee of the original inventors must be submitted. 37 CFR 1.48(a)(4). 37 CFR 1.48(a) does not limit assignees to those who are recorded in the Patent and Trademark Office records. The Office employee deciding the petition should check the file record for any indication of the existence of an assignee (e.g., a small entity statement from an assignee).
>
> Where no assignee exists petitioner should affirmatively state that fact. If the file record including the petition is silent as to the existence of an assignee it will be presumed that no assignee exists. Such presumption should be set forth in the decision to alert petitioners to the requirement.

In the present case, the "Response to Notification of Missing Requirements" submitted 16 March 2000 included an assignment to William Beaumont Hospital and the international application lists William Beaumont Hospital as an applicant. Such designations appear to

application lists William Beaumont Hospital as an applicant. Such designations appear to indicate a proprietary interest in William Beaumont Hospital and create a presumption of the existence of an assignee. If such presumption is correct, the written consent of the assignee is required to satisfy the requirements of 37 CFR 1.48(a). If such presumption is not correct, petitioner should affirmatively state that no assignee exists. Petitioner has not provided either the written consent of the assignee or a statement that no assignee exists.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.48(a) is DISMISSED.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to provide the proper reply will result in abandonment of the present application. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper reply must include: 1) a statement from Mr. Musselwhite that the error in inventorship occurred without deceptive intent on his part and 2) written consent of the assignee as discussed above.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner of Patents, Box PCT, Washington, D.C., 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Kimberly Jordan
PCT Legal Detailee
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

FEB 1 3 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas T. Moga
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	
John W. Wong et al	:	DECISION ON
Application No.: 09/424,431	:	
PCT No.: PCT/US98/10389	:	REQUEST UNDER
Int. Filing Date: 22 May 1998	:	
Priority Date: 22 May 1997	:	37 CFR 1.48(a)
Attorney Docket No.: 2873-000022/USA	:	
For: METHOD AND APPARATUS FOR	:	
DELIVERED RADIATION THERAPY DURING	:	
SUSPENDED VENTILATION		

This is a decision on applicants' "Response to Decision on Petition Under 37 CFR 1.48" filed on 09 November 2000, naming an additional inventor in the executed declaration.

BACKGROUND

On 16 March 2000, applicants' response to Notification of Missing Requirements, which was treated as a petition under 37 CFR 1.48(a) to add an inventor was dismissed. The Office's decision mailed on 20 June 2000 stated that the petition lacked requirements (1) and (4) under 37 CFR 1.48(a).

On 09 November 2000, applicants filed the instant renewed request.

DISCUSSION

A petition under 37 CFR 1.48(a) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or 1.47;
(3) the fee set forth in § 1.17(I); and
(4) written consent of the assignee in compliance with 37 CFR 3.73(b), if an assignment has been executed by any of the original named inventors.

The 16 March 1999 petition satisfied requirements (2) and (3). The renewed petition has satisfied item (1).

In regards to item (1), the statement submitted on 09 November 2000 by Mr. Musselwhite is sufficient because he states that the error in inventorship occurred without a deceptive intent.

In regards to item (4), although petitioner has supplied a "Copy of the Cover Sheet for Recordal of Document," contrary to Mr. McAskin's statement, no copy of the executed assignment has been submitted with the papers filed. To establish the right of Assignee to take action, petitioner must submit a copy of the executed assignment or specify the reel and frame number. Furthermore, such submission must be signed by a party authorized to act on behalf of the assignee. Note MPEP 324 and 37 CFR 3.73(b).

Accordingly, the applicants are deemed not satisfy requirement (4) under 37 CFR 1.48(a).

Finally, the "Revocation of Power of Attorney and New Power of Attorney" filed on 09 November is ineffective because petitioner has not established the right of the Assignee to take action in this application for reasons indicated above.

CONCLUSION

For the reasons above, the request under 37 CFR 1.48(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.48". No additional petition fee is required. 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 Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office..

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

AUG 14 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas T. Moga
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of John W. Wong et al Application No.: 09/424,431 PCT No.: PCT/US98/10389 Int. Filing Date: 22 May 1998 Priority Date: 22 May 1997 Attorney Docket No.: 2873-000022/USA For: METHOD AND APPARATUS FOR DELIVERED RADIATION THERAPY DURING SUSPENDED VENTILATION	DECISION ON REQUEST UNDER 37 CFR 1.48(a)

This is a decision on applicants' "Renewed Request Under 37 CFR 1.48" filed on 16 April 2001, naming an additional inventor in the executed declaration.

BACKGROUND

In a decision of this Office on 13 February 2001, the decision stated that the application had satisfied requirements (1)-(3) of 37 CFR 1.48. However, requirement (4) of 37 CFR 1.48(a) was not satisfied because no copy of the executed assignment had been submitted with the papers filed.

On 16 April 2001, applicants filed the instant renewed request.

DISCUSSION

A request under 37 CFR 1.48(a) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or 1.47;
(3) the fee set forth in § 1.17(I); and
(4) written consent of the assignee in compliance with 37 CFR 3.73(b), if an assignment has been executed by any of the original named inventors.

The 16 March 1999 and 09 November 2000 petitions have satisfied requirements (1) - (3). The renewed petition has satisfied requirement (4).

In regards to requirement (4), Mr. McAskin's has submitted a true copy of the executed assignment of 17 February 2000 in favor of William Beaumont Hospital and have established their right to take action under 37 CFR §3.73(b).

Accordingly, the applicants are deemed to satisfy requirement (1)-(4) under 37 CFR 1.48(a).

CONCLUSION

For the reasons above, the REQUEST under 37 CFR 1.48(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 Notification of Acceptance (Form PCT/DO/EO/903). The 35 USC 371 date of this application is **16 March 2000**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anderson, Kill & Olick, P.C.
1251 Avenue of the Americas
New York, NY 10020-1182

COPY MAILED
MAR 1 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Lior Rosenberg	:	
Application No. 09/424,499	:	ON PETITION
Filed: February 28, 2000	:	
Attorney Docket No. 4128	:	

This is a decision on the petition filed January 4, 2005, under 37 CFR 1.137(a) or in the alternative, under 37 CFR 1.137(b), to revive the above-identified application.

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

The petition under 37 CFR 1.137(b) is **GRANTED.**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (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). The instant petition lacks item (3).

A final Office was mailed to applicant on February 25, 2004 that set a three-month shortened statutory period within which to submit a reply. A reply was filed via certificate of mailing under the provisions of 37 CFR 1.8 on June 25, 2004. However, the reply did not place the application in condition for allowance. Therefore, the application became abandoned on June 26, 2004.

---

[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.

Petitioner argues that the Advisory Action was not mailed until after the six-month statutory period for response expired and as a result, applicant did not have an opportunity to take further action. Petitioner believes the Examiner's failure to provide any communication prior to the expiration of the statutory period, which prevented applicant from taking further action, was unavoidable.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711.03(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

MPEP 711.03(c)(III)(C)(2) in pertinent part states:

> "Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *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. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. **Finally, 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**: (A) the applicant's reliance upon oral advice from USPTO employees; or **(B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).**" (Emphasis added)

In accordance with the above, the failure to receive an Advisory Action before the end of the six-month statutory period is not deemed unavoidable.

Nevertheless, the instant petition meets the requirements set forth in 37 CFR 1.137(b), with regard to unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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).

Since the Office has considered petitioner's arguments for unavoidable delay, the petition fee of $250 tendered with the instant petition will be retained. Additionally, the unintentional petition fee of $750 will be charged to petitioner's deposit account. Moreover, the Office failed to charge petitioner a one-month extension of time fee when the reply to the final Office action was received. Therefore, the $55 one-month extension of time fee will also be charged to petitioner's deposit account.

The application file is being referred to Technology Center 3700 for review of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUN 27 2000

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111

In re Application of	
FARMER, et al	
PCT Application No.: PCT/US98/11347	DECISION ON
Int. Filing Date: 03 June 1998	
Priority Date: 03 June 1997	PETITION UNDER
Attorney's Docket No.: 19374-503	
For: PROBIOTIC LACTIC ACID BACTERUIM TO TREAT BACTERIAL INFECTIONS ASSOCIATED WITH SIDS	37 CFR 1.47(a) AND NOTICE OF REFUND

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47(a)-(b)" filed 14 April 2000, which has been treated as a petition under 37 CFR 1.47(a) to accept the above-identified national stage application without the signature of co-inventor Robert J. Mikhail (Mikhail). The requisite $130.00 petition fee has been submitted.

BACKGROUND

On 03 June 1998, applicants filed international application number PCT/US98/11347, which claimed priority to a prior United States application which was filed on 03 June 1997. A DEMAND for international preliminary examination, in which the United States of America (US) was elected, was timely filed on 04 January 1999. Accordingly, the thirty month period for paying the basic national fee in the US expired at midnight on 03 December 1999.

On 23 November 1999, applicant filed a transmittal letter for entry into the national stage in the US, which was accompanied by, inter alia, a check in the amount of $1,720.00. The transmittal letter indicated that the $1,720.00 check was intended to cover, inter alia, a basic national fee of $930.00 and a surcharge of $130.00 as required

by 37 CFR 1.492(e) for filing an oath or declaration later than 30 months from the earliest priority date. An oath or declaration as required by 35 USC 371(c)(4) was not filed.

On 24 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 USC 371 (Form PCT/DO/EO/905) indicating, inter alia, that an oath or declaration must be filed. The notification set a one month time limit in which to respond.

In order to satisfy the requirements of 35 USC 371(c)(4), applicant Sean Farmer (Farmer) filed, inter alia, on 14 April 2000 the following papers:

1) a transmittal letter;

2) a "PETITION UNDER 37 C.F.R. §1.47(a)-(b)" signed by Farmer, stating that Farmer made a diligent attempt to contact Mikhail via US mail and electronic mail, and giving Mikhail's last known address ;

3) the required $130.00 petition fee under 37 CFR 1.17(i);

4) a declaration naming only Farmer as an inventor and signed only by Farmer.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the nonsigning inventor refuses to execute the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the nonsigning joint inventor. Applicant has satisfied items (1) and (3) above.

With regard to item (2) above, section 409.13(d) **Proof of Unavailability or Refusal** of the Manual of Patent Examining Procedure (MPEP) 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.

* * * * * * * * * * *

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made.

* * * * * * * * * * *

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.

* * * * * * * * * * *

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Farmer concludes in the "PETITION UNDER 37 C.F.R. §1.47(a)-(b)" that he has made a diligent attempt to contact Mikhail by US mail and by electronic mail. Yet, Farmer does not fully describe the exact facts which are relied on to establish that a diligent effort was made to find or reach Mikhail. Farmer does not include copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor, Mikhail, could not be found or reached. Further, Farmer has not demonstrated that a *bona fide* attempt was made to provide a copy of the application papers, including the specification, drawings, claims, and oath or declaration, to Mikhail for his signature.

With regard to item (4) above, section 409.03(a) **At Least One Joint Inventor Available** of the Manual of Patent Examining Procedure (MPEP) states, in part:

[A]n application deposited in the Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:

(A) All the available joint inventors must (1) make oath or declaration on their own behalf . . . . and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Further, 37 CFR 1.497 entitled **Oath or declaration under 35 USC 471(c)(4)** states, in part:

(a) When an applicant of an international application desires to enter the national stage under 35 USC 371 pursuant to §§ 1.494 or 1.495, he or she must file an oath or declaration that . . . . (3) Identifies each inventor and the country of citizenship of each inventor; and

The declaration filed on 14 April 2000, does not identify each inventor and the country of citizenship of each inventor as required by 37 CFR 1.497(a)(3). Specifically, the declaration does not identify inventor Mikhail. Further, the declaration was not made on behalf of the nonsigning inventor, Mikhail.

Accordingly, since items (2) and (4) have not been satisfied, it is inappropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

Additionally, it is noted that 37 CFR 1.26 states, in part that any fee paid in excess of that required will be refunded. Further, the applicant incorrectly paid $670.00 for the basic national fee on 23 November 1999. The applicant should have only paid $96.00 for the basic national fee since the USPTO prepared the international examination report (IPER) which stated that the criteria of PCT Article 33(1) to (4) had been satisfied for all the claims presented in the application entering the national stage. See 37 CFR 1.492(a)(4). Accordingly, $574.00 will be refunded to the applicant's deposit account.

DECISION

For the reasons discussed above, the petition filed under 37 CFR 1.47(a) is DISMISSED.

If reconsideration of 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 CFR1.47(a)." No additional petition fee is required.

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.

The excess $574.00 paid for the basic national fee will be refunded in accordance with 37 CFR 1.26.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for (1) a refund of $670.00 for the basic national fee (fee code 956) and (2) a charge of the correct basic national fee of $96.00 (fee code 962) to applicant's deposit account 50-0311.

Diana L. Oleksa
Special Programs Examiner
PCT Special Programs Office

Conferee: Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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

17 JUL 2003

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
One Financial Center
Boston, MA. 02111

In re Application of FARMER, et al. U.S. Application No.: 09/424,527 PCT No.: PCT/US98/11347 Int. Filing Date: 03 June 1998 Priority Date: 03 June 1997 Attorney Docket No.: 19374-503 For: PROBIOTIC LACTIC ACID BACTERIUM TO TREAT BACTERIAL INFECTIONS ASSOCIATED WITH SIDS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" filed 29 May 2003 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the $650.00 small entity petition fee.

BACKGROUND

On 27 June 2000, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of co-inventor Robert J. Mikhail. Applicant was afforded two months to file any request for reconsideration.

On 11 April 2003, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing applicant that the application was abandoned as to the National stage in the United States for failure to respond to the decision mailed 27 June 2000.

On 29 May 2003, applicant filed the present petition to revive accompanied by an executed combined declaration and power of attorney of the inventors; a check in the amount of $650.00 as payment of the petition fee and a check in the amount of $725.00 as payment of the fee for filing a petition for a four-month extension of time.

DISCUSSION

Applicant is advised that as the application was abandoned as to the United States, the only petition fee required is that for the petition to revive pursuant to 37 CFR 1.137(b). As such, the $725.00 extension of time payment will be refunded to Deposit Account No.: 50-0311.

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 proper response was a grantable petition under 37 CFR 1.47(a) or a compliant oath or declaration of the inventors. Applicant has presently filed an executed combined declaration and power of attorney of the inventors.

As to Item (2), applicant has included the petition fee of $650.00 along with the present petition.

With regard to Item (3), applicant's statement that the "the entire delay in filing the response to the Notification of Missing Requirements mailed March 24, 2000 was unintentional" is being interpreted to mean that the entire delay in providing the proper reply from the due date for providing the proper reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the Office of PCT Legal Administration immediately. Applicant's statement 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. Further, a review of the present filing reveals that applicant has presently submitted an executed declaration of the inventors and thus all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

As detailed above, the $725.00 extension of time payment will be refunded to Deposit Account No.: 50-0311.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **29 May 2003**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

EXPEDITE

DATE : 7-10-05

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: 6680765

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:

_____

_____

_____

_____

_____

SPE **Art Unit** 2871

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

Paul J. Higgins
Steinberg & Raskin, P. C.
1140 Avenue of the Americas
New York, New York 10036

COPY MAILED

MAY 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Heikki Ilvespaa, et al. :
Application No. 09/424,636 : ON PETITION
Filed: November 29, 1999 :
Attorney Docket No. 990.1210 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 18, 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 19, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1700, Art Unit 1731 for further processing.

Retta Williams

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Makoto Kudo, et al.
Application No. 09/424,667
Filed: March 15, 2000
Attorney Docket No. 104822

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 1, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid October 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2114 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 : 2/8/2007

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction on Patent No.: 7,100,086

Attn: Bryce Bonzo

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to make changes to claims as requested in COCIN in eDan/Madras?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Claim are not presented in consecutive order, Claim 15 is missing

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 10/24/2007
Patent No. : 7,100,086 B2
Inventor(s) : Kudo et al.
Issue Date : August 29,2006
Title : **MICROCOMPUTER, ELECTRONIC EQUIPMENT AND DEBUGGING SYSTEM**
Doc./File No. : 104822

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, the requested changes to the claims are not presented in consecutive order. Claim 15 is missing. No correction is in order here.

In view of the foregoing, your request for a certificate of correction is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, with the appropriate fee of $100.00 if necessary.

Ernest C. White, *LIE* (703) 308-9390 ext.#122
Mary Louise McAskill, *Manager* (703) 308-9250 ext. #130
Decisions & Certificates of Correction Branch

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/2008

TO SPE OF : ART UNIT 2100 (2113)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,100,086

Attn: Bryce Bonzo

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to enter claims in the order presented as req. in COCIN? Previously denied.**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

/Bryce Bonzo/
Primary Examiner
AU 2113

15 AUG 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 R. Evans
LADAS & PARRY
26 West 61st Street
New York, NY 10023

In re Application of MONSALVATJE LLAGOSTERA, Montserrat, et al. U.S. Application No.: 09/424,673 PCT No.: PCT/ES98/00145 International Filing Date: 25 May 1998 Priority Date: 29 May 1997 Attorney's Docket No.: U 012500-4 For: PROCESS FOR OBTAINING QUINAPRIL HYDROCHLORIDE AND SOLVATES USEFUL FOR ISOLATING AND PURIFYING QUINAPRIL HYDROCHLORIDE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the petition under 37 CFR 1.47(a) filed on 27 April 2000. Applicants have paid the required petition fee.

BACKGROUND

On 25 May 1998, applicants filed international application PCT/ES98/00145 which claimed a priority date of 29 May 1997 and which designated the United States. On 03 December 1998, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 03 December 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., 29 November 1999.

On 29 November 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, a check in the amount of $840 as the basic national fee, and a translation into English of the international application.

On 07 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 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 27 April 2000, applicants filed a "Completion Of Filing Requirements," which was accompanied by, among other materials: (1) a declaration executed by three of the four named inventors (co-inventor Salvador PUIG TORRES did not sign the declaration); (2) payment of the $130 surcharge for filing the declaration after the applicable deadline; (3) a request for a two-month extension of time to respond to the Notification Of Missing Requirements, with the $380 payment required for such an extension; (4) the "Petition Under 37 CFR 1.47" considered herein, which seeks acceptance of the declaration without the signature of the nonsigning inventor; and (5) payment of the $130 petition fee.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, the submission included a payment of $130 as the petition fee. Item (1) is therefore satisfied. With respect to item (3), applicants section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, the declaration submitted contains an unsigned signature block for the nonsigning inventor and it is executed by the other three inventors. Thus, item (3) is satisfied.

However, applicants have not satisfied items (2) and (4). Regarding item (2), applicants have not clearly identified the last-known address of the nonsigning inventor. The declaration includes a post-office address for the nonsigning inventor; however, applicants have not included the required express statement that this address is the last-known address of the nonsigning inventor. Accordingly, item (2) is not satisfied.

As for item (4), the factual proof required to demonstrate a refusal to execute the application documents is set forth in section 409.03(d) of the MPEP, which states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration

Here, applicants have provided no factual proof of the nonsigning inventor's refusal to sign. The petition simply states that the inventor "refused to sign the application." Applicants must submit evidence of the refusal to sign in the form discussed in the MPEP section quoted above. Applicants should be sure to note that the MPEP states that, before a refusal may be alleged, applicants must provide proper evidence that the complete application (the "specification, including claims, drawings, and oath or declaration") were sent to the nonsigning inventor at his last known address.

Because applicants have failed to satisfy items (2) and (4) of the requirements for a grantable petition under 37 CFR 1.47(a), the petition cannot be granted in its present form.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to file a timely and proper response will result in abandonment.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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

MAR 15 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Evans
LADAS & PARRY
26 West 61st Street
New York, NY 10023

In re Application of MONSALVATJE LLAGOSTERA, Montserrat, et al. U.S. Application No.: 09/424,673 PCT No.: PCT/ES98/00145 International Filing Date: 25 May 1998 Priority Date: 29 May 1997 Attorney's Docket No.: U 012500-4 For: PROCESS FOR OBTAINING QUINAPRIL HYDROCHLORIDE AND SOLVATES USEFUL FOR ISOLATING AND PURIFYING QUINAPRIL HYDROCHLORIDE	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed on 15 August 2000, this Office dismissed applicant's original petition under 37 CFR 1.47(a) for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had failed to provide: (1) an express statement of the last known address of the nonsigning inventor; and (2) proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

On 11 December 2000, applicants filed the "Response To Decision Of August 15, 2000" considered herein. This Response was accompanied by a request for a two month extension of time and a check in the amount of $380 as the fee for the requested extension. Deposit Account No. 12-0425 has been charged $10 to bring the payment for this extension to the required total of $390. Based on this extension, the present Response is considered timely.

1. Last Known Address:

The present Response includes a separate page entitled "Last Known Address Of The Nonsigning Inventor" expressly identifying the last known address of the nonsigning inventor, Salvador PUIT TORRES, as Avenida Mare de Deu de Montserrat 12, 08024, Barcelona, Spain. Applicants have now therefore satisfied this requirement.

2. Factual Proof Of Refusal To Sign

Applicants have submitted a statement by Sonia Vilella Arque as evidence of the nonsigning inventor's refusal to execute the application. However, it is not clear from this statement whether the nonsigning inventor has been provided with a copy of the complete application papers (specification, including claims, drawings, and oath or declaration), as

required before a refusal to execute can be asserted. The statement states that the nonsigning inventor was delivered "a copy of the application and its Declaration." However, the exhibits to the statement (the cover letters used) refer only to the enclosure of assignment materials. It is therefore unclear whether the full application, as required, was delivered to the nonsigning inventor. In addition, the signature page is separate from the text of the statement, is on a different color paper, and does not clearly identify the signing party. As such, it is not clear that this signature is executing this specific statement.

Applicant must provide acceptable evidence which makes clear that a copy of the full application papers have been delivered to the nonsigning inventor and that he has refused to execute the application. If the evidence is in the form of a statement of facts, such statement must be properly executed in affidavit or declaration form.

Because applicants have failed to provide the required factual evidence of the nonsigning inventor's refusal to execute the application, the renewed petition under 37 CFR 1.47(a) is dismissed.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to file a timely and proper response will result in abandonment.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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

JUL 2 6 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Evans
LADAS & PARRY
26 West 61st Street
New York, NY 10023

In re Application of MONSALVATJE LLAGOSTERA, Montserrat, et al.
U.S. Application No.: 09/424,673
PCT No.: PCT/ES98/00145
International Filing Date: 25 May 1998
Priority Date: 29 May 1997
Attorney's Docket No.: U 012500-4
For: PROCESS FOR OBTAINING QUINAPRIL HYDROCHLORIDE AND SOLVATES USEFUL FOR ISOLATING AND PURIFYING QUINAPRIL HYDROCHLORIDE

DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed on 15 March 2001, this Office dismissed applicant's renewed petition under 37 CFR 1.47(a) for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had failed to provide satisfactory proof that the inventor refuses to execute the application or cannot be reached after diligent effort, including the prerequisite showing that the nonsigning inventor has been provided with a copy of the complete application papers.

On 13 June 2001, applicants filed the supplemental materials considered herein. These materials include a revised factual statement which states that the nonsigning inventor has been provided with a complete copy of the application. However, the revised factual statement, and the attachments thereto, are unclear as to two other material questions. First, the letter attached to the statement (which itemizes the materials sent to the nonsigning inventor) refers to the "Added Page to Combined Declaration and Power of Attorney for Signature by Fourth and Subsequent Inventors." It is therefore unclear whether the nonsigning inventor was provided with a copy of the **complete** declaration, as opposed to the signature page alone.

In addition, the factual statement asserts that the executed "assignment papers" have not been received from the nonsigning inventor. While a declaration of inventorship is not an assignment paper, the term "assignment papers" as used in Ms. Arque's statement is apparently intended to encompass such declarations, as well as the actual assignment documents. Given that the term "assignment papers" is intended by Ms. Arque to refer to multiple distinct documents, it is unclear whether her statement that she has "not yet received the assignment papers" means that she did not receive any of the papers, or that she received some papers (e.g., the executed declaration) but not the executed assignment.

Based on the above ambiguities, the present submission does not satisfy the final requirement for a grantable petition under 37 CFR 1.47(b). Accordingly, the second 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 "Third Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to file a timely and proper response will result in abandonment. A proper response will include evidence demonstrating that the nonsigning inventor has been provided with a copy of the complete inventor's declaration, and that such inventor has failed to return the executed declaration.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/BM:rmr

APR 1 1 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Evans
LADAS & PARRY
26 West 61st Street
New York, NY 10023

In re Application of MONSALVATJE LLAGOSTERA, Montserrat, et al. U.S. Application No.: 09/424,673 PCT No.: PCT/ES98/00145 International Filing Date: 25 May 1998 Priority Date: 29 May 1997 Attorney's Docket No.: U 012500-4 For: PROCESS FOR OBTAINING QUINAPRIL HYDROCHLORIDE AND SOLVATES USEFUL FOR ISOLATING AND PURIFYING QUINAPRIL HYDROCHLORIDE	DECISION

This decision is issued in response to applicants' "Response To Decision On Renewed Petition Under 37 CFR 1.47(a)" filed on 15 January 2002.

BACKGROUND

The procedural background of this national stage application is set forth in detail in the three earlier Decisions which have been issued by this Office with respect to this ongoing petition. Briefly restated, applicants have sought to have this application accepted under 37 CFR 1.47(a) without a declaration executed by all four co-inventors. Specifically, applicants have sought acceptance of the application without the signature of co-inventor Salvador Puig Torres. The earlier petitions were dismissed without prejudice for failing to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a).

On 15 January 2002, applicants filed the "Response To Decision On Renewed Petition Under 37 CFR 1.47(a)" considered herein. This Response was accompanied by a copy of the declaration which has been executed by Salvador Puig Torres. Applicants have therefore now obtained the signature of all four co-inventors.

DISCUSSION

A. Timeliness Of The Response

The most recent decision in this application was mailed on 26 July 2001. The decision stated that a proper response was due within two months, that is, on or before 26 September 2001.

The Response considered herein was not received until 15 January 2002; however, it contains a certification under 37 CFR 1.8 stating that the materials were deposited with the US Postal Service as first class mail, properly addressed, on 18 December 2001. Accordingly, for purposes of determining whether these materials were timely, the materials are considered to have been submitted on 18 December 2001.

The Response included a petition and payment for a three month extension. Based on this extension of time, the present Response is considered timely.

B. Submission of Declaration Executed By All Inventors

As applicants note, because all the co-inventors have signed the declaration, there is no longer a need for this application to be accepted under 37 CFR 1.47.

However, a review of the declaration submitted with the Response (executed by Salvador Puig Torres) reveals that it is not in compliance with the requirements of 37 CFR 1.497(a) and (b). Specifically, the executed declaration does not set forth Mr. Puig Torres' country of citizenship, residence, or post office address. Accordingly, the declaration cannot be accepted in its present form.

CONCLUSION

Applicants' submission of a declaration executed by the previously nonsigning inventor is a proper reply to the decision mailed 26 July 2001. However, applicants still have not submitted a satisfactory oath or declaration of the inventors.

Applicants are given **ONE (1) MONTH** from the mail date of this decision to submit a new oath or declaration executed by Salvador Puig Torres that satisfies the requirements of 37 CFR 1.497(a) and (b). Failure to provide a timely and proper response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/BM:rmr

05 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William R. Evans
LADAS & PARRY
26 West 61st Street
New York, NY 10023

In re Application of MONSALVATJE LLAGOSTERA,	:	
Montserrat, et al.	:	
U.S. Application No.: 09/424,673	:	DECISION
PUT No.: PUT/ES98/00145	:	
International Filing Date: 25 May 1998	:	
Priority Date: 29 May 1997	:	
Attorney's Docket No.: U 012500-4	:	
For: PROCESS FOR OBTAINING QUINAPRIL HYDROCHLORIDE AND SOLVATES USEFUL FOR ISOLATING AND PURIFYING QUINAPRIL HYDROCHLORIDE	:	

In a decision mailed on 11 April 2002, this Office issued a decision stating that applicants' previous petition under 37 CFR 1.47 was moot. The decision also stated, however, that the declaration submitted on 15 January 2002 (executed by Salvador Puig Torres) was not in compliance with the requirements of 37 CFR 1.497(a) and (b). Specifically, the executed declaration dis not set forth Mr. Puig Torres' country of citizenship, residence, or post office address.

On 17 June 2002, applicants filed the Substitute Declaration considered herein. This declaration is executed by Mr. Puig Torres, sets forth the required citizenship, residence, and post office address information, and otherwise complies with the requirements of 37 CFR 1.497. This Substitute Declaration, in combination with the previously submitted declaration executed by the remaining inventors, satisfies the requirements of 35 U.S.C. 371(c)(4).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is 17 June 2002.

Leonard Smith
PCT Legal Examiner
PcT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: MAY 1 0 2004

wak
Paper Number _____

In re application of
Sergey K. Gordeev et al..
Serial No. 09/424, 760
Filed: February 3, 2000
For: METHOD FOR PRODUCING A POROUS CARBON ARTICLE AND AN ARTICLE PRODUCED THEREBY

DECISION ON PETITION

This is a decision on the petition filed on December 8, 2003. The petition requests that the period for reply to the Office action dated October 21, 2003 be remailed and restarted.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee

A review of the application record and the petitioner's evidence indicates that the request has merit and is sufficient to establish that the Office Action of December 8, 2003 was not received. The evidence provided includes a copy of the docket record where the non-received Official Action would have been entered had it been received for the customary three-month due date. Petitioner also submitted a copy of the file jacket of the above-captioned application, which reveals that no additional entry concerning an Official Action has been made.

The petition is **GRANTED**.

The final rejection of October 21, 2003 will be remailed and the period for responding to such final rejection will be restarted from the date of the new mailing.

Jacqueline M. Stone, Director
Technology Centre 1700
Chemical and Materials Engineering

Young & Thompson
Benoit Castel
745 South 23rd Street
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

COPY MAILED

MAY 1 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,804,285 :
Issue Date: October 12, 2004 :
Application No. 09/425,015 :
Filed: October 25, 1999 :
Attorney Docket No. 03500.013974 :

ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed March 24, 2005, which is being treated as a request under 37 CFR 3.81(b)[1], to add the first named inventor's name on the front page of the above-identified patent as part of the assignee data at line 73.

The petition is **dismissed**.

Petitioner states that an error occurred in the naming of the correct assignees at the time of payment of the issue fee. More specifically, petitioner states that, in addition to Canon Kabushiki Kaisha, Tokyo (JP)(hereafter Kaisha), inventor Tadahiro Ohmi (Ohmi) should also have been named as assignee. Therefore, petitioner requests issuance of a Certificate of Correction in the name of Ohmi as assignee in addition to Kaisha.

It would not be appropriate to issue the requested Certificate of Correction in the instant case. In this regard, Ohmi is presumed to be the owner of the patent, unless there has been an assignment. See 37 CFR 3.73(a). As petitioner asserts that Kaisha has not conveyed its part of interest in this patent to Ohmi, Ohmi is not properly regarded as an assignee. Further, Ohmi retains part interest by being a named inventor who has not conveyed his rights in this patent.

While the statute (35 USC 152) and regulation (37 CFR 3.81(a)) both provide for the issuance of a patent to the "assignee," there is no like provision in the statutes and regulations for issuance of a patent to the "owner." As such, no reason is

[1] *See* Official Gazette of June 22, 2004

apparent, nor has petitioner provided an adequate basis, for the requested relief. That is, since Ohmi is not an "assignee" within the meaning of the statute and regulation, there is no error apparent that is, or can be, remedied by the proffered Certificate of Correction.

Petitioner may wish to present a new, modified Certificate of Correction, which merely sets forth that Kaisha has a "part interest." Such would clarify that Kaisha is not the assignee of the entire interest in the above-captioned patent.

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

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

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

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

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

Wan Laymon

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-16-05

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6891084

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.

Can this be Approved

Thank You For Your Assistance

Ennis Young

Certificates of Correction Branch

Tel. No. 703-305-8309

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

1638

Art Unit

APR 0 2 2001
KINNEY & LANGE, P.A.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

COPY MAILED

MAR 2 8 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
TOUTOUNTZIS, VASILIOS
Patent No. 5,417,017
Application No. 08/040,305
Filed: March 30, 1993
Issued: May 23, 1995
Attorney Docket No. T257.312-0002

ON PETITION

This is a decision on the letter filed September 1, 2000, which is being treated as a petition under 37 CFR 1.377 to accept and record a timely maintenance fee payment for the above-identified patent.

The petition is **GRANTED.**

The patent issued on May 23, 1995. On January 25, 1999, petitioner submitted the 3.5 year fee and surcharge. The fee transmittal form incorrectly listed the patent as 5,471,017 instead of 4,417,017. As a result, the funds were credited to the incorrect patent. The form listed the correct serial number for the patent.

The Code of Federal Regulations requires certain information to accompany payment of a maintenance fee. More specifically, 37 CFR 1.366(c) states, "In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include the following:

(1) The patent number; and
(2) The application number of the United States application for the patent on which the maintenance fee is being paid."

The Manual of Patent Examining Procedure, Section 2515 states, "Maintenance fee payments and any necessary surcharges must include the Patent Number and the Application Number as required by 37 CFR 1.366(c).... Since this required information will be used as a cross-check to ensure that the maintenance fee is properly credited."

Therefore, because petitioner listed both a patent number and a correct serial number, relief under 37 CFR 1.377 is proper.

PTO records will be updated, and an appropriate Notice will be published in the Official Gazette, in due course.

A petition fee of $130 has been charged to petitioner's deposit account. When payment was made on the 4,471,017 patent, $130 was refunded to deposit account no. 11-0982 because a surcharge was not due for patent no. 5,471,017 even though a surcharge was due for 5,417,017. Therefore, $130 will be charged to the deposit account for the surcharge. The funds improperly credited to patent no. 4,471,017 will be transferred to the instant patent.

This file is being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
OCT 19 2005
REEXAM UNIT

JEFFREY D. SHEWCHUK
SHEWCHUK IP SERVICES
533 77TH STREET WEST
EAGAN, MN 55121

In re Application of
Toutountzis
Application No. 09/425,271
Filed: October 21, 1999
Attorney Docket No. T257.312-5

DECISION GRANTING
PETITION UNDER
37 CFR §1.183

This is a decision on the August 18, 2005, "Petition Under 37 CFR 1.183" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application and waiver of the 37 CFR 1.173(a)(1) requirement that a specification be furnished in the form of a copy of a printed patent, in double column format.[1]

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is granted.

A fee of $400.00 has been received and processed for a petition under 37 CFR 1.183.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on June 9, 2005. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on June 9, 2005, is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

[1] A "Petition under 37 CFR 1.183" filed by applicant on June 9, 2005, identified the application serial number as "08/859,561." This petition was appropriately assigned to application number 08/859,561. Similarly, the petition filed on August 18, 2005, identified the application number as "08/859,561." However, the petition of August 18, 2005, was filed concurrently with a "Letter" that clearly indicated petitioner's intention to file this petition in application number 09/425,271, not 08/859,561. Accordingly, the application number on the face of the petition filed August 18, 2005, has been corrected to read "09/425,271." The petition filed on June 9, 2005 has been addressed separately in Application No. 08/859,561.

On June 9, 2005, the substitute specification was filed together with an Amendment in response to an outstanding Office action. In the Amendment, applicant states that the substitute specification was filed because the "Office Action suggested filing of a substitute specification." It is noted on page 2 of the *Ex Parte Quayle* Office action mailed March 9, 2005, the examiner stated, "[t]he examiner has repeatedly requested the filing of the substitute specification throughout the prosecution history. As such the substitute specification attached as APPENDIX A if filed with the appropriate petition under 37 CFR 1.183 will be entered."

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that the Examiner has required the substitute specification. This basis is considered to be sufficient for granting the petition. The rules will be waived, since there is no other way to present the substitute specification required by the examiner, and that requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. The substitute specification filed on June 9, 2005, is accepted, and will be entered.

3. The reissue application file is being forwarded to Technology Center 3600 for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Brian E. Hanlon, Office of Patent Legal Administration, at (571) 272-5047.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

10-6-05
C:\kiva\kenpet5\09425271 - 183 waiver_sub_spec decision_grnt.doc

UNITED STATES 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

Joel F. Lutzker
SHULTE ROTH & ZABEL LLP
Attorneys for Applicants
919 Third Avenue
New York, NY 10022

MAIL

NOV 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
John S. Yates Jr., et al.
Application No. 09/425,401
Filed: October 22, 1999
For: PROFILING PROGRAM EXECUTION TO IDENTIFY FREQUENTLY EXECUTED PORTIONS AND TO ASSIST BINARY TRANSLATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 29, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed August 29, 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.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: David E. Boundy
WILKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David E. BOUNDY
WILLKIE FARR & GALLAGHER LLP
787 Seventh Ave.
New York, New York 10019

MAILED

NOV 1 4 2005

Technology Center 2100

In re Application of:
John D. YATES et al
Application No. 09/425,401
Filed: October 22, 1999
For: PROFILING PROGRAM EXECUTION TO IDENTIFY FREQUENTLY EXECUTED PORTIONS AND ASSIST BINARY TRANSLATION

DECISION ON PETITION TO WITHDRAW FROM ISSUE UNDER 37 CFR § 1.313(a)

This is a decision on the Petition to Withdraw from Issue under 37 CFR § 1.313(a) filed November 11, 2005.

The petition is **GRANTED**.

The application is being withdrawn to permit consideration of a question of double patenting between claims 1-30 of the instant application and claims 1-51 of the application 09/330,852.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Peter Wong, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick W. Rasche
Armstrong Teasdale, LLP
One Metropolitan Square – Suite 2600
St. Louis, MO 63102-2740

COPY MAILED
APR 14 2006
OFFICE OF PETITIONS

In re Patent No. 6,273,716	:	
Issue Date: August 14, 2001	:	
Application No. 09/425,584	:	ON PETITION
Filed: October 22, 1999	:	
Attorney Docket No. 19932/3	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 6, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above patent.

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 above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition is **GRANTED**.

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

If petitioner desires to receive future correspondence, which **may** be mailed, regarding maintenance fees for the above-identified patent, the attached "fee address" and/or "customer number" forms should be submitted.

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Fee Address Indication Form (PTO/SB/47)
Request for Customer Number (PTO/SB/125)

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/47 (04-05)
Approved for use through 05/31/2006. 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.

"FEE ADDRESS" INDICATION FORM

Address to:
Mail Stop M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INSTRUCTIONS : Only an address represented by a Customer Number can be established as the fee address for maintenance fee purposes (hereafter, fee address). A fee address should be specified when the patentee would like correspondence related to maintenance fees to be mailed to a different address than the correspondence address for the application.
When to check the first box below: If the fee address for the patent and/or application number(s) you indicate is to be established with, or changed to, an existing Customer Number.
When to check the second box below: If a Customer Number representing the fee address has to first be established so it can then be associated with the patent and/or application number(s) you indicate.
For more information on Customer Numbers, see the Manual of Patent Examining Procedure (MPEP) § 403.

Please recognize as the "Fee Address" under the provisions of 37 CFR 1.363 the address associated with:

☐ Customer Number: _____

OR

☐ Request for Customer Number (PTO/SB/125) attached hereto
in the following listed application(s) for which the Issue Fee has been paid for patent(s).

PATENT NUMBER (if known)	APPLICATION NUMBER

Completed by (check one):

☐ Applicant/Inventor _____ Signature

☐ Attorney or Agent of record _____ (Reg. No.) _____ Typed or printed name

☐ Assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) _____ Requester's telephone number

☐ Assignee recorded at Reel _____ Frame_____ _____ Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more that one signature is required, see below*.

☐ *** Total of _____ forms are submitted.**

This collection of information is required by 37 CFR 1.363. 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 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Mail Stop M Correspondence, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/125A (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Request for Customer Number

Address to:

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

To the Commissioner for Patents
Please assign a Customer Number to the Address indicated below.

Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

Please associate the following practitioner registration number(s) with the Customer Number assigned to the Address cited above.

☐ Additional practitioner registration numbers are listed on supplemental sheet(s) attached hereto.

Request Submitted by:

Firm Name (if applicable)			
Signature			
Name of person submitting request		Date	
Registration Number, if applicable		Telephone Number	

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop CN, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

PTO/SB/125B (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Request for Customer Number	**Practitioner Registration Number Supplemental Sheet**
	Page of Pages

Please associate the following practitioner registration number(s) with the Customer Number assigned to the Address cited on Request for Customer Number form attached.

Firm Name	
Date	☐ Additional supplemental sheets(s) attached hereto

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop CN, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

GREENBERG TRAURIG
885 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

APR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Wen-Kai Yen :
Application No. 09/425,644 : ON PETITION
Filed: October 22, 1999 :
Attorney Docket No. YEN 3 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 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 May 22, 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 August 23, 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 2685..

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RATNER & PRESTIA
SUITE 301
ONE WESTLAKES
BERWYN P.O. BOX 980
VALLEY FORGE, PA 19482-0980

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Hiroyuki Nakamura et al
Application No. 09/425,668
Filed: October 22, 1999
Attorney Docket No. MTS-V03174

ON PETITION

This is a decision on the petition, filed August 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 April 21, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 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
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.: 05032006

DATE : 09/29/05

TO SPE OF : ART UNIT **2123**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/425733 6879943

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:

PAUL RODRIGUEZ
SPE

2123
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. 6671048
Issue Date: December 30,2003
Application No. 09425834
Filed: October 21,1999
Attorney Docket No. PHA 51213

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

This is a decision on the electronic petition, filed December 17,2008 ,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 December 17,2008 . 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)
6671048	2003-12-30	09425834	1999-10-21	A 051213US

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	/Aaron M Waxler/	Date (YYYY-MM-DD)	2008-12-16
Name	Aaron Waxler	Registration Number	48027

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

Paper No.

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE N.W. SUITE 600
WASHINGTON, DC 20005-3934

COPY MAILED

AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of
Gary L. Barton
Application No. 09/425,888
Filed: October 25, 1999
Attorney Docket No. 1823.0220000

ON PETITION

This is a decision on the petition, filed August 11, 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 6, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

BURT MAGEN
VIERRA MAGEN MARCUS
HARMON & DENIRO, LLP
685 MARKET STREET
SUITE 540
SAN FRANCISCO, CALIFORNIA 94105

MAIL

OCT 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Kevin R. Meier, et al.
Application No: 09/425,992
Filed: October 21, 1999
For: TELESTRATOR SYSTEM

: DECISION ON PETITION

This is in response to the Petition to withdraw the Holding of Abandonment for the above-identified application, filed June 21, 2002 and supplemented August 12, 2002.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed August 29, 2001. A review of the record indicates that a non-final Office Action was mailed August 29, 2001, which set a three (3) month shortened statutory period to reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. As no request for extension of time was filed, the application became abandoned November 30, 2001. Notice of Abandonment was mailed June 4, 2002.

Petitioner asserts that a proper response was in fact timely filed. In support of the petition, petitioner has submitted a date stamped post card receipt, indicating that the following items were received in the Patent and Trademark Office on January 8, 2002: (1) Transmittal Form; (2) response A to Office Action (w/copies of Exhibits A-D); (3) Petition for Extension of Time; (4) Fee Transmittal; (5) Check in the amount of $ 1,220.00; (6) Copy of Prior Art cited in IDS of 2/12/01; and (7) Certificate of Mailing. A copy of each of these items has also been submitted except for the prior art documents listed in the IDS. It is noted that the $1220.00 Issue Fee has been credited to the instant application.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as a *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 not matched with the application file.

The date-stamped on the post card of January 8, 2002, is after the due date for the response with a proper on month extension of time. However, the correspondence is provided with a Certificate of Mailing dated December 17, 2001. Under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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.

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 is being forwarded to the Technology Center's technical support staff for entry of the amendment. From there the application file will be forwarded to the examiner for consideration in due course.

Joseph J. Rolla, Jr., 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

FRIEDRICH KUEFFNER
317 MADISON AVENUE
SUITE 910
NEW YORK NY 10017

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Boss	:	
Application No. 09/426,023	:	Corrected Letter Regarding
Filing Date: October 25, 1999	:	Patent Term Extension
Docket No. GR-27	:	
For: APPARATUS FOR COLLECTING PRINTED PRODUCTS	:	

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on January 24, 2006, which incorrectly states the patent term is extended by 1337 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)[1] and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on May 10, 2002. On January 5, 2006, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on May 10, 2002, the date that the Notice of Appeal was filed, and ending on January 5, 2006, the date of the final decision in favor of the applicant. Three years after the filing date of the application is October 25, 2002. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date

[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.

of the application. As a result, the period of extension is **1169 days**, not 1337 days, as printed on the Notice of Allowance, which is the period from October 25, 2002 to January 5, 2006, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **1169 days**.

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

By fax: Attn: Patent Term Extension Reply
(571) 273-8300

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

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMIN., LEGAL DEPT.
M/S DU404
P.O. BOX 7599
LOVELAND, CO 80537-0599

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of Mitchell et al.	:	
Application No. 09/426,111	:	Decision on Petition
Filing Date: October 22, 1999	:	
Attorney Docket No. 10991572-1	:	

This is a decision on the petition under 37 CFR 1.181, filed April 6, 2005, and supplemented June 7, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Petitioner has proven non-receipt of the Notice of Allowance and Notice of Allowability mailed August 12, 2004. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office notes $790 was improperly charged for a RCE on April 6, 2005. The issue fee is currently $1,400. The Office has applied the $790 towards the issue fee and charged $610 to petitioner's deposit account.

The Office of Patent Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attorney Docket No.: 5600.200-US

OIPE JC25 JAN 12 2000 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sandal et al.

Serial No.: 09/426,340 Group Art Unit: To be assigned

Filed: October 25, 1999 Examiner: To be assigned

For: Method For Generating A Gene Library

RESPONSE TO NOTICE TO FILE MISSING PARTS

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Notice to File Missing Parts dated November 17, 1999 (a copy thereof is attached hereto), Applicants submit the Combined Declaration and Power of Attorney signed and dated by Applicants for the above-captioned application.

Please charge the required fee, estimated to be $130.00, to Novo Nordisk of North America, Inc., Deposit Account No. 14-1447. Please credit any overpayment to Deposit Account No. 14-1447. A duplicate of this sheet is enclosed.

Respectfully submitted,

Date: January 7, 2000

Reza Green, Reg. No. 38,475
Novo Nordisk of North America, Inc.
405 Lexington Avenue, Suite 6400
New York, NY 10174-6401
(212) 867-0123

SECTOR 4

Attorney Docket No.: 5600.200-US

OIPE JC25 JAN 12 2000 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sandal et al.

Serial No.: 09/426,340 Group Art Unit: To be assigned

Filed: October 25, 1999 Examiner: To be assigned

For: Method For Generating A Gene Library

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

I hereby certify that the attached correspondence comprising:

1. Response to Notice to File Missing Parts (in duplicate)
2. Copy of Notice to File Missing Parts
3. Executed Combined Declaration and Power of Attorney

is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner of Patents and Trademarks
Washington, DC 20231

on January 7, 2000.

Gina Maldonado
(name of person mailing paper)

G Maldonado
(signature of person mailing paper)

OIPE JC25
JAN 1 2 2000
PATENT & TRADEMARK OFFICE

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
09/426,340	10/25/99	SANDAL T	5600.200-US

0262/1117

STEVE T ZELSON ESQ
NOVO NORDISK OF NORTH AMERICA INC
405 LEXINGTON AVENUE
SUITE 6400
NEW YORK NY 10174-6400

NOT ASSIGNED

1643

DATE MAILED: 11/17/99

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 $ 130.00.

☐ 1. The statutory basic filing fee is:
☐ missing.
☐ insufficient.
Applicant must submit $_____ 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:
$_____ for _____ total claims over 20.
$_____ for _____ 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

09426340
01/14/2000 KZEMIDIE 00000033 141447
01 FC:105 130.00 CH

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

ANDRE M GIBBS
BLACKALL SOKOLOFF TAYLOR & ZAFMAN
12300 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

JUN 04 2002

OFFICE OF PETITIONS

In re Application of :
Eithan Y. Ephrati et al :
Application No. 09/426,410 : NOTICE
Filed: October 25, 1999 :
Attorney Docket No. 03660.P011 :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3627.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#24
DW

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

JAN 11 2005

Andre M. Gibbs
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAILED
JAN 11 2005
OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Eithan Y. Ephrati, et al.
Application No. 09/426,410
Filed: October 25, 1999
For: ELECTRONIC MULTILATERAL NEGOTIATION SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 27, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Non-Compliant Amendment was mailed to applicants on February 4, 2004, setting a one-month shortened statutory period for response. Since a response was not received before the expiration of the six-month statutory period for reply, the application became abandoned at midnight on August 4, 2004, and a Notice to that effect was mailed on September 21, 2004.

Petitioner contends that the February 4, 2004 Notice of Non-Compliant Amendment was not received. In support thereof, petitioner submits, *inter alia.,* a declaration of Lester J. Vincent, and a copy of the "the BSTZ docket records for the present application".

There is a strong presumption that an 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 March 4, 2004. 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.

The docket record submitted by petitioner is that of the above referenced application. To satisfy requirement (3) above, a docket record showing all responses due by the firm of Blakely, Sokoloff, Taylor & Zafman, at and around the due date of March 4, 2004, must be supplied.

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 Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 1/06/05

UNITED STATES 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

ANDRE M. GIBBS
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of
Eithan Y. Ephrati et al.
Application No. 09/426,410
Filed: October 25, 1999
Attorney Docket No. 03660.P011
Title: ELECTRONIC MULTILATERAL NEGOTIATION SYSTEM

DECISION ON PETITIONS UNDER 37 C.F.R. §§1.181(a) AND 1.137(B)

This is a decision on the renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on March 1, 2005 and the petition under 37 C.F.R. §1.137(b), filed on February 16, 2005 to revive the above-identified application.

The above-identified application became abandoned for failure to reply to a Notice of Non-Compliant Amendment, mailed on February 4, 2004, which set a one-month shortened statutory period for reply. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on March 5, 2004. A Notice of Abandonment was mailed on September 21, 2004.

The original petition under 37 C.F.R. §1.181(a) was filed on October 27, 2004, and was dismissed via the mailing of a decision on January 1, 2005.

The renewed petition under 37 C.F.R. §1.181(a):

Petitioner contends the notice was not received, and has included a copy of the docket record. It was set forth in the original petition that the file jacket and docket records were searched.

In view thereof, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

The petition under 37 C.F.R. §1.137(b):

Consequently, the petition under 37 CFR §1.137(b) is **DISMISSED AS MOOT**. The petition fee will be refunded to Petitioner's Deposit Account, as authorized in the renewed petition under 37 C.F.R. §1.181(a).

The application is being forwarded to the Technology Center 3600 for processing of the response submitted with the original petition under 37 C.F.R. §1.81(a) on October 27, 2004.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6288315
Issue Date: September 11,2001
Application No. 09426478
Filed: October 26,1999
Attorney Docket No. 30446-00008

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

This is a decision on the electronic petition, filed November 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 November 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)
6288315	2001-09-11	09/426,478	1999-10-26	

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	/morgan bennett/	Date (YYYY-MM-DD)	2009-11-12
Name	morgan bennett		

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

COPY MAILED

JUL 3 1 2006

OFFICE OF PETITIONS

MICHAEL A. JASKOLSKI
QUARLES & BRADY, LLP
411 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

In re Application of	:
Huerga	: DECISION ON PETITION
Application No. 09/426,553	:
Filed: October 22, 1999	:
Atty. Dkt. No.: 070402-0103	:

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

The petition is **DISMISSED WITHOUT PREJUDICE**.

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 1.137(b)." This is not a final agency decision.

The instant application became abandoned December 16, 2005 for failure to timely submit a proper reply to the Office communication mailed November 15, 2005. This decision precedes Notice of Abandonment.

The instant petition is subject to dismissal because the petition has not been executed and dated by either the attorney of record, inventor, or assignee in accordance with 37 CFR 1.4.

Any renewed petition must be accompanied by a proper response to the outstanding Office action.

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

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

By facsimile: (571) 273-8300

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

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

MICHAEL A. JASKOLSKI
QUARLES & BRADY, LLP
411 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

NOV 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Huerga	:	DECISION ON PETITION
Application No. 09/426,553	:	
Filed: October 22, 1999	:	
Atty. Dkt. No.: 070402-0103	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed March 24, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed July 31, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2800 for processing of the RCE submitted herewith.

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

Paper No. 9

MAIL

SEP 04 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2800

MARTIN S.C. LOUI
FENWICK & WEST, LLP
TWO PALO ALTO SQUARE
PALO ALTO, CALIFORNIA 94306

In re Application of
David Banks, et al.
Application No. 09/426,567
Filed: October 22, 1999
For: A METHOD AND SYSTEM FOR CREATING AND IMPLEMENTING ZONES WITHIN A FIBRE CHANNEL SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

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

In accordance with M.P.E.P. § 708.02, Item VIII, an application may be granted special status provided that the applicant complies with each of the following items: (a) submits a petition to make special accompanied by the fee set forth in 37 C.F.R. § 1.17(I); (b) presents all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status; (c) submits a statement(s) that a pre-examination search was made, listing of the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, database search with the search terms used, etc.; (d) submits one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (e) submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 C.F.R. § 1.111(b) and (c), how the claimed subject matter is patentable over the 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.

All future communications from the Office will 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.

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

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

cc: Renee M. DuBord
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 15

JUN 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306

In re Application of :
Banks et al. :
Application No. 09/426,567 :
Filed: October 22, 1999 :
For: METHOD AND SYSTEM FOR CREATING AND IMPLEMENTING ZONES WITHIN A FIBRE CHANNEL SYSTEM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 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 February 25, 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.

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

cc: WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 23 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAILED
FEB 23 2005
OFFICE OF THE DIRECTOR
TC 3600

Andre' L Marais
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Alan S. Fisher et al
Application No. 09/426,573
Filed: October 25, 1999
For: METHOD AND SYSTEM FOR SUPPLYING AUTOMATIC STATUS UPDATES USING ELECTRONIC MAIL

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 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 in the above-identified application is not approved because the request does not comply with Item B).

As to Item B), the reason "Discontinuation of the attorney/client relationship" is not appropriate since it is not clear that the client initiated the discontinuation, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 02/08/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 1/11/07

TO SPE OF : ART UNIT 3624

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/426573 Patent No.: 7139726B2

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: No new matter introduced
No change in scope of the claim.

3693

SPE

3693
Art Unit

09/426,573.

C of C

OIPE IAP88 DEC 07 2006 PATENT & TRADEMARK OFFICE

Patent 7,139,726 PATENT

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,139,726	Docket No:	2043.009US3
Issue Date:	November 21, 2006	Patentee:	Alan S. Fisher et al.
Customer No.:	21186	Confirmation No.:	2067
Title	METHOD AND SYSTEM FOR SUPPLYING AUTOMATIC STATUS UPDATES USING ELECTRONIC MAIL		

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

Certificate
DEC 12 2006
of Correction

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), enclosed please find a check in the amount of $100.00.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted
ALAN S. FISHER ET AL.

By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: December 1, 2006 By: _____
Lucinda G. Price
Reg. No: 42,270

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 1 day of December, 2006

Lynnea M. Fedyk
Name

Signature

12/08/2006 DEMMANU1 00000005 7139726

01 FC:1811 100.00 OP

DEC 13 2006

OIPE IAP58
DEC 0 7 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alan S. Fisher et al.

Examiner: Patel, Jagdish

Patent No.: 7,139,726

Group Art Unit: 3624

Issue Date: November 21, 2006

Docket No: 2043.009US3

Title: METHOD AND SYSTEM FOR SUPPLYING AUTOMATIC STATUS UPDATES USING ELECTRONIC MAIL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

We are transmitting herewith the attached:

X A check in the amount of $100.00 to cover the Certificate of Correction fee.
X Request for Certificate of Correction.
X Certificate of Correction Form - PTO-1050 (in duplicate)
X A return postcard.

Please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
Customer No: 21186

By:
Name: Lucinda G. Price
Reg. No.42,270

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria VA 22313-1450, on this 1 day of December, 2006.

Lynnea M. Fedyk
Name

Signature

DEC 1 3 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,139,726 Page (1) of 2

DATED : November 21, 2006

INVENTOR(S) : Fisher et al.

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

On page 2, in field (56), under "Other Publications", in column 1, line 2, delete "Catalobs" and insert - - Catalogs - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 3, delete "Openingres" and insert - - OpenIngres - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 5, delete "11,1 995" and insert - - 11, 1995 - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 10, delete "Packge" and insert - - Package - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 15, delete "20/T996" and insert - - 20/1996 - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 28, delete "Oberdorf" and insert - - Oberndorf - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 44, delete "enabled" and insert - - Enabled - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 47, delete "Issn" and insert - - ISSN - -, therefor.

In column 4, line 58, after "medium" insert - - . - -.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,139,726

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No: 2043.009US3

DEC 1 8 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,139,726 Page (2) of 2

DATED : November 21, 2006

INVENTOR(S) : Fisher et al.

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

In column 6, lines 30–31, in Claim 11, delete "which, when executed by a computer, cause the computer to execute the method of claim 6." and insert - - to be executed by a computer to execute an update processing and transmission method, said method comprising:
automatically obtaining status information relating to a commerce-related event in response to a status query to a common carrier information system, wherein the status information is received from the common carrier information system over a network;
storing the status information in a status database relating to the commerce-related event, the common carrier information system generating the status information;
retrieving said status information from the status database;
automatically generating a status message reflective of said status information; and
automatically forwarding said status message to a point where it may be accessed by an interested party. - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 2043.009US3

PATENT NO. 7,139,726

No. of additional copies

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,139,726 Page (1) of 2

DATED : November 21, 2006

INVENTOR(S) : Fisher et al.

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

On page 2, in field (56), under "Other Publications", in column 1, line 2, delete "Catalobs" and insert - - Catalogs - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 3, delete "Openingres" and insert - - OpenIngres - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 5, delete "11,1 995" and insert - - 11, 1995 - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 10, delete "Packge" and insert - - Package - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 15, delete "20/T996" and insert - - 20/1996 - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 28, delete "Oberdorf" and insert - - Oberndorf - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 44, delete "enabled" and insert - - Enabled - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 47, delete "Issn" and insert - - ISSN - -, therefor.

In column 4, line 58, after "medium" insert - - . - -.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 2043.009US3

PATENT NO. 7,139,726

No. of additional copies

DEC 1 3 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,139,726 Page (2) of 2

DATED : November 21, 2006

INVENTOR(S) : Fisher et al.

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

In column 6, lines 30–31, in Claim 11, delete "which, when executed by a computer, cause the computer to execute the method of claim 6." and insert - - to be executed by a computer to execute an update processing and transmission method, said method comprising:
automatically obtaining status information relating to a commerce-related event in response to a status query to a common carrier information system, wherein the status information is received from the common carrier information system over a network;
storing the status information in a status database relating to the commerce-related event, the common carrier information system generating the status information;
retrieving said status information from the status database;
automatically generating a status message reflective of said status information; and
automatically forwarding said status message to a point where it may be accessed by an interested party. - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 2043.009US3

PATENT NO. 7,139,726

No. of additional copies

⇨ _____

DEC 1 3 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL I KROLL
171 STILLWELL LANE
SYOSSET NY 11791

Paper No. 5

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Patent No. 6,250,498	:	
Issue Date: June 26, 2001	:	
Application No. 09/426,602	:	ON PETITION
Filed: October 26, 1999	:	
For: SPOON DISPENSER	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 29, 2007 (certificate of mailing date June 26, 2007), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 26, 2005 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

OCT 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of
Kenji Nemoto
Application No. 09/426,654
Filed: October 25, 1999
For: **RADIO COMMUNICATION SYSTEM AND METHOD FOR CALCULATING TRANSMISSION TIMING BETWEEN A TERMINAL UNIT AND A BASE STATION BASED UPON LOCATION, DISTANCE, OR PROPAGATION TIME**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed August 25, 2005, 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 and effective manner to the Office communication mailed January 26, 2005. A Notice of Abandonment has not been mailed.

Petitioner alleges to have timely filed a response to said Office communication on May 6, 2005 and resubmitted on May 16, 2005. In support thereof, a statement from Ms. Brandi Franklin notified the Office that the response for the instant application was inadvertently filed with the wrong serial number.

A review of the other application file did not find either the May 6, 2005 or May 16, 2005 submissions, but did result in discovery of a re-submitted request filed on August 5, 2005. The re-submission was indicated to have been a copy of the submissions filed on May 6 and then again on May 16, 2005. The resubmission of August 5, 2005 included a copy of: the request for RCE, petition for extension of time, copy of amendment, a copy of the auto-reply facsimile transmittal of May 16, 2005 and a transmittal letter which itemized the RCE request, amendment and petition for extension of time, and the inclusion of a certificate of transmission/mailing dated May 6, 2005. Each of the correspondence items previously mentioned, included an incorrect serial number and was therefore improperly matched to the wrong application. The original transmittal, with certificate of transmission/mailing of May 6, 2005, was however provided with the correct inventor name, filing date, attorney docket number, art unit and examiner information.

Therefore it is determined that the application was not abandoned in fact. Accordingly, the response was removed from the other application and associated with the subject application file.

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

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the copy of the request, amendment and petition for extension of time which accompanied the August 5, 2005 response, noting timely receipt as of the Certificate of Transmission/Mailing, May 6, 2005. From there, the file will be forwarded to the examiner for appropriate action in due course.

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

Paper No. 13

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

COPY MAILED

FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of
Donald C. Mann et al.
Application No. 09/426,793
Filed: October 23, 1999
Attorney Docket Number: ULT-001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 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 October 10, 2002. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 11, 2003. Accordingly, a Notice of Abandonment was mailed May 5, 2003.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 2876 for appropriate action on the amendment filed January 20, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

UNITED STATES 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. 6728296
Issue Date: April 27,2004
Application No. 09427041
Filed: October 19,1999
Attorney Docket No. 242/232

:

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

:

This is a decision on the electronic petition, filed February 26,2009 ,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 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.

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)
6,728,296	2004-04-27	09/427,041	1999-10-19	18619US01

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	/Christopher C. Winslade/	Date (YYYY-MM-DD)	2009-02-26
Name	Christopher C. Winslade	Registration Number	36308

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BLVD.
SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

NOV 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Jean Walrand et al. :
Application No. 09/427,215 : ON PETITION
Filed: October 26, 1999 :
Attorney Docket No. 2717P037 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 19, 2005, for failure to timely file a reply to the final Office action mailed April 18, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $ 1500.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

acceptable. The matter therefore is being referred to Technology Center 2661.

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

Mr. Theodore J. Shatynski
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In Re Application of:	*	
Ronald L. Legerstee	*	
Serial No.: 09/427,292	*	DECISION ON PETITION
Filing Date: October 26, 1999	*	FILED UNDER 37 C.F.R. 1.84(a)(2)
Attorney' Docket No: JJM-475	*	

Applicant has filed a petition under 37 C.F.R. 1.184 (a)(2) on October 24, 2003, to permit color drawings to be acceptable. Applicant has stated that the color drawings are necessary to illustrate a preferred embodiment or the invention and show a color drawing of the prior art. Applicant has stated that the color drawings are necessary to allow those skilled in the art to fully appreciate the degree and extent of color with color shading in a preferred embodiment of the invention.

The petition is **granted**.

Michael G. Lee
S.P.E., TCAU 2876

UNITED STATES 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. 10

BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Tom Q Wellbaum, et al.	:	
Application No. 09/427,300	:	ON PETITION
Filed: October 26, 1999	:	
Attorney Docket No. 296	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 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 February 12, 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 application became abandoned on May 13, 2003.

The Change of Correspondence Address has been accepted and recorded.

The application file is being forwarded to Technology Center 2600, Art Unit 2661 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOUGHERTY CLEMENTS
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE NC 28211

COPY MAILED

JAN 23 2006

OFFICE OF PETITIONS

In re Application of
Tom Q. Wllbaum et al.
Application No. 09/427,300
Filed: October 26, 1999
Attorney Docket No. 296

ON PETITION

This is a decision on the petition filed January 13, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned December 27, 2005 for failure to timely pay the issue fee on or before December 23, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES 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. BAUN ET AL. Issue Date: 05/13/03 Appl No.: 09/427,386 Filed: October 25, 1999 For: Petition under 37 CFR 1.324	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 7/7/04 to correct inventorship under 37 CFR 1.324.

The Applicants have provided a statement under 37 CFR 1.324(b)(1) from each person being added or removed as an inventor, a statement under 37 CFR 1.324(b)(2) from each of the currently named inventors, a statement under 37 CFR 1.324(b)(3) from the assignee of the parties submitting statements under (b)(1) and (b)(2) of Rule 324, and the fee as required under 37 CFR 1.324(b)(4).

Therefore, the petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

The inventorship of the instant patent has been corrected as follows:

Kenneth W. Baun, Trabuco Canyon, CA
John E. Hoot, San Clemente, CA
Brian G. Tingey, Fountain Valley, CA

Drew Dunn
Supervisory Patent Examiner
Art Unit 2872
Technology Center 2800

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/23/2010

Applicant	: KEVIN LLOYD GRIMES	: DECISION ON REQUEST FOR
Patent Number	: 7668189	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/427,388	: OF WYETH
Filed	: 10/26/1999	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 30

MARK POHL
55 MADISON AVENUE 4TH FLOOR
MORRISTOWN NJ 07960

COPY MAILED

OCT 2 9 2003

OFFICE OF PETITIONS

In re Patent No: 6,431,874 B1
Issue Date: August 13, 2002
Application No. 09/427,447
Filed: October 27, 1999
Patentee: Syznalski

DECISION DISMISSING PETITION

This is a decision on the communication filed by facsimile transmission on June 5, 2003, styled as a response under 37 CFR 1.322(a)(4) and a petition under 37 CFR 1.181, seeking the USPTO stay its proposed issuance of a Certificate of Correction for the above-identified patent, which is being treated as a petition under 37 CFR 1.181 seeking reconsideration of the Office communication of May 6, 2003, which indicated that a Certificate of Correction under 35 U.S.C. § 254 and 37 CFR 1.322 was forthcoming.

The petition is **dismissed**.

BACKGROUND

The above-identified application was filed on October 27, 1999. The originally presented claims were drawn to a method (claims 1 through 10) of, and composition of matter (claims 11 through 20) for, helping a tobacco smoker stop smoking, which in element (C) that was common to all 20 claims, employed lobelia in an amount effective to reduce the smoker's craving for nicotine.

In reply to the final Office action of June 26, 2001, which treated claims 1 through 20, applicant filed an amendment on August 3, 2001, under 37 CFR 1.116 which canceled claims 2 through 5, 7 through 10, 12 through 15, and 17 through 20, leaving claims 1, 6 (dependent on claim 1), 11, and 16 (dependent on claim 11) remaining. This being the first amendment, it was lettered as amendment "A" in red ink on the correspondence itself and also on the contents section of the file on the line accorded to its paper number.

The Office action of August 24, 2001, reopened prosecution. The action indicated that the amendment of August 3, 2001, had been entered, and that a new ground of rejection was being applied. The action inadvertently mentioned only the independent claims 1 and 11, and rejected these claims on the ground of anticipation over the Cooper reference, but was silent as to the disposition of dependent claims 6 and 16.

A reply to the Office action of August 24, 2001, was filed on September 25, 2001. The accompanying amendment to independent claims 1 and 11 broadened element (C) to now recite --an anti-smoking drug-- in place of the formerly more limited "lobelia." Pursuant to 37 CFR 1.121(c)(3), the amendment presented two concurrent versions of claims 1 and 11: a "clean" version, and the "marked-up" version required by 37 CFR 1.121(c)(1)(ii) showing (by bracketing and underlining) how these claims were being changed by the current amendment. The remarks in the amendment also requested

withdrawal of the previous cancellation of claims 7, 8, 17, and 18, but applicant did not reinstate these claims in the manner required by 37 CFR 1.121(c)(2), i.e., by presentation as new claims with new claim numbers. Additionally, the amendment presented new claims 21 through 24, which did not correspond to previously canceled claims 7, 8, 17, and 18, and instead further limited -- an anti-smoking drug-- of element (C) of the two independent claims to --an antidepressant-- in claims 21 and 23, and -- an antidepressant-- in turn was further limited to --lobelia-- in claims 22 and 24. This being the second amendment, it was serially lettered as amendment "B" in red ink on the correspondence itself as well as on the contents section of the file wrapper corresponding to its paper number.[1]

The final Office action of December 4, 2001, rejected claims 1, 11, and 21 through 24 under 35 U.S.C. 112 first paragraph, due to the broadening of the claims to now cover an "anti-smoking drug" instead of the originally recited "lobelia". The action noted (at 2) that the rejection would be overcome and the claims would be allowable if the claims were again limited to --lobelia.-- The examiner further volunteered that "[t]his may be accomplished by Examiner's Amendment, with applicant's authorization." The final Office action again inadvertently did not specifically mention the disposition of pending dependent claims 6 and 16, notwithstanding their continued presence in application as shown by the Index of Claims and the contents of the file.

A telephonic interview between the examiner and counsel was conducted on December 14, 2001, as memorialized in the Interview Summary form attached to the Notice of Allowability of January 15, 2002 (attachment 4). The Notice of Allowability also included an attached Examiner's Amendment (attachment 6) indicating counsel's authorization given during the aforementioned interview to change, in element (C) of independent claims 1 and 11, "an anti-smoking drug" to --lobelia--, and cancel claims 21 through 24. The Notice of Allowability also included a Notice of References Cited (attachment 1), and an Examiner's Statement of Reasons for Allowance (attachment 8) The examiner's amendment to claims 1 and 11 was entered by hand in red ink, per MPEP 1302.04[2], albeit on the "marked-up" version of these claims. This being the third amendment, it was serially lettered as amendment "C" in red ink on the correspondence itself as well as adjacent to the changes made in the "marked-up" version of claims 1, 11; on the Index of Claims section of the file wrapper; and also on the contents section of the file on the line accorded to its paper number. The Notice of Allowability again inadvertently specifically mentioned only independent claims 1 and 11 (as being allowed) and did not indicate the disposition of pending dependent claims 6 and 16. The Notice of Allowance mailed the same date also indicated that the total number of claims being allowed was 2 (sic, 4).

---

[1] Since the Commissioner's Order No. 1733 of July 19, 1907, amendments are also lettered serially in the file. See Wolcott, Manual of Patent Office Procedure, 9th Ed., Patent Office Society, (1946) at 73-74.

[2] *Manual of Patent Examining Procedure* (MPEP), 8th Ed., (Aug. 2001). The MPEP has no binding force on the courts, but it commands notice as an official interpretation of statutes and regulations with which it does not conflict. Patent attorneys, examiners, and the public commonly rely on the MPEP as a guide in procedural matters. In re Kaghan, 387 F.2d 398, 401, 156 USPQ 130, 132 (CCPA 1967); Syntex v. U.S. Patent and Trademark Office, 882 F.2d 1570, 1571 n.3, 11 USPQ2d 1866, 1867 n.3 (Fed. Cir. 1989); Litton Sys., Inc. v. Whirlpool Corp., 728 F.2d 1423, 1439, 221 USPQ 97, 107 (Fed. Cir. 1984).

On February 4, 2002, the examiner mailed a corrected Notice of Allowability that correctly indicated that the allowed claim numbers were in fact 1, 6, 11, 16; *i.e.*, that 4 claims were being allowed.

On March 5, 2002, applicant filed an amendment under the provisions of 37 CFR 1.312 that reinstated the subject material of previously canceled claims 7, 8, 17, and 18, (inadvertently retaining the same claim numbers notwithstanding 37 CFR 1.121(c)(2), but entered in the "Index of Claims" section of the file wrapper as claim numbers 25 through 28.) The accompanying remarks confirmed that the allowed claims were 1, 6, 11, and 16, and that the reinstated claims were needed to overcome "an apparent misunderstanding" regarding the status of claims 7, 8, 17, and 18.

On May 7, 2002, a "Response to 312 Communication" was mailed, indicating that the amendment filed under 37 CFR 1.312 on March 5, 2002, had been entered.

The patent issued August 13, 2002, with claims 1, 6, 11, 16, and 25 through 28 numbered as 1 through 8, respectively. However, the agreed-to changes to limit the claims in part (C) to "lobelia" set forth in the examiner's amendment of January 15, 2002, were not reflected in the printed patent. The patent as printed correctly did not include canceled claims 21 through 24.

On May 6, 2003, a letter regarding a proposed Certificate of Correction under 35 U.S.C. § 254 to correct the obvious USPTO printing mistake was mailed to patentee under the provisions of 37 CFR 1.322(a)(4).

The instant petition was filed June 4, 2003.

STATUTE AND REGULATION

35 U.S.C. § (2)(b)(2) provides, in pertinent part, that:

> The Office...may establish regulations, not inconsistent with law, which...
> (A) shall govern the conduct of proceedings in the Office.

35 U.S.C. § 10 states in pertinent part:

> (1) The Director may publish in printed, typewritten, or electronic form, the following:
> (A) Patents and published applications for patents, including specifications and drawings, together with copies of the same...

35 U.S.C. § 131 states:

> The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

35 U.S.C. § 254 provides that:

> Whenever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be

attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

37 CFR 1.2 states in pertinent part:

> All business with the Patent and Trademark office should be transacted in writing... 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.

Effective March 1, 2001, 37 CFR 1.121 stated in pertinent part:

(C) Claims. -

(1) Amendment by rewriting, directions to cancel or add. Amendments to a claim must be made by rewriting such claim with all changes (e.g, additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

> (I) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").
>
> (ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(I) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

(3) A clean version of the entire set of pending claims may be submitted in a single amendment paper. Such a submission shall be construed as directing the cancellation of all previous versions of any pending claims. A marked up version is required only for claims being changed by the current amendment (see paragraph (c)(1)(ii) of this section). Any claim not accompanied by a marked up

version will constitute an assertion that it has not been changed relative to the immediate prior version....

(g) Exception for examiner's amendments: Changes to the specification, including the claims, of an application made by the Office in an examiner's amendment may be made by specific instructions to insert or delete subject matter set forth in the examiner's amendment by identifying the precise point in the specification or the claim(s) where the insertion or deletion is to be made. Compliance with paragraphs (b)(1), (b)(2) or (c)(1) of this section is not required.

37 CFR 1.133(b) states:

In every instance where reconsideration is requested in view of an interview with the examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111 and 1.135.

37 CFR 1.312 states:

No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the application from issue.

37 CFR 1.322 states:

(a)(1)The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:

(I)At the request of the patentee or the patentee's assignee;
(ii)Acting *sua sponte* for mistakes that the Office discovers; or
(iii)Acting on information about a mistake supplied by a third party.

(2) (I)There is no obligation on the Office to act on or respond to a submission of information or request to issue a certificate of correction by a third party under paragraph (a)(1)(iii)of this section.
(ii)Papers submitted by a third party under this section will not be made of record in the file that they relate to nor be retained by the Office.

(3) If the request relates to a patent involved in an interference, the request must comply with the requirements of this section and be accompanied by a motion under § 1.635.

(4) The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record)at the correspondence address of record as specified in § 1.33(a)and affording the patentee or an assignee an opportunity to be heard.

(b)If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

OPINION

Petitioner asserts that the patent was properly printed. Specifically, petitioner contends, (1) the records of the USPTO do not clearly and unambiguously show the claims were printed in error, (2) the alleged error is not correctable under 35 U.S.C.§ 254, and (3) the error alleged is not "of consequence" as allegedly required by § 254.

As to the first issue, the decision of the USPTO must necessarily be based on the written record in the USPTO. 37 CFR 1.2. Inspection of the written record of this file reveals that the examiner entered a rejection of claims 1 and 11 (under 35 U.S.C. § 112, first paragraph) upon their broadening by applicant to recite in element (C) "an anti-smoking drug", but advised applicant that if claims 1, 11 were corrected by being limited to --lobelia--, they would be allowable. Indeed, the examiner went so far as to invite an Examiner's Amendment to this effect, with, of course, applicants authorization.[3] See Office action of December 4, 2001, (at 2). The formal Examiner's Amendment, an attachment to the Notice of Allowability of January 15, 2002, indicates that applicant's counsel agreed to the amendment proposed by the examiner, and the file shows that a copy of the amendment was mailed to applicant. The summary of the telephonic interview conducted on December 14, 2001, was memorialized by the Interview Summary that was also an attachment to the Notice of Allowability of January 15, 2002. The Examiner's Amendment also contained the caveat that "[s]hould the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312." While an amendment under 37 CFR 1.312 was filed on March 5, 2002, that amendment did not address any of the changes made by the aforementioned Examiner's Amendment, but instead reinstated the subject matter of previously canceled claims 7, 8, 17, and 18.

While petitioner contends that the "proposed examiner's amendment would have violated both law and internal Office procedure," there is simply no "proposed examiner's amendment" of record in this file.[4] Rather, according to the contents of this file, the formal Examiner's Amendment of January 15, 2002, was agreed to by applicant's representative on December 14, 2001, created, a copy mailed to applicant, and is an entered paper in the prosecution history of this patented file. Contrary to petitioner's further contentions, the prosecution history of this file does not indicate that the outstanding Examiner's Amendment of January 15, 2002, was ever modified or withdrawn in whole or in part by the examiner, or by the applicant. The "Corrected Notice of Allowability" mailed on February 4, 2002, simply corrected an outstanding typographical error in the previous Notice of Allowability: the omitted disposition of dependent claims 6 and 16 was now clarified as also being allowed. See "Corrected Notice of Allowability," item 2.

---

[3] As noted in MPEP 1302.04, a substantive amendment to the claims by the examiner is called a "formal examiner's amendment", and requires, *inter alia*, the applicant's approval, and that a copy be sent to the applicant. The Examiner's amendment of January 15, 2002, was such a formal examiner's amendment.

[4] As to any alleged violation of law, as prosecution of the above-identified application was closed with the mailing of the Notice of Allowability, and further as the patent has issued, any issues regarding the correctness *vel non* of the prosecution on the merits will not be revisited. See MPEP 1701.

Petitioner's contention that the lack of any further mention in the corrected Notice of Allowability of February 4, 2002, of the other attachments to the Notice of Allowability of January 15, 2002, means the "erroneous Examiner's Amendment [was] withdrawn," simply lacks any basis in the record. Any further amendments to claims 1, 11, such as deleting "lobelia" in element (C) and substituting --an anti-smoking drug-- would have required another formal Examiner's Amendment under 37 CFR 1.121(g) that would, in turn, have required an Interview Summary, and a copy of this Examiner's Amendment would have been mailed to applicant and placed in the file. See MPEP 1309. Alternately, any further amendment to claims 1, 11 deleting "lobelia" and inserting --an anti-smoking drug-- initiated by applicant would have required the filing of another amendment under 37 CFR 1.312, and further, the examiner's formal approval of entry of the amendment. See MPEP 714.16. The only amendment in the written record that was filed under 37 CFR 1.312 did not amend claims 1, 11.

The written record of this file is conspicuously and unambiguously devoid of any further amendment to claims 1, 11 subsequent to the Examiner's Amendment of January 15, 2002. The claims that were passed to issue by the examiner remained limited to --lobelia--, and the patent as printed should have reflected this limitation.

Petitioner's attention is further drawn to the fact that if the lack of the checked boxes in items 1, 4, 6, and 8 of the Corrected Notice of Allowability meant these items had been "withdrawn" by the examiner, then the examiner's consideration of the Cooper reference (U.S. 5,055,478) listed on the PTO-892 Notice of References Cited attached to the Notice of Allowability of January 15, 2002, would also have been withdrawn and the as-printed patent would not reflect the Cooper reference. As the Cooper reference was listed among those cited on the patent as issued, it is clear that no "withdrawal" of any type occurred. Likewise, if the Corrected Notice of Allowability was somehow construed to mean the Examiner's Amendment of January 15, 2002, had been withdrawn, then the cancellation of claims 21 through 24 would likewise would have been rescinded, such that the corrected Notice of Allowability of February 4, 2002, would have indicated the allowed claims were now 1, 6, 11, 16, and 21 through 24, a circumstance that manifestly did not occur. Indeed, petitioner confirmed in his amendment filed under 37 CFR 1.312 on March 5, 2002, that the allowed claims were in fact 1, 6, 11, 16.

Rather, the written record of this file clearly shows an error in the claims of the patent as printed, and that such error arose from the USPTO. Simply put, the Examiner's Amendment "C" that replaced "an anti-smoking drug" in element (C) of claims 1, 11 as drafted in applicant's amendment "B" was entered on the "marked-up" versions of these claims, while the printer captured the "clean" version of these claims that had not physically been amended, for printing.[5] However, it is axiomatic that any rewriting of a claim with the same claim number will be construed as a direction to cancel a previous version--or versions-- of the claim. See 37 CFR 1.121(c)(1)("[t]he rewriting of a claim

---

[5] Prior to March 1, 2001, an applicant's amendment to the claims was made by bracketing and underlining to show deletions and additions to the claims, respectively. Effective March 1, 2001, 37 CFR 1.121 was amended, see 65 *F.R.* 54604 (Sep. 8, 2000), to require applicants to submit, in addition to the classic "marked-up" version of the claim(s) as amended for the examiner's convenience, a "clean" [no bracketing or underlining] version of the same claim(s) as amended for the printer to capture by OCR scanning, to facilitate the patent publishing process. See 65 F.R. 54604 at 54639, response to comment 60.

(with the same number) will be construed as directing the cancellation of the previous version of the claim"); In re Beyers, 230 F.2d, 451, 455, 109 USPQ 53, 55 (CCPA 1956)(amendment of a claim by inclusion of an additional limitation had exactly the same effect as if the claim as originally presented had been canceled and replaced by a new claim including that limitation). Here, the previous broad claims 1, 11 of applicant's amendment "B" filed September 25, 2001, were canceled and replaced by the later Examiner's Amendment "C" of January 15, 2002, which limited element (C) of all claims to --lobelia--. That is, both the "marked-up" and "clean" versions of claims 1, 11 as drafted by applicant in amendment "B" were replaced by the narrowing Examiner's Amendment "C," that limited all claims to --lobelia-- as a condition of patentability.

Inspection of the written record of the file further reveals the printer treated the "clean" version of claims 1, 11 as controlling by way of handwritten brackets and numerical pagination, both appearing in blue ink, that excluded from printing the "marked-up" but further limited version, but included the "clean" version for printing. Nevertheless, the "clean" version of claims 1, 11 was and is still clearly marked as amendment "B" (in red ink) and appeared on pages 2-3 of the amendment of September 25, 2001, while the "marked-up" versions of these claims that contained the Examiner's Amendment were clearly marked (in red ink) as the later "C" version of the claims, and appeared on pages 1, 2 of the same amendment. Likewise, the red "C" also appears where claims 21 through 24 were canceled by a red ink strike through when the Examiner's Amendment of January 15, 2002, was entered, as well by the red ink strike in the Index of Claims, showing that these claims and their numbers had been canceled, pursuant to MPEP 719.04. That is, the printer captured the "clean" version of the broadened claims 1, 11 of amendment "B", notwithstanding that the written record clearly showed that both versions of these previous claims ("clean" and "marked-up") had been canceled and replaced by the by the succeeding Examiner's Amendment "C" which, of course, limited all claims to --lobelia--. See 37 CFR 1.121(c)(1); Beyers, supra.

It is noted that 37 CFR 1.121(g) permits the examiner, by way of an Examiner's Amendment, to amend claims without having to present both "clean" and "marked-up" versions of the claims required by of applicant. That is, as here, the examiner can make additions or deletions to the claim(s) of record simply by way of instructions to make the change(s) at a precise location(s) in the claim(s). The record is devoid of any instructions by the examiner subsequent to the Examiner's Amendment of January 15, 2002, to make, or approve, further additions or deletions to claims 1, 11. Indeed, the record is devoid of any further additions or deletions of any type to claims 1, 11 after they were allowed, as amended by the Examiner's Amendment "C" on January 15, 2002. There is clearly no basis in the written record of this file for the claims to have been printed where element (C) contained the phrase "an anti-smoking drug" instead of --lobelia.--

While petitioner now disputes (at n.1) that it was mutually agreed to limit the claims to --lobelia-- in the interview of December 14, 2001, notwithstanding the memorialization in the Examiner's Interview Summary, as well as in the Examiner's Amendment, both attached to the Notice of Allowability, the written record of the above-identified application clearly fails to support this contention. See 37 CFR 1.2. If the substance of the interview as recorded by the examiner warranted correction or supplementation, it was incumbent upon applicant during the pendency of the above-identified application to correct or supplement the record in writing, and request reconsideration. See 37 CFR 1.2; 1.133(b); MPEP 713.04; Interview Summary Sheet attached to Notice of Allowability of January 15, 2002. There is clearly no evidence in the written record that applicant ever corrected or supplemented the substance of the interview as recorded by the examiner. Likewise, if the changes or additions set forth in the Examiner's

Amendment of January 15, 2002, were unacceptable to applicant, applicant was invited to file an amendment under 37 CFR 1.312. Applicant's amendment filed under 37 CFR 1.312 on March 5, 2002, while it did reinstate four previously canceled claims did not also seek to reinsert the previously refused broadening limitation of "anti-smoking drug" to claims 1 and 11, and delete the narrowing --lobelia--. There is clearly no evidence in the written record that applicant filed an amendment under 37 CFR 1.312 to undo or modify the changes or additions made by the Examiner's Amendment of January 15, 2002, much less that such an amendment was approved by the examiner.

Furthermore, while applicant contends that the corrected Notice of Allowability of February 4, 2002, which indicated the allowed claims were 1, 6, 11 and 16, somehow "corrected and withdrew" the allegedly erroneous Examiner's Amendment, such that the claims were rebroadened to "an anti-smoking drug," it is brought to petitioner's attention that the Examiner's Amendment "C" of January 15, 2002, also canceled claims 21 through 24. Thus, if the corrected Notice of Allowability upon which petitioner relies also operated to rescind the Examiner's Amendment of January 15, 2002, then the corrected Notice of Allowability would have indicated that the allowed claims were in fact 1, 6, 11, 16, and 21 through 24. Likewise, the written record does not show that, upon receipt of the corrected Notice of Allowability, applicant then considered the Examiner's Amendment "C" to have been vacated, as applicant expressly confirmed on March 5, 2002, that only claims 1, 6, 11, and 16 stood allowed, and not that claims 1, 6, 11, 16, and 21 through 24 stood allowed. See amendment of March 5, 2002 (at 2):

> Claims 1, 6, 11 and 16 stand allowed. This Amendment to claims 7-8 and 17-18 is submitted under Rule 312 and M.P.E.P. 714.16. Note that this Amendment *does not affect (e.g., withdraw, change)* allowed claims 1, 6, 11, and 16 (emphasis in original)."

The amendment under 37 CFR 1.312 then went on to reinstate previously canceled claims 7, 8, 17, and 18, and did not address previously canceled claims 21 through 24.

With respect to the second issue noted above, petitioner contends that the legislative history of § 254 explains that the purpose of that statute is to allow the correction of clerical or typographical errors, *i.e.*, those errors that are immediately apparent upon reading the claims. Petitioner asserts that since the as-printed claims are not meaningless when read literally, correction is not required.

Nevertheless, whatever the legislative intent may have been in 1924 when the almost identically worded predecessor to current § 254 was drafted, the statute as written does not limit the USPTO to the issuance of certificates that correct only clerical or typographical errors caused by the USPTO. Rather, language limiting Certificates of Correction to clerical or typographical errors appears in 35 U.S.C. § 255, which speaks to mistakes in a patent arising from applicant, but such is immaterial to the instant situation involving errors arising from the USPTO. As the Federal Circuit noted when construing § 254 in Southwest Software v. Harlequin, 226 F.3d 852, 56 USPQ2d 1161 (Fed. Cir. 2000):

> We begin the process of statutory interpretation with the language of the statute. See Van Wersch v. Department of Health &Human Servs., 179 F.3d 1144, 1148 (Fed. Cir. 1999) (citing VE Holding Corp. v. Johnson Gas Appliance Co., 917 F.2d 1574, 1579, 16 USPQ2d 1614, 1618(Fed. Cir. 1990)). If the language is clear, the plain meaning is conclusive. See id. at 1152 (holding that Congressional intent, as clearly expressed in legislative history, could not

"trump the irrefutably plain [statutory] language that emerged when Congress actually took pen to paper").

Thus, contrary to petitioner's urging, the clear language of § 254 is not properly limited by further imposing legislative intent on the plain meaning of the statute. Furthermore, while Congress enacted 35 U.S.C. § 255 in 1952 to provide Certificates of Correction for the correction of minor clerical or typographical errors in a patent made by the applicant, it did not concurrently amend § 254 to limit its scope to the correction of minor clerical or typographical errors made by the USPTO. As such, applicant's proposed imposition of additional constraints on § 254 is not persuasive. See St. Martin Evangelical Lutheran Church v. South Dakota, 451 U.S. 772, 786-88 (1981) (Congress in amending one section of a statute is not presumed to have intended an amendment to another section of the statute which had not been altered); Russell v. United States, 464 U.S. 16, 23 (1983)"[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." As the plain language of § 254 does not further limit the "mistake" to clerical or typographical errors, correction of the USPTO printing mistake in question by way of a Certificate of Correction is clearly within the aegis of § 254.[6]

As to petitioner's contention that the claims as printed are not meaningless, and as such do not require correction, the question is, rather: whether the patent was printed in accordance with the record in the USPTO of the application as passed to issue by the examiner. Clearly, the claims were not so printed. Furthermore, as noted above, the mistake is immediately apparent when the content of the claims as printed are compared with the content of the written record in the USPTO of the application as passed to issue by the examiner.

Petitioner further contends that, pursuant to 35 U.S.C. § 282, the as-printed patent is presumed valid, and as such, this presumption of validity may only be rebutted by "clear and convincing" evidence. Since, petitioner maintains, the "proposed" Examiner's Amendment would have been incorrect as a matter of law and procedure, the USPTO allegedly rectified this error by printing the proper claims. As such, petitioner asserts the record fails to establish "clear and convincing" evidence of the alleged error.

Initially, as noted above, there is no "proposed" Examiner's Amendment in the record of this file. Inspection of the contents of this file reveals only the Examiner's Amendment of January 15, 2002, that is a permanent part of the record of this file. See MPEP 719.01. That same inspection fails to reveal any further modification, withdrawal, amendment or rescission, in whole or in part, of that Examiner's Amendment by either applicant or the examiner, that would support applicant's contention that the claims

---

[6] The USPTO has a long history of issuing certificates of correction to correct errors in patents arising from its own internal processing, or its printing operation, that actually predates the liberal statutory authorization provided by § 254 and its 1924 predecessor statute. See McCrady, Patent Office Practice, 4th Ed. (1959) at 439. The USPTO originated mistakes in printed patents corrected by Certificates of Correction have run the gamut from the trivial, such as punctuation errors, to omitted drawings, and even to missing claims. Id. According to Workload Table 24 of the USPTO Annual Report for Fiscal Year 2000, the USPTO had averaged for a 5 year period a combined yearly total of about 16,000 Certificates of Correction under both § 254 and § 255. See *http://www.uspto.gov/web/offices/com/annual/2000.*

were correctly printed in the patent. Rather, inspection of the contents of this file clearly reveals that the scope of the patent claims as printed is incorrect. Furthermore, petitioner has not shown that the presumption of validity set forth in § 282 is applicable to the USPTO when it exercises its discretionary authority under § 254 and 37 CFR 1.322. As the court noted in Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, at 1534, 218 USPQ 871, at 875 (Fed. Cir. 1983):

> The presumption, like all legal presumptions, is a procedural device, not substantive law. It does require the decision-maker to employ a decisional approach that starts with the acceptance of the patent claims as valid and that looks to the challenger for proof of the contrary. Thus the party asserting invalidity not only has the procedural burden of proceeding first and establishing a prima-facie case, but the burden of persuasion on the merits remains with that party until final decision... With all evidence in, the trial court must determine whether the party on which the statute imposes the burden of persuasion has carried that burden.

Petitioner has not shown, nor is it apparent, that the "clear and convincing" standard for proving invalidity applies to the USPTO when it exercises its discretionary authority under § 254. The standard set forth in § 254, which here controls, is "clearly disclosed," not "presumed valid. "Clearly disclosed" is not defined in the statute. However, "[a] fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." Perrin v. United States, 444 U.S. 37, 42 (1979). "Clearly" is the adverbial form of "clear" which is defined as, *inter alia*, "easily visible," "free from obscurity or ambiguity: easily understood: unmistakable," and "free from doubt." *Webster's Ninth New Collegiate Dictionary* 247 (1985). "Disclosed" is the past tense of "disclose" which is defined as "to expose to view," "to make known or public". Id. at 360. Consequently, the ordinary, contemporary, and common meaning of clearly disclosed envisions anything that is easily understood, not obscure or ambiguous, and that is made known or exposed to view. It follows that the mistake in this patent is "clearly disclosed" within the (or any) meaning of § 254.

Since § 254 does not require the "clear and convincing" standard, petitioner has no reasonable basis to import this standard into § 254, and then impose this standard on the USPTO in this instance. See Southwest, supra. Rather, the "clear and convincing" standard applies to those infringement defendants who challenge the validity under § 281 of a patent or its claims either as issued, or as corrected by a Certificate of Correction. See Superior Fireplace Co. v. Majestic Products Co., 270 F3d. 1358, 60 USPQ2d 1668, 1674 (Fed. Cir 2001). Here, the USPTO is not a defendant in an infringement action who is asserting the invalidity of the patent or claims within the meaning of § 281. It follows that the USPTO does not here bear the "clear and convincing" standard of proof more correctly applicable to putative infringers under § 281. Rather, the USPTO is here asserting there is a mistake caused by the USPTO in this patent that is "clearly disclosed" by the records of the Office within the meaning of § 254. Compare In re Etter, 756 F2d. 852, 225 USPQ 1 (Fed. Cir 1985) where the court noted that the presumption of claim validity does not apply to USPTO in reissue applications under 35 U.S.C. 251 when ruling likewise for reexamination proceedings, and observed "the focus of both is on curing defects which occurred during a proceeding in the PTO, which was responsible for original issuance of the patent." § 254, like § 251, is found in Chapter 25, Title 35 United Sates Code entitled "Amendment and Correction of Patents." Like reissue and reexamination, the focus of § 254 is on curing defects which occurred during a proceeding in the USPTO which was responsible for the original issuance of the patent. Contrary to petitioner's assertion, it

does not automatically follow that the USPTO must meet the "clear and convincing" burden of proof of a mistake when it proposes to issue a Certificate of Correction under § 254 and 37 CFR 1.322.

Petitioner is reminded that the printing operation (under 35 U.S. C. § 10, see MPEP § 1309 *et seq.*), is distinct from the examining operation (under 35 U.S.C. § 131, see generally MPEP Chapter 700) within the USPTO, and that the determination of patentability *vel non* of the claims is performed in and by the examining, not the printing, operation. See 35 U.S.C. § 131 (" [t]he Director shall cause an examination to be made of the application and of the alleged new invention; and if it appears on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefore;" § 151 ("[i]f it appears that applicant is entitled to a patent under the law a written notice of allowance of the application shall be given or mailed to the applicant.") The examination, culminating in the determination of patentability indicated by the giving or mailing of the written notice of allowance is only performed in the examining operation, not the printing operation, of the USPTO. The subsequent patent printing operation, that "shall issue a patent therefore" is simply ministerial in nature and as such has no statutory, regulatory, or authority delegated from the Director, to modify, rescind, or abrogate the examining operation's prior determination of what constituted patentable subject matter. Indeed, 37 CFR 1.322(a)(1)(ii) permits any part of the USPTO to, *sua sponte*, initiate a Certificate of Correction to mitigate USPTO mistakes in a patent arising from *e.g.*, the printing process. In any event, assuming *arguendo* the standard of proof of a mistake in a patent incurred by the USPTO is "clear and convincing" evidence, then the foregoing clearly demonstrates there is "clear and convincing" evidence in the written record that the narrowed claims limited to --lobelia-- that were passed to issue by the examiner were unfortunately not the broad claims that were printed. Compare the Office action of December 4, 2001, (at 2) with the Examiner's Amendment of January 15, 2002. Furthermore, there is no "clear and convincing" evidence of any further Examiner's Amendment within the meaning of 37 CFR 1.121(g) that specifically made changes and additions to element (C) of allowed claims 1 and 11, or of an amendment filed by applicant after allowance under 37 CFR 1.312, approved by the examiner, that canceled "lobelia" in element (C) and inserted --an anti-smoking drug.--

Petitioner further contends that the printing of these claims "by mistake" would have required the unlikely circumstance that the examiner, the Office of Publications, and the Office of Quality Review, each independently made an error. Assuming for the sake of argument that it was necessary for all three areas of the USPTO to have erred, § 254 only requires that the mistake in the above-identified patent be "clearly disclosed" and does not condition USPTO correction of the mistake on how it arose other than it be the fault of the USPTO. As noted above, the examiner (or the clerical staff) arguably erred[7] in amending the "marked up" version of claims 1, 11 just as the printer arguably erred in capturing and printing the "clean [but now canceled] copy" of the prior, broadened claims. There is no written evidence in the record of this file that this application was reviewed, screened, or surveyed, by the Office of Quality Review. Even assuming such

---

[7] While a careful reading of 37 CFR 1.121(g), the final rulemaking reported at 65 *F.R.* 54604, and MPEP 1302.04, fails to reveal that the examiner (or USPTO clerical staff) was expressly required to enter changes made by an Examiner's Amendment under 37 CFR 1.121(g) on the "clean" version of any amended claims, such was implied by the rule change adding the requirement for a "clean" version of the claims to facilitate their capture by OCR scanning during the printing process.

were the case, the Office of Quality Review reviews an allowed application to determine if any claims allowed by the examiner are in fact not patentable. See MPEP 1308.03. The Office of Quality Review does not proof read the efforts of the printing operation for errors in initial or final data capture. In any event, even assuming *arguendo*, that all three areas of the USPTO erred, that does not preclude correction of the mistake by way of § 254.

Petitioner further asserts that the alleged error is not subject to correction by a Certificate of Correction. Specifically, petitioner urges, and relies upon several reported decisions in support of his contention, that correction of the kind of error present herein, would entail changing the scope of an allowed claim, and that "cannot be corrected by a Certificate of Correction as a matter of law." Nevertheless, the decisional authorities (petition at 8-9) relied upon by petitioner simply do not address the instant situation, which is correction of a USPTO caused mistake under § 254 and its promulgating regulation 37 CFR 1.322. Rather, the decisional authorities relied upon by petitioner are all directed to Certificates of Correction seeking to correct a mistake caused by applicant under § 255 and its promulgating regulation 37 CFR 1.323. As noted above, and as detailed in the very authorities that petitioner relies on, Congress placed numerous limitations in § 255 that sharply limit attempts to correct mistakes arising from applicant in an issued patent by way of a Certificate of Correction.[8] That Congress did not concurrently place the same limitations in § 254 in 1952 which deals with the USPTO correcting its own mistakes, clearly demonstrates that Congress intended that the USPTO have more freedom in correcting its own mistakes by way of a Certificate of Correction than a patentee would have in correcting his own mistakes by way of a Certificate of Correction. § 254 only sets forth "a mistake" which is manifestly not limited to typographical or clerical mistakes, and indeed "a" is not followed by any further restrictive modifier and, as such, "a mistake" is clearly inclusive of any and all mistakes that might occur in a patent caused by the USPTO. Indeed, inspection of typical errors in claim scope corrected by Certificates of Correction issued by the USPTO under § 254 reveals that claims have been deleted, which is, of course, the ultimate narrowing of the scope of a claim, as well as added, which is the ultimate in according scope to the added claim, and various intermediate changes in the scope of claims as printed, have likewise been effectuated. For example, a Certificate of Correction under § 254 was issued on July 31, 2001, to U.S. 6,019,809, that deleted claims 1 through 5, which notwithstanding their prior cancellation by applicant, were inadvertently printed in the patent. The corrective cancellation of these claims meant, of course, that the patent had never issued with that subject matter claimed, and as such, the scope of the patent's claims had been narrowed. On the same date, a Certificate of Correction under § 254 was issued to U.S. 6,018,312, to add an entire last step "(e)" involving calculation, to method claim 1, that had inadvertently not been printed in the

---

[8] A Certificate of Correction under 35 U.S.C. § 255 and 37 CFR 1.323 is available for the correction of applicant's errors of only a minor or clerical character, and does not extend to the correction of applicant's errors that would constitute new matter or would require reexamination. See In re Arnott, 19 USPQ2d 1049, 1054 (Comm'r Pat. 1991); In re Hyman, 185 USPQ 441, 442 (Sol. Pat. 1975). Specifically, 35 U.S.C. § 255 requires, *inter alia*, that two specific and separate requirements be met prior to the issuance of a Certificate of Correction. The first requirement is that applicant's mistake is: (1) of a clerical nature, (2) of a typographical nature, or (3) of minor character. The second requirement is that the correction must not involve changes that would: (1) constitute new matter or (2) would require reexamination. See Arnott 19 USPQ2d at 1052; see also MPEP 1485.

patent. The corrective addition of this further limitation, meant, of course, that the patent as issued now required 5 processing steps (a through e), and not 4 (a through d) as printed, and as such, the scope of claims 1 *et seq.* had been narrowed. On May 28, 2002, a Certificate of Correction under § 254 was issued to U.S. 6,027,798, to add two dependent claims that had inadvertently not been printed in the patent. By definition, these dependent claims presented an additional limitation(s) that further modified or restricted the scope of claim 13 upon which they depended, see 35 U.S.C. § 112, paragraph 4, and as such, the scope of claim 13 was narrowed.

As to the third item noted above, petitioner contends that as the "alleged error" is not a "mistake of consequence" within the meaning of MPEP § 1480, a Certificate of Correction should not issue. Petitioner further points to litigation in progress involving the as-printed patent, and that any forthcoming Certificate of Correction under § 254 would have no consequence on the already-pending litigation, and cites Harlequin, supra, in support of his contention.

Petitioner appears to misconstrue § 1480 of the MPEP, which merely recounts the discretionary authority of the USPTO with respect to correcting its own mistakes under § 254, when its limited resources are balanced against the need for the public to have correct information about patents that the USPTO has printed. As noted above, the mistake in the above-identified patent as printed is clearly disclosed within the meaning of § 254 by the records of the USPTO. Indeed, petitioner acknowledges that the claims as unfortunately printed have already been asserted against a member of the public. It is well settled that the claims of the patent as printed constitute public notice of the scope of the patent grant. See *e.g.*, Warner Jenkinson Co. v. Hilton Davis Chem. Co., 520 U.S. 17, 29 (1997). However, the public is also entitled to rely upon the public record, including the prosecution history, of a patent in determining the scope of the patent's claims. See Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996); Vectra Fitness v. TNWK Corp., 162 F3d 1379, 1384, 49 USPQ2d 1144, 1148 (Fed Cir. 1998). This reliance enables businesses, as well as others, to plan their future conduct in as certain an environment as possible. Vitronics, Id.[9] Where, as here, there is a clearly disclosed discrepancy between the public record of the patent file prosecution history and the patent as printed, this discrepancy creates an ambiguity as to where the public may properly place its reliance: the public record or the printed copy of the patent. Here, staying the Certificate of Correction would tend to maintain the uncertainty of this environment for businesses and others in planning their future conduct, and tend to decrease the ability of the public to rely on the public record of this patent. That litigation may already be underway involving one member of the public is immaterial to the USPTO exercising its discretionary authority to correct its own mistake for the benefit of both the patentee and the public. Issuance of the Certificate of Correction will tend to render the business environment more certain, and further, both the public notice effect of the public record of this file and the public notice effect of the issued claims as amended by the Certificate of Correction will be in harmony. Since the records of the USPTO clearly disclose the existence of a mistake in the scope of the claims as now printed in the patent when compared to the scope of the claims that were actually passed to issue by the

---

[9] For example, the "recapture rule" prevents a patentee from regaining through reissue subject matter surrendered during prosecution, thus ensuring the ability of the public to rely on a patent's public record. See In re Clement, 131 F.3d 1464, 1468, 45 USPQ2d 1161, 1164 (Fed. Cir. 1997).

examiner, it is in the interest of both the patentee and the public for the USPTO to issue a Certificate of Correction under § 254 and 37 CFR 1.322.

DECISION

The petition is granted to the extent that the Office communication of May 5, 2003, has been reconsidered, but for the reasons given above is **dismissed** as to the request for an order staying issue of a Certificate of Correction under § 254 and 37 CFR 1.322 The USPTO will exercise its discretion in this instance and correct its own mistake that is clearly disclosed by the records of the Office.

This patent file is being forwarded to Certificate of Correction Branch for processing of the Certificate of Correction.

Telephone inquiries related to this decision may be directed to Petitions Examiner Brian Hearn at (703) 305-1820.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED

APR 04 2007

OFFICE OF PETITIONS

In re Patent No. 7,088,696 :
Issue Date: 08/08/06 :
Application No. 09/427,595 : ON PETITION
Filed: 10/27/99 :
Attorney Docket No. H-858 :

This is a decision on the request under 37 CFR 3.81(b), filed October 4, 2006, to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The matter is being referred to the Certificate of Correction Branch for processing of the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

MAIL

JAN 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
David P. Rossum
Application No. 09/427,815
Filed: October 27, 1999
For: SAMPLE RATE CONVERTER HAVING DISTRIBUTED FILTERING

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 October 4, 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 listed in the withdrawal 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: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arington, VA 22313-1450
www.uspto.gov

Paper No. 25

Thomas A. Runk
Fulwider Patton Lee & Utecht, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

COPY MAILED

JUN 1 3 2003

OFFICE OF PETITIONS

In re Application of :
James E. Gharib :
Application No. 09/428,006 :
Filed: October 27, 1999 :
Attorney Docket No. IVACP-39907 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 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 April 1, 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 June 2, 2003. See MPEP 1215.04.

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 3763 for further processing.

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
AMB

Paper No. 16

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of Gallagher, et al. Application No. 09/428,033 Filed: October 27, 1999 Atty. Dkt. No.: 9870-15US Title: ANTICOLLISION PROTOCOL WITH FAST READ REQUEST AND ADDITIONAL SCHEMES FOR READING MULTIPLE TRANSPONDERS IN AN RFID SYSTEM	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 3, 2000 and received by the Office of Petitions September 17, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 27, 1999 without a fully executed oath or declaration. Accordingly, on November 26, 1999, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks requirements (1) and (2) set forth above.

As to item (1), petitioner has failed to sufficiently establish that despite diligent effort, Riccardo Benedetti cannot be reached or located. Petitioner indicates that the application papers were sent to the non-signing inventor at the non-signing inventor's last known address in the United States and that the package containing the application papers

was returned. Petitioner further indicates that the application papers were sent to a Swiss address via courier service and that the package containing the application papers was signed for by one other than the inventor.

Petitioner has failed to establish that any efforts were thereafter made to locate the non-signing inventor.

Where inability to reach or locate the legal representative of a deceased inventor is alleged, petitioner is required to establish that diligent effort was made to locate the non-signing inventor, and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Moreover, while the petition alleges the non-signing inventor cannot be located, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates Riccardo Benedetti, formerly of Voorhees, New Jersey has more recently resided at the following address: **44 Treaty Elm Lane #10INUI, Haddonfield, New Jersey 08033-3414.**

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Application No. 09/428,033

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

COPY MAILED
NOV 0 6 2003
OFFICE OF PETITIONS

In re Application of Gallagher, et al. Application No. 09/428,033 Filed: October 27, 1999 Atty. Dkt. No.: 9870-15US Title: ANTICOLLISION PROTOCOL WITH FAST READ REQUEST AND ADDITIONAL SCHEMES FOR READING MULTIPLE TRANSPONDERS IN AN RFID SYSTEM	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 23, 2003.

The petition is **GRANTED**.

Petitioner has shown that despite diligent effort inventor Riccardo Benedetti cannot be reached or located to execute the declaration for the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), 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.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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

Riccardo Bennetti
3312 Avalon Court
Voorhees, NJ 08043-442

In re Application of	:	
Gallagher, et al.	:	
Application No.: 09/428,033	: LETTER	
Filed: October 27, 1999	:	
Atty. Dkt. No.: 9870-15US	:	
For: ANTICOLLISION PROTOCOL WITH	:	
FAST READ REQUEST AND ADDITIONAL	:	
SCHEMES FOR READING MULTIPLE	:	
TRANSPONDERS IN AN RFID SYSTEM	:	

COPY MAILED
NOV 0 6 2003
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 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 as per 37 C.F.R. § 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 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. 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).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

IVOR R ELRIFI PH D
MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO P C
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

JUL 02 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Andrew B. Murdin et al. :
Application No. 09/428,122 : ON PETITION
Filed: October 27, 1999 :
Attorney Docket No. 19721-007 (AV-7) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 December 13, 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 March 14, 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.

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 June 14, 2001 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 (703) 305-9282.

The application file is being forwarded to Technology Center 1600.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 25

ELIZABETH A. ARWINE
USAMRMC
FORT DETRICK
BUILDING 521
FREDERICK, MD 21701

COPY MAILED
JUN 1 8 2004
OFFICE OF PETITIONS

In re Application of
Christopher O. Okunji, et al.
Application No. 09/428,203
Filed: October 27, 1999
Attorney Docket No. 003/172/SAP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 18, 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 application became abandoned on November 19, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), 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.

The application file is being forwarded to Technology Center 1600, Art Unit 1654 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ELIZABETH A. ARWINE
USAMRMC
FORT DETRICK
BUILDING 521
FREDERICK, MD 21701

COPY MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of Okunji et al. :
Application No. 09/428,203 : Decision on Petition
Filing Date: October 27, 1999 :
Attorney Docket No. MRMC.PA.01.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on March 28, 2008. The Office action set a shortened statutory period for reply of three (3) months.

A reply and request for a one-month extension of time were filed July 24, 2008.

The Office mailed an Advisory Action on August 21, 2008.

Since a proper reply was not filed in response to the Office action, the application became abandoned on July 29, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office action in the form of a Notice of Appeal. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Since petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b), the petition is granted and the application is revived.

The Notice of Appeal filed November 28, 2008, has been entered and made of record. **The two-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision**. See MPEP 1205.

Technology Center Art Unit 1655 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

5-16-08

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

Patent No. : 7,337,142 B1
Ser. No. : 09/428284
Inventor(s) : Andrew D. Holmes, et. al.
Issued : February 26, 2008
Title : MULTIPLE EXCHANGE RATE TRACKING INA FINANCIAL TRANSACATION MANAGER
Docket No. : 37202/117001;990008

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.

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
40l Dulany Street
Alexandria, VA 22314

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

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

Eva James
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124 or 125**

Robert P. Lord
Osha Liang LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,337,142
Ser. No. : 09/428,284
Inventor(s) : Andrew D. Holmes, et. Al.
Issued : February 26, 2008
Title : MULTIPLE EXCHANGE RATE TRACKING IN A FINANCIAL TRASACTION MANAGER
Docket No. : 37202/117001; 990008

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 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 is hereby denied.

A certificate of correction will issue to correct the remaining errors noted in your request.

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.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Robert P. Lord
Osha Liang LLP
909 Fannin St., Suite 3500
Houston, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSHA - LIANG L.L.P. (INTUIT)
TWO HOUSTON CENTER
909 FANNIN STREET, SUITE 3500
HOUSTON TX 77010

COPY MAILED

JAN 1 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,337,142 :
Issue Date: February 26, 2008 :
Application No. 09/428,284 : ON PETITION
Filed: October 27, 1999 :
Attorney Docket No. 37202/117001; 990008 :

This is a decision on the petition filed November 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The processing fee of $130 under 37 CFR 1.17(i) is charged to petitioner's deposit account No. 50-0591 as authorized by Robert Lord.

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

Carl Friedman
Petitions Examiner
Office of Petitions

---

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

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)
6,754,742	2004-06-22	09/428,285	1999-10-27	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)	2008-12-30
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
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6754742
Issue Date: June 22,2004
Application No. 09428285
Filed: October 27,1999
Attorney Docket No. 6563-54007

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

William C. Rooklidge
Howrey Simon Arnold & White LLP
301 Ravenswood Avenue Box No 34
Menlo Park CA 94025

MAIL

AUG 1 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Adam Michael Fenne
Application No. 09/428,395
Filed: October 28, 1999
For: MATCHING A REDUCED SPECTRUM LIGHTING SOURCE WITH VIDEO ENCODING PROGRAM VARIABLES FOR INCREASED DATA COMPRESSION RATIOS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment which is treated as pursuant to 37 C.F.R. §1.181, filed June 26, 2003 and resubmitted on September 29, 2003 and again on April 13, 2004. No fee is required.

The petition is **DENIED.**

This application became abandoned due to failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 11, 2003. A Notice of Abandonment was mailed on June 19, 2003.

Petitioner has alleged non-receipt of the Notice of Allowance and Issue Fee Due. In the petition, the petitioner has provided a statement that the Notice was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP § 711.03(c) Petitions Relating to Abandonment, states in part:...

> II. PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
> The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that:
> (a) the Office communication was not received by the practitioner;
> (b) attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
> Moreover, 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.

As mentioned, Petitioner states that the Notice of Allowance and Issue Fee Due was not received and also references a docket log within their petition. Moreover, the petition does state "A thorough search of the file jacket and docket sheet uncovered no notice of allowance documents or entries", however, it is not clear from the petition if this is a statement from the Practitioner or the Applicant. The following paragraph of the petition states "..Applicant believes that he has mace a good faith showing that the office action was not received." This tends to suggest that the Applicant is making the statement in the previous paragraph and thus does not comply with the requirements of a successful petition to withdraw the holding of abandonment due to the lack of a statement from the Practitioner attesting to a personal search of the file jacket and docket records and indicating that the office communication was not received.

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

The file is being forwarded to the file repository.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAR 1 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

William C. Rooklidge
Howrey Simon Arnold & White, LLP
301 Ravenswood Avenue, Box No. 34
Menlo Park CA 94025

In re Application of
Adam Michael Fenne
Application No. 09/428,395
Filed: October 28, 1999
For: **MATCHING A REDUCED SPECTRUM LIGHTING SOURCE WITH VIDEO ENCODING PROGRAM VARIABLES FOR INCREASED DATA COMPRESSION RATIOS**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request for reconsideration (filed October 21, 2004) of the Petition to Withdraw Holding of Abandonment pursuant to 37 CFR §1.181(a), pursuant to 37 C.F.R. §1.181, filed June 26, 2003 and resubmitted on September 29, 2003 and again on April 13, 2004. No fee is required.. No fee is required.

This application became abandoned to failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed February 11, 2003. A Notice of Abandonment was mailed June 19, 2003.

Petitioner has alleged non-receipt of the Notice of Allowance and Issue Fee Due. In the petition, the petitioner has provided a statement that the Notice was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. Moreover, Petitioner states on page 2 of their request, that the Practitioner thoroughly searched the file jacket and docket sheet.

MPEP § 711.03(c) Petitions Relating to Abandonment, states in part:...

> II. PETITION TO WITDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
> The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that:
> (a) the Office communication was not received by the practitioner;
> (b) attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
> Moreover, 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 has satisfied the requirements set forth above in the petition filed June 26, 2003 as supplemented by the request for reconsideration filed October 21, 2004.

Accordingly, the petition is **GRANTED**. The holding of Abandonment is hereby withdrawn. The Notice of Allowance and Issue Fee due is also hereby vacated.

Since it has been established that the Notice of Allowance was not received, it is presumed that the practitioner also failed to receive the Notice of Allowability. The Notice of Allowability will also be re-mailed with the new Notice of Allowance.

The application file is being forwarded to the group technical support staff where a new Notice of Allowance will be prepared and mailed along with a re-mailing of the Notice of Allowability in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6248949	2001-06-19	09428433	1999-10-28	AMONI-82550

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 k. fitzgerald/	Date (YYYY-MM-DD)	2009-08-12
Name	John K. Fitzgerald	Registration Number	38881

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. 6248949
Issue Date: June 19,2001
Application No. 09428433
Filed: October 28,1999
Attorney Docket No. TURNER/PA1

:
: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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 04-02

Paper No. 9

ROCKEY MILNAMOW & KATZ LTD
TWO PRUDENTIAL PLAZA
SUITE 4700
CHICAGO IL 60601

COPY MAILED

APR 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Orlowski et al.	:	
Application No. 09/428,982	:	ON PETITION
Filed: 28 October, 1999	:	
Attorney Docket No. 35.C8745-CI	:	

This is a decision on the petition to revive the above-identified abandoned application under 37 CFR 1.137(b),[1] filed on 29 January, 2002.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on 21 March, 2001, for failure to file a timely response to the non-final Office action mailed on 20 December, 2000, which set a three (3) month shortened statutory period for reply. A request for a Continued Prosecution Application (CPA) was filed on 19 June, 2001. On 18

---

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

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

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

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

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

June, 2001, a Notice of Improper CPA Filing under 37 CFR 1.53(d) was mailed, informing applicants that the CPA filed on 19 June, 2001, was improper because it was not accompanied by the appropriate extension of time fee necessary for copendency with the prior application. On 21 November, 2001, petitioners submitted a request for a three (3) month time extension, accompanied by the requisite fee. The time extension was not entered, however, and the fee returned, because the request was untimely. On 24 January, 2002, Notice of Abandonment was mailed. On 29 January, 2002, the present petition, accompanied by an amendment, was filed.

It is noted that the prior application became abandoned for failure to timely reply to the non-final Office action mailed on 20 December, 2001, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Therefore, the application became abandoned as a matter of law on 21 March, 2001.[2] Therefore, the CPA filed on 19 June, 2001, was **untimely**. As the Office was prohibited by statute from extending the period for reply, the Notice of Improper CPA Filing was itself improper and is hereby vacated. The Office apologizes for the error and regrets any inconvenience to petitioner.

Since this application is revived for purposes of continuity only with the Continued Prosecution Application (CPA) filed on 19 June, 2001, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced CPA.

This application is being forwarded to Technology Center 3600 for processing of the CPA filed on 19 June, 2001, and the preliminary amendment filed on 29 January, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] 35 U.S.C. § 133.

UNITED STATES 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. 21

COPY MAILED
JUL 0 8 2004
OFFICE OF PETITIONS

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

In re Application of :
Orlowski, et al. : DECISION ON PETITION
Application No. 09/428,982 :
Filed: October 28, 1999 :
Atty. Dkt. No.: P3091 :

This is a decision on the petition under 37 CFR 1.137(a), filed March 15, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

The present petition lacks requirements (1) and (3) above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. While an amendment was submitted with the instant petition, the amendment has been

reviewed by the examiner of record and deemed not to place the application in condition for allowance. Accordingly, any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination (and appropriate fee), a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

As to item (3), petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the delay in timely submitting a proper response to the final Office action to non-receipt. In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to the correspondence address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. However, non-receipt of an Office communication due to failure to promptly

and properly submit a change of correspondence address to the Office is not deemed unavoidable within the meaning of 37 CFR 1.137(a).

The final Office action was originally mailed to the correspondence address of record on March 18, 2003[1]. The final Office action was returned to the Office by the USPS as undeliverable as addressed. The Office then re-mailed to the final Office action, resetting the period of time for response, on June 5, 2003[2]. The final Office action was again returned to the Office as undeliverable as addressed. The final Office action mailed June 5, 2003 was forwarded to applicant on December 17, 2003 at the newly submitted change of correspondence address[3]. The mailing on December 17, 2003 did not reset the period of time for reply as implied by petitioner. The final Office action was forwarded by the Technology Center clerical staff as a courtesy, and, presumably as requested by petitioner.

Petitioner is advised as per MPEP 711.03(c) that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address: (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made; (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP §

---

[1] The correspondence address of record as of the date of mailing of the final Office action was Rockey Milnamow & Katz Ltd., Two Prudential Plaza, Suite 4700, Chicago, IL 60601.
[2] Id.
[3] A change of correspondence address was submitted December 17, 2003.

403); or (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

While petitioner was assigned a customer number in an Office communication mailed May 1, 2002, petitioner is reminded of the requirement to submit a change of correspondence address in each effected application. *See*, MPEP 601.03. There is no indication in Office records that petitioner submitted a change of correspondence address prior to the mailing of the final Office action on June 5, 2003. In fact, a change of correspondence address was not submitted until December 17, 2003.

Petitioner's failure to properly and promptly submit a change of correspondence address for the instant application, while perhaps unintentional, does not amount to unavoidable delay within the meaning of 37 CFR 1.137(a).

Any renewed petition must establish that the delay in timely replying to the final Office action was unavoidable.

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 $475.00 extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. A refund may be requested by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund. Alternatively, petitioner may request to have the petition for extension of time fee applied to the fee for a petition under 37 CFR 1.137(b) as discussed herein.

ALTERNATE VENUE

Petitioner is **strongly** urged to consider filing a petition stating that the delay was unintentional. Petitioner's 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.

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:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Petitioner is advised that the change of correspondence address submitted October 21, 2003 has been entered into the record.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

COPY MAILED
SEP 01 2004
OFFICE OF PETITIONS

In re Application of :
Orlowski, et al. : DECISION ON PETITION
Application No. 09/428,982 :
Filed: October 28, 1999 :
Atty. Dkt. No.: P3091 :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed August 17, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

The present petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. While an amendment was submitted March 15, 2004, the amendment failed to place the application in condition for allowance as indicated in the decision mailed July 8, 2004. Accordingly, any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination (and appropriate fee), a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310. Inquires placed after September 27, 2004 may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 25

COPY MAILED

OCT 0 5 2004

OFFICE OF PETITIONS

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

In re Application of :
Orlowski, et al. : DECISION ON PETITION
Application No. 09/428,982 :
Filed: October 28, 1999 :
Atty. Dkt. No.: P3091 :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed September 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004. A petition under 37 CFR 1.137(b) was filed August 17, 2004 and dismissed September 1, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

The present petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. As indicated in the decision on petition mailed decision mailed July 8, 2004 and reiterated in the decision mailed September 1, 2004, the amendment submitted March 15, 2004 fails to place the application in condition for allowance. Thus, it is not a proper response to the outstanding Office action.

Any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination, including, *inter alia*, a submission and required fee, a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 32

LAW OFFICE OF JAY R. HAMILTON, PLC.
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 100
DAVENPORT, IA 52801

COPY MAILED

SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Orlowski, et al.	:	DECISION ON PETITION
Application No. 09/428,982	:	
Filed: October 28, 1999	:	
Atty. Dkt. No.: P3091	:	

This is a decision on the petition renewed under 37 CFR 1.137(b), filed October 20, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004. A petition under 37 CFR 1.137(b) was filed August 17, 2004 and dismissed September 1, 2004. A renewed petition under 37 CFR 1.137(b) was filed September 1, 2004 and October 5, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to submit a proper response to the outstanding Office action. It has been determined, upon review of the examiner, that the amendment submitted October 20, 2004 fails to place the instant application in condition for allowance. (See enclosed Advisory Action.) Accordingly, petitioner has failed to submit a properly reply to the outstanding Office communication.

Any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination, including, *inter alia*, a submission and required fee, a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery or courier service(FedEx, UPS, DHL, etc.):	U.S. Patent and Trademark Office Customer Service Window **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTOL-303

UNITED STATES 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

LAW OFFICE OF JAY R. HAMILTON, PLC.
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 100
DAVENPORT, IA 52801

COPY MAILED
JAN 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Orlowski, et al.	:	DECISION ON PETITION
Application No. 09/428,982	:	
Filed: October 28, 1999	:	
Atty. Dkt. No.: P3091	:	

This is a decision on the petition renewed under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004. A petition under 37 CFR 1.137(b) was filed August 17, 2004 and dismissed September 1, 2004. A renewed petition under 37 CFR 1.137(b) was filed September 1, 2004 and October 5, 2004. A renewed petition was submitted October 20, 2004 and dismissed September 20, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action

mailed June 5, 2003 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 3600 for processing of the RCE submitted herewith.

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

In re Patent No. 6371689
Issue Date: April 16,2002
Application No. 09429032
Filed: October 29,1999
Attorney Docket No. W390 0001/HWS

:

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

:

This is a decision on the electronic petition, filed September 4,2007 ,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 September 4,2007 . 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)
6371689	2002-04-16	09429032	1999-10-29	W390 0001/HWS

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	/HiltonWCSue/	Date (YYYY-MM-DD)	2007-09-04
Name	Hilton W.C. Sue	Registration Number	51325

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

Paper No. 14

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

OCT 0 6 2003

OFFICE OF PETITIONS

In re Application of :
James V. Luciani :
Application No. 09/429,047 : ON PETITION
Filed: October 29, 1999 :
Attorney Docket No. 082771.P259 :

This is a decision on the petition under 37 CFR 1.313(c), filed October 3, 2003, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 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 Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2697 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT and TRADEMARK OFFICE
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: NOV 12 2002

RPG
Paper No. 20

In re application of
Stephen H. Brown et al.
Serial No. 09/429,295
Filed: October 28, 1999
For: CONVERSION OF UNSATURATED CHEMICALS TO OLIGOMERS

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed October 23, 2002, for failure to respond to the Office Action dated January 24, 2002. Petitioner asserts that a timely response was filed.

DECISION

Since petitioner asserts that a timely response was filed, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request does not have merit. Applicants have submitted "statements" (not declarations), a post card receipt which appears to be from the USPTO, but which fails to contain a dated STAMP (a circular stamp which shows the mail was received in OIPE) which is a requirement, and finally the copy of the actual amendment in question fails to contain a certificate of mailing.

Therefore, the Notice of Abandonment of August 28, 2002 is considered proper and hereby maintained.

It is suggested that applicants' file a Petition to Revive-Unintentional Abandonment, with the Office of Petitions.

The Petition is **DENIED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Peter W. Roberts Esq.
Mobil Business Resources Corporation
Intl Porp Group Office of Legal Counsel
3225 Gallows Road
Fairfax, VA. 22037-0001

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

wak

Mailed: APR 25 2003

Paper Number _____

In re application of
Stephen H. Brown et al.
Serial No. 09/429,295
Filed: October 28,1999
For: CONVERSION OF UNSATURATED CHEMICALS TO OLIGOMERS

DECISION ON PETITION

This is a response to the REQUEST FOR RECONSIDERATION OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed March 18, 2003 by facsimile transmission. The request asks that the abandonment, as set forth in the Notice of Abandonment of August 28, 2002, for failure to timely file a proper reply to the Office Action mailed January 24, 2002 be withdrawn. The requestor asserts that a response was filed April 24, 2002.

DECISION

Since the requester asserts that a timely response was filed, the request for reconsideration is accepted as a petition under 37 C.F.R. § 1.181 (no fee) .

The original petition filed October 23, 2002 was denied because Applicants submitted Statements (not declarations), a post card receipt from the USPTO failing to contain a dated STAMP and that the copy of the actual amendment failed to contain a certificate of mailing.

In this request for reconsideration, Applicants maintain that declarations are not required to show that the subject response was timely filed and that 37 CFR 1.8(b)(3) only requires a statement. Applicants have demonstrated that the subject response that was mailed to the USPTO On April 24, 2002 did in fact include a proper certificate of mailing .Applicants also submit that a return postcard is not needed to show that the Response was timely filed with the USPTO. Applicants further note the Decision on Petition was addressed to Mobil Business Resources Center even though Applicants have previously requested a change in the correspondence address for the application pursuant to a substitute Power Of Attorney dated November 7, 2001.

Upon review of Applicants request for reconsideration, the Notice of Abandonment of August 28, 2002 is hereby withdrawn, the application is returned to pending status, applicants' response of April 24, 2002 is entered into the file. Applicants change in correspondence address is entered and the case is forward to the Examiner for consideration of Applicants' response.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ExxonMobil Chemical Company
Law Technology
P.O.Box 2149
Baytown, Texas 77522-2149

UNITED STATES 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. 6080736
Issue Date: June 27,2000
Application No. 09429503
Filed: October 27,1999
Attorney Docket No. JAN-8

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

This is a decision on the electronic petition, filed July 29,2009 ,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 29,2009 .
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)
6,080,736	2000-06-27	09/429,503	1999-10-27	P-70037-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark S. Cohen/	Date (YYYY-MM-DD)	2009-07-29
Name	Mark S. Cohen	Registration Number	42425

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

STUART T F HUANG
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE NW
WASHINGTON DC 20036-1795

COPY MAILED

MAR 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Yung, et al.	:	
Application No. 09/429,624	:	ON PETITION
Filed: October 29, 1999	:	
Attorney Docket No. 10624.0015	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed February 18, 2004.

The petition under 37 CFR 1.137(a) 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 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed October 17, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 18, 2003. A Notice of Abandonment was mailed on May 21, 2003.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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(d). 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.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

On petition, petitioner states that the previous assignee, Certco, Inc., was subject to a Chapter 11 bankruptcy proceeding during the entire period for responding to the October 11, 2002 Office action. In support thereof, petitioner has included a copy of an "Order Scheduling Initial Case Conference", dated August 14, 2002. In addition, petitioner has included a copy of an "Order, Pursuant to Inter Alia, 11 U.S.C. §§105, 363 and 365 Approving the Sale of Certain Assets and Related Relief", dated May 7, 2003.

Afterwards, the secured creditors conveyed their interest in CertCo Inc. to CQRCert LLC on July 30, 2003. Shortly thereafter, CQRCert LLC secured counsel and began the process of evaluating its intellectual property assets. This process was concluded on February 17, 2004. One day later, the instant petition was filed.

Petitioner makes his case for unavoidable delay by stating that "CertCo, Inc. was subject to the restrictions of the Chapter 11 Proceeding at all times during the period for responding to the October 17 Office Action, and therefore unable to respond to the October 17 Office Action." However, petitioner has not provided any details of the restrictions of the Chapter 11 proceeding.

Receipt of the Notice of Appeal, filed with the instant petition, is acknowledged. The amount of $330 for the Notice of Appeal fee

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

has been charged to petitioner's deposit account, as authorized. However, the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)) will not run until such time as petitioner files a grantable petition to revive and a decision on petition is mailed.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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), currently $665 for a small entity; and (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.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

STUART T F HUANG
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE NW
WASHINGTON DC 20036-1795

COPY MAILED

JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Yung, et al.	:	
Application No. 09/429,624	:	ON PETITION
Filed: October 29, 1999	:	
Attorney Docket No. 14616.0015	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 11, 2004.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed October 17, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on January 18, 2003. A Notice of Abandonment was mailed on May 21, 2003. Applicants filed a petition to revive under 37 CFR 1.137(a) on February 18, 2004. However, this petition was dismissed in a decision mailed on May 11, 2004.

With the instant petition, applicants paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of a Notice of Appeal was previously filed on February 18, 2004.

The petition fee of $1,330 has been charged to Deposit Account No. 19-4293, as authorized.

Please be advised that 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 file is being returned to Group Art Unit 2131 to await for applicants' submission of the appeal brief.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6235004	2001-05-22	09429677	1999-10-28	5472.210-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WESLEY A. NICOLAS/	Date (YYYY-MM-DD)	2009-07-14
Name	WESLEY A. NICOLAS	Registration Number	56129

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. 6235004
Issue Date: May 22,2001
Application No. 09429677
Filed: October 28,1999
Attorney Docket No. 5472.210-US

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

This is a decision on the electronic petition, filed July 14,2009 ,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 14,2009 . 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 : November 2, 2006

TO SPE OF : ART UNIT 1654 Cecilia J. Tsang

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/429,798 Patent No.: 6956051 B1

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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: _____

Cecilia Tsang — **SPE**

1654 — **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. 9

AKC PATENTS
215 Grove Street
Newton, MA 02466

MAY 17 2003

In re Application of	:	
Paul P. Castrucci	:	
Application No. 09/429,869	:	DECISION ON PETITION
Filed: October 29, 1999	:	TO MAKE SPECIAL
For: LASER MICROCLEANING	:	
APPARATUS AND METHODS	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 17, 2003, via facsimile transmission, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of the Driver's License of the inventor issued by the state of Vermont showing that he is over sixty five (65) years of age.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she 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 it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program 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

JUN 18 2004

DAVID M CROMPTON
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2420

In re Application of	:
Michael S. H. Chu et al	:
Serial No.: 09/430,050	: PETITION DECISION
Filed: October 25, 1999	:
Attorney Docket No.: 1001.1258101	:

This is in response to the petition under 37 CFR 1.181, filed April 30, 2004, requesting withdrawal of Finality of the last Office action.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on June 30, 2003, setting a three month shortened statutory period for reply in which claims 2-9, 11-15, 21 and 24-31 were rejected under 35 U.S.C. 102(e) as anticipated by Heck '207. From page 2 to page 6 the examiner discussed the reference apparatus in detail and gave reasons why applicants' claims individually were anticipated. The examiner further responded to applicants' arguments which had been filed May 27, 2003, and which were directed to similar subject matter.

Applicants replied on September 29, 2003, and traversed the rejection over Heck '207. Applicants devoted pages 2-14 to presenting arguments meant to rebut the examiner's holding of anticipation mainly arguing that the structure of the reference does not perform the same function or in the same way as applicants' claimed invention.

The examiner mailed a Final Office action to applicants on December 31, 2003, setting a three month shortened statutory period for reply. The examiner repeated the rejection essentially verbatim from the previous Office action and then spent pages 6-9 responding to applicants specific points of argument.

Applicants filed this petition on April 30, 2004, as well as an amendment after Final rejection. The latter has not yet been acted on pending the decision on the petition.

DISCUSSION

It is noted that the petition was filed four months after the examiner's action of which applicants complain. 37 CFR 1.181(f) requires that such petitions be filed within two months of the action complained of or they may be dismissed as untimely. Clearly this petition is untimely and is dismissible for that reason alone as well as for other reasons set forth below.

Applicants petition the Finality of the last Office action on the basis they cannot properly formulate arguments for purposes of Appeal if the examiner does not fully explain her reasoning. Applicants argue that the tenor of the examiners non-Final Office action led them to believe that she did not understand the operation of standard hemostasis valves, such as Heck's '207, and their response attempted to fully explain conventional valve operation. Applicants contended that their valve operates differently and provided an explanation of its operation. Applicants now complain that the examiner ignored their explanation and responded in a manner which essentially summarily dismissed their arguments. Applicants further conducted a telephone interview in February, 2004, to persuade the examiner of the differences between the prior art and their valve.

A review of the Office action shows that the examiner did respond to all of applicants arguments fully and presented appropriate reasoning for the manner in which the reference, Heck '207, is being interpreted. That the examiner did not spend 10 pages answering applicants' arguments, but only three, is not dispositive of error on the examiner's part so long as the examiner's reasoning is clearly set forth which it is. It appears that the examiner and applicants have fully developed the statutory issues relating to patentability or unpatentability of the claimed valve and have taken opposite sides thereon each having presented appropriate reasoning and arguments. As such the issues are ripe for resolution by the Board of Patent Appeals and Interferences.

The petition is **DISMISSED**.

The application will be forwarded to the examiner for further consideration of applicants concurrently filed amendment. Applicants' time period for properly responding to the Final Office action, mailed December 31, 2003, remains as set therein.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the mail date thereof.

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, 703-872-9306.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT and TRADEMARK OFFICE

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

WAK
Paper no. 8

Mailed: JAN 7 2002

In re: Oussoren et al.

Serial no. 09/430,063

For: UNITARY FILTER CARTRIDGE

: DECISION
: ON
: PETITION
:

This is a decision on the PETITION UNDER 37 C.F.R. 1.181, filed August 27, 2001 which is before the Director of Technology Center 1700 for decision. The petitioner requests expungement of a statement rendered by the Examiner in the Final Office Action dated May 22, 2001.

DECISION

After a careful review of the application record and the petitioner's argument, it is concluded that the petitioner's request to expunge the Examiner's statement is denied in view of the statements made of record in this decision and the issuing of a subsequent Office action not containing the offensive language.

MPEP 707.07(d) indicates, "Everything of a personal nature must be avoided". The Office apologizes for the Examiners inappropriate comments made in the office action of May 22, 2001 (paper no.5). Furthermore, the Examiner's statement about infringement was improper. The Examiner has no legal authority to render an infringement opinion in connection with the examination of a patent application.

It is noted that petitioner in the response filed March 20, 2001 (paper no.4) raised the issue of infringement and, while requesting expungement of the Examiner's remarks on infringement, has not requested expungement of petitioner's remarks. A question of infringement is governed by 35 U.S.C. 271-297 and decided in Federal Court.

In view of the above statements, a new office action will be issued by the Examiner, which action will not contain the offensive language.

The Petition is **Granted-in-Part** to the extent that a new office action will be issued not containing the offensive language and **Denied-in-Part** in view of the fact that the office action of May 22, 2001 will not be expunged.

The application is returned to the Examiner for the reissuing of an office action in accordance with this decision.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Joseph B. Bowman
Shook, Hardy & Bacon, L.L.P.
One Kansa City Place
1200 Main Street
Kansas City, MO 64105-2118

copy 12/14/06

PATENT
ATTY. DOCKET NO. ETK/162

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	**6,868,348**	**Issue Date: March 15, 2005**
Applicant	:	Stoutenburg et al.	Art Unit: 2863
Serial No.	:	09/430,077	Examiner: D. Pretlow
Filed	:	October 29, 1999	
For	:	ADAPTIVE HIGH FREQUENCY ENERGY DETECTION	

Certificate of Correction Branch
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Via EFS-WEB

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
FOR PTO MISTAKE (37 C.F.R. 1.322(a)) AND
FOR APPLICANT'S MISTAKE (37 C.F.R. 1.323)

Attached, in duplicate, is Form PTO-1050 (Substitute Form PTO76-22), with at least one copy being suitable for printing.

The exact page and line number where the errors are shown correctly in the application file are:

Page 4, line 18 is not indented to indicate a new paragraph.

Page 7, line 7, reads "circuitry. If different.

Page 9, line 3, reads "upon the resulting".

Page 13, line 10, reads "form. A/D".

Page 14, line 1, reads "of the invention".

Page 17, line 8, reads "Transform or other".

Page 18, line 4, reads "the user, must".

Page 19, line 10, reads "is more negative" and line 15, reads "82 the current".

Page 20, line 10, reads "and T".

Certificate of Electronic Transmission
I hereby certify that this correspondence and any enclosures are being electronically transmitted via EFS-WEB on the date indicated below.

/Thomas W. Humphrey/ June 9, 2006
Thomas W. Humphrey Date
Reg. No. 34,353

In the amendment dated August 28, 2003, page 8, claim 26, line 2, reads "storing ~~said~~ a maximum".

It is noted that an error appears in this patent of typographical nature or character, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of correction is requested.

The exact page and line number where the errors occur in the application file are:

Page 1, line 16, should read "identify variations".

In the amendment dated August 28, 2003, page 3, claim 3, line 2, should read "1 wherein said".

Please send the certificate to:
Thomas W. Humphrey, Esq.,
Wood, Herron & Evans, L.L.P.
2700 Carew Tower
Cincinnati, OH 45202

Also enclosed is the fee, in the amount of $100.00, as required by 37 C.F.R. 1.20(a).

If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

/Thomas W. Humphrey/

Thomas W. Humphrey
Reg. No. 34,353

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

Voice: (513) 241-2324
Facsimile: (513) 241-6234

PTO/SB/16 (05-03)
Approved for use through 4/30/2003. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

COPY 2/14/06

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,868,348

APPLICATION NO. : 09/430,077

ISSUE DATE : March 15, 2005

INVENTOR(S) : Donn V. Stoutenburg, Ming Xu

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 1, line 22, delete "identify an variations", insert --identify variations--.

Column 2, line 32, after "bands", the sentence beginning with "This analysis" should immediately follow, no paragraph indentation is required.

Column, 3, line 48, delete "circuitry. It different", insert --circuitry. If different--.

Column 4, line 14, delete "upon tile resulting", insert --upon the resulting--.

Column 5, line 67, delete "form A/D", insert --form. A/D--.

Column 6, line 5, delete "of tile invention", insert --of the invention--.

Column 7
Line 28, delete "Transform other", insert --Transform or other--.
Line 49, delete "the use, must", insert --the user, must--.

Column 8
Line 19, delete "is mole negative", insert --is more negative--.
Line 25, delete "82 tile current", insert --82 the current--.
Line 47, delete "aid T", insert --and T--.

Column 10, Claim 3, line 1, delete "claim 1 said", insert --claim 1 wherein said--.

Column 12, Claim 26, lines 1-2, delete "storing said a maximum", insert --storing a maximum--.

MAILING ADDRESS OF SENDER (Please do not use number below):

Thomas W. Humphrey, WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower, 441 Vine Street, Cincinnati, OH 45039

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 FORM 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.

Electronic Acknowledgement Receipt

Copy 12/14/06

EFS ID:	1073825
Application Number:	09430077
Confirmation Number:	6763
Title of Invention:	ADAPTIVE HIGH FREQUENCY ENERGY DETECTION
First Named Inventor:	DONN V. STOUTENBURG
Customer Number:	26875
Filer:	Thomas Ward Humphrey/Laura Koehler
Filer Authorized By:	Thomas Ward Humphrey
Attorney Docket Number:	ETK/162
Receipt Date:	09-JUN-2006
Filing Date:	29-OCT-1999
Time Stamp:	15:52:17
Application Type:	Utility
International Application Number:	

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$ 100
RAM confirmation Number	140
Deposit Account	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part	Pages

1	Request for Certificate of Correction	09430077_RequCertificateof Correction.pdf	94802	no	3
Warnings:					
Information:					
2	Fee Worksheet (PTO-875)	fee-info.pdf	8150	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	102952		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

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

Paper No. 8

THOMAS E. MCDONNEL
U.S. DEPARTMENT OF THE NAVY
NAVAL RESEARCH LABORATORY
4555 OVERLOOK AVE., SW
WASHINGTON, D.C. 20357-5000

COPY MAILED

FEB 18 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Keith A. Snail, et al.
Application No. 09/430,132
Filed: October 9, 1987
Attorney Docket No. 70,840

DECISION ON PETITION

This is a decision on the supplemental petition to take action, filed August 20, 1999, and the renewed petition to take action, filed November 8, 1999. Both petitions were filed under the provisions of 37 CFR 1.181.

The petitions are **granted**. The patent application materials submitted on August 20, 1999 have been accepted and accorded a filing date of October 9, 1987.

Because this application lacks an executed oath or declaration, petitioner is forwarned that the Office of Initial Patent Examination will be issuing a Notice to File Missing Parts of Application for this application file. Should petitioner care to submit the executed oath or declaration prior to receipt of the Notice to File Missing Parts, petitioner is informed that a $65.00 surcharge must accompany the late-filed oath or declaration. 37 CFR 1.16(e), 37 CFR 1.53(b), 37 CFR 1.63(a).

A review of the Office records for the named inventors for this application indicate that the first named inventor, Keith A. Snail, was residing in Silver Spring, Maryland as late as 1995 and that the second named inventor, Kevin F. Carr, was residing in Sunpee, New Hampshire as late as 1994. A petition under 37 CFR 1.47 should not be filed until all attempts to contact each inventor have been exhausted.

Receipt is acknowledged of the assignment submitted with the application papers; the assignment has been entered into the file wrapper for this application and has been accorded a paper number. A review of the assignment records for the Office indicate that this invention is indeed recorded at reel 4772, frame 756, however, petitioner is informed that the assignment does not reference an application number. Accordingly, petitioner is advised to contact Applications Branch to determine if another recordation

cover sheet should be filed in order to update the information for this assignment. Petitioner should note that because the assignment for this invention was only signed by Keith A. Snail, Mr. Snail's assignee, the Secretary of the Navy, remains the undivided part owner of this patent application with other undivided part owner of this patent application being Kevin F. Carr.

Petitioner is further informed that no power of attorney has been filed with this application. Thus, should petitioner seek to prosecute this patent application, a properly executed power of attorney should be filed. The power of attorney must be signed by the Secretary of the Navy and Kevin F. Carr as the undivided part owners of this patent application and should indicate a correspondence address of record. See MPEP §§ 402.10 and 403

This application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Karen Canaan at (703) 306-3313.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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)
6,643,626	2003-11-04	09/430,151	1999-10-29	ATR-0001

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 E. Stachler II/	Date (YYYY-MM-DD)	2008-03-10
Name	Robert E. Stachler II	Registration Number	36934

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. 6643626
Issue Date: November 4,2003
Application No. 09430151
Filed: October 29,1999
Attorney Docket No. 271801-1010

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

This is a decision on the electronic petition, filed March 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 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.

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)
6332432	2001-12-25	09430247	1999-10-29	071469.0002

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	/William Lynn Wallace/	Date (YYYY-MM-DD)	2010-03-11
Name	William Lynn Wallace		

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. 6332432
Issue Date: December 25,2001
Application No. 09430247
Filed: October 29,1999
Attorney Docket No. 071469.0002

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

This is a decision on the electronic petition, filed March 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 March 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

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED

FEB 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Senthilnathan et al.	:	
Application No. 09/430,267	:	DECISION ON PETITION
Filed: October 29, 1999	:	
Attorney Docket No. 99.360	:	

This is a decision on the petition, filed January 30, 2004, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowability of August 21, 2003, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 21, 2003.

Petitioner states that a timely reply was mailed via certificate of mailing on September 5, 2003, which included the following papers: Transmittal letter and submission of formal drawings. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated September 5, 2003, which would render the reply timely.

A review of the file record does in fact indicate that the response filed September 5, 2003, via certificate of mailing was received by the Office.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowability of August 21, 2003 is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Data Management for processing of the reply received with petition.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Albert S. Penilla
Martine & Penilla, LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

MAILED

JUL 2 5 2003

Technology Center 2100

In re Application of: Sutera et al.	)	
Application No.: 09/430,350	)	**DECISION GRANTING PETITION**
Filed: October 29, 1999	)	**TO ACCEPT CORRESPONDENCE AS**
Attorney Docket No.: SUNMP099	)	**TIMELY FILED UNDER 37 CFR §1.8**
For: METHOD FOR REDUCING NOISE	)	
IN INTEGRATED CIRCUIT LAYOUTS	)	

This decision is in response to the request for withdrawal of holding of abandonment of this application filed on June 13, 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 file a proper response to the Office action mailed October 3, 2002 (Paper No. 8).

In support of the petition, petitioners have provided (1) a copy of the Auto-Reply for facsimile transmission with a date of February 3, 2003, (2) a copy of a Request for Continued Examination accompanied by a petition for an extension of time and authorization to charge deposit account No. 50-0805, and (3) a request for entry of previously submitted amendment filed on December 3, 2002.

A copy of the USPTO Auto-Reply for facsimile transmission serves as *prima facie* evidence of receipt in the USPTO as of the date stamped thereon. Therefore, petitioner's evidence establishes that a timely response was, in fact, filed on February 3, 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 Technology Center support staff to process the request for continued examination.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 25

Norman R. Klivans
SKJERVEN, MORRILL, MacPHERSON LLP
Suite 700
25 Metro Drive
San Jose, CA 95110-1349

MAR - 4 2003

In re Application of:	:	
Ramsbey, *et al.*	:	
Application No. 09/430,366	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 28, 1999	:	
For: METHOD OF MAKING A MEMORY CELL WITH POLISHED INSULATOR LAYER	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 06, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 that can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above requirements. The request was signed by Norman R. Klivans, an attorney of record in the above identified application. On December 03, 2002, the Office mailed a non-final Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through June 03, 2003. As such, there is at least thirty (30) days remaining between the date of this decision and the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

The request is approved.

The application currently has no attorney of record.

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

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mike Farjami
Farjami & Farjami
16148 Sand Canyon
Irvine, CA 92618

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.
09/430,642	10/29/1999	BERNARD DOV GELLER	SAR-12428	7578

7590 04/23/2003

Birgit E. Morris, Esq.
16 Indian Head Road
Morristown, NJ 08540

EXAMINER
JONES, STEPHEN E

ART UNIT	PAPER NUMBER
2817	

DATE MAILED: 04/23/2003

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

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 INVENTOR	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below a communication from the SUPERVISORY EXAMINER in charge of this application.

Commissioner of Patents

DECISION ON PETITION UNDER 37 CFR §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed March 4, 2003 under 37 CFR §1.97(d) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 CFR §1.97(d)(2).

[ ] It was filed after the patent grant.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d) and 1.97(e).

[ ]The information disclosure statement has been placed in the file and made of record but will not be considered by the examiner.

[X] IDS CONSIDERED.

The examiner has considered the IDS. See accompanying copy of PTO 1449.

This application is being forwarded to the Board of Patent Appeals and Interferences for decision on appeal.

Robert Pascal
Supervisory Patent Examiner
Technology Center 280

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

SCOTT C. HARRIS
FISH & RICHARDSON, P.C.
4225 EXECUTIVE SQUARE
SUITE 1400
LAJOLLA, CA 92037

COPY MAILED

NOV 14 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Anthony Toivonen
Application No. 09/430,691
Filed: October 29, 1999
Title: Distributed Component System Management
Attorney Docket No. 10559/043001

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. 1.47(b), filed March 13, 2000.

The petition under 37 C.F.R. 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," 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 C.F.R. §1.136(a).

The above-identified application was filed on October 29, 1999, without an executed oath or declaration or payment of filing and claim fees and naming Anthony Toivonen, as sole inventor.

Accordingly, on November 30, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for late filing, and payment of the filing and claim fees. This Notice set a period for reply of two months from the mailing date of the notice, to January 30, 2000. On February 29, 2000, (certificate of mailing date), petitioner requested and obtained a one-month extension of time under the provisions of 37 C.F.R. §1.136(a). At the same time, petitioner paid the surcharge, filing and claim fees, and submitted the instant petition (with petition fee) and thereby, avoided abandonment of the application.

Rule 47 applicant maintains that status under 37 C.F.R. §1.47(b) is proper because the sole inventor, Anthony Toivonen, cannot be found or reached after diligent effort and irreparable damage by way of loss of proprietary rights would result if the application is not accepted at this time.

A grantable petition under 37 C.F.R §1.47(b) requires:

(1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175;

(2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64;

(3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(4) the petition fee;

(5) a statement of the last known address of the non-signing inventor;

(6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and

(7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

See 35 U.S.C. §118; 37 C.F.R.§1.47; §§409.03 and 605 of the *Manual of Patent Examining Procedure* (7th ed. 1998)(Rev. 1, Feb. 2000)(MPEP).

The instant petition lacks requirements (1), (2), (3), (6) and (7):

- The declaration, submitted with the instant petition is not acceptable. The declaration must state the full name, residence, citizenship and post office address of all inventors, regardless of signing status. The declaration must be executed in accordance with §1.66 or §1.68.

- The statement of relationship required under 37 C.F.R. §1.64 is not included. To be in compliance with §1.64, the rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state.
  Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324. See MPEP 409.03(b).

- An affidavit or declaration of facts must be submitted describing the facts which are relied on to establish that a diligent effort was made. The affidavit or declaration must be signed by a person having firsthand knowledge of the facts recited therein. A paper under rule 47(b), which is not an affidavit or declaration, was submitted.
  Additionally, copies of documentary evidence such as certified mail return receipts that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit. See MPEP 409.03(d).

- Applicant must prove that, as of the date the application is deposited in the United States Patent and Trademark Office, (a) the invention has been assigned to the applicant, or (b) the inventor has agreed in writing to assign the invention to the applicant, or (c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. See MPEP 409.03(f).

- Rule 47 applicant asserts that 1.47 status is required, and irreparable damage by way of loss of properiety rights would result if the application is not accepted at this time. Rule 47 applicant must submit proof of irreparable damage. See MPEP §409.03(g).

On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiencies and provide a 1.47 petition in compliance with all applicable law.

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
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

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
DIW 02-01

Paper No. 9

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

MAR 1 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Anthony L. Toivonen	:
Application No. 09/430,691	: DECISION NOTING JOINDER OF
Filed: 29 October, 1999	: INVENTOR AND PETITION UNDER
Attorney Docket No. 10559/043001	: 37 CFR 1.47(b) MOOT

Papers filed on 16 January, 2001 (certificate of mailing date 10 January, 2001), in reply to "Decision Refusing Status Under 37 CFR 1.47(b)" mailed on 14 November, 2000, included a Declaration signed by the previously nonsigning inventor, Anthony L. Toivonen, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

This application will be forwarded to Technology Center 2700 for examination in due course.

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 30 2004

DAVID A. JACKSON, ESQ.
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

In re Application of	:
Uwe Vinkemeier et al	:
Serial No.: 09/430,806	: PETITION DECISION
Filed: November 2, 1999	:
Attorney Docket No.: 600-1-182NA	:

This is in response to the petition under 37 CFR 1.181, filed August 22, 2003, for withdrawal of abandonment of the above identified application based on a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability, requiring new formal drawings, to applicants on March 11, 2003, setting a three month shortened statutory period for reply. Upon failure to receive the formal drawings the Office mailed a Notice of Abandonment to applicants on August 4, 2003. Applicants state that formal drawings were filed June 11, 2003, and provide an Office date stamped postcard, date June 13, 2003, evidencing receipt of the drawings by the Office. The drawings have also been found as scanned in the Image File Wrapper database. In view of the evidence presented the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the Publications Division for printing as a patent.

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.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE-10TH FL.
NEW YORK, NY 10151

COPY MAILED

NOV 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Inoue et al.	:	
Application No. 09/430,950	:	ON PETITION
Filed: November 1, 1999	:	
Attorney Docket No. 450100-3247.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(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 May 28, 2007. A Notice of Abandonment was mailed January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: HAJIME INOUE	: DECISION ON REQUEST FOR
Patent Number	: 7607157	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/430,950	: OF WYETH
Filed	: 11/01/1999	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 38

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

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bart De Corte et al
Application No. 09/430,966
Filed: November 1, 1999
Attorney Docket No. JAB-1425

This is a decision on the petition, filed January 23, 2004, and supplemented on February 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1624 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

COPY MAILED

JUN 15 2001

OFFICE OF PETITIONS
A/C PATENTS

TOWNSEND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of
Burbank, et al.
Application No. 09/431,008
Filed: November 1, 1999
Attorney Docket No. 17742-000630

DECISION ON PETITION

This is a decision on the "Request to Set Aside Notice of Incomplete Nonprovisional Application", filed February 12, 2001, which is being treated as a Petition Under 37 CFR 1.53(e).

Application papers in the above-identified application were filed on November 1, 1999. However, on January 24, 2001, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the specification was missing. In addition, the Notice informed applicant that the statutory basic filing fee was missing. The absence of the filing fee was not grounds for failing to accord the application a filing date, however.

A review of the application file reveals that a specification was filed on November 1, 1999. As such, the "Notice of Incomplete Nonprovisional Application" appears to have been mailed in error. Therefore, to the extent that the Notice states that the application has not been accorded a filing date, the Notice is hereby vacated. However, to the extent that the Notice states that the statutory basic filing fee was missing, the Notice remains entered.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee was not charged to counsel's Deposit Account, as requested.

Office records presently show the filing date of this application as February 12, 2001.

Accordingly, the application is being returned to the Office of Initial Patent Examination for correction of the filing date to November 1, 1999.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey H. Burbank et al. :
Application No. 09/431,008 :
Filed: February 12, 2001 :
Attorney Docket No. 17742-000630 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 16, 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 February 11, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on May 12, 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 3763 for further processing.

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)
6,642,362	2003-11-04	09/431,184	1999-11-01	P04470US1/BAS

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	/B. Aaron Schulman/	Date (YYYY-MM-DD)	2008-04-24
Name	B. Aaron Schulman	Registration Number	31877

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. 6642362
Issue Date: November 4,2003
Application No. 09431184
Filed: November 1,1999
Attorney Docket No. XX/P04470US1

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

This is a decision on the electronic petition, filed April 24,2008 ,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 April 24,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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. 6466840
Issue Date: October 15,2002
Application No. 09431355
Filed: November 1,1999
Attorney Docket No. M-178

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

This is a decision on the electronic petition, filed July 21,2008 ,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 July 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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)
6466840	2002-10-15	09/431,355	1999-11-01	M-178

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	/Victor F. Lohmann, III/	Date (YYYY-MM-DD)	
Name	Victor F. Lohmann, III	Registration Number	33951

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/06

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction on Patent No.: 6735236

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.

Lamonte Newsome
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

After reconsideration, it was determined that the claims would read better with the language entered.

SPE

2874
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
www.uspto.gov

Paper No. 10

Sidley Austin Brown & Wood
787 Seventh Avenue
New York, NY 10019

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Dirk Jansen :
Application No. 09/431,457 : ON PETITION
Filed: November 1, 1999 :
Attorney Docket No. DT-3198 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 non-final Office action mailed May 23, 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 August 24, 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 2863 for further processing.

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

SIDLEY AUSTIN BROWN & WOOD LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019

COPY MAILED

JUL 29 2005

OFFICE OF PETITIONS

In re Patent No. 6,778,917	:	
Issue Date: August 17, 2004	:	
Application No. 09/431,457	:	DECISION GRANTING PETITION
Filed: November 1, 1999	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. DT-3198	:	

This is a decision on the petition under 37 CFR 1.183, filed February 18, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to include the assignee's name on the front page of the Letters Patent by way of a certificate of correction.

The request is **GRANTED**.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES F. HALEY JR
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1104

COPY MAILED
SEP 0 5 2006
OFFICE OF PETITIONS

In re Patent No. 7,065,452	:	
Issued: June 20, 2006	:	
Application No.:09/431,469	:	ON PETITION
Filed: November 1, 1999	:	
Attorney Docket No: **VPI/95-09-DI**	:	

This is a regarding the "Notification of Loss of Small Entity Status under 37 CFR 1.27(g)(1)(and (2) for this Patent and Payment of Deficiency of Issue Fee" filed June 4, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Intervet/Schering-Plough
Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

MAILED

JUN 30 2010

OFFICE OF PETITIONS

Applicant:	:	
Chung et al.	:	
	:	PETITION
Application No. 09/431,519	:	ON REQUEST FOR RECONSIDERATION
Filed: November 1, 1999	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.		
1998.433-3 / AH0948Q	:	

This is a decision on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(B) filed on December 4, 2008.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE as to the amount of time accrued under 35 USC 154(b)(1)(B) and 37 CFR 1.702(b). The applicant request for review of the patent term adjustment as it relates to the applicant delays under 37 CFR 1.704 and the amount of delays awarded applicant under 37 CFR 1.702(a) is GRANTED-IN-PART.**

Applicants assert in addition to the time accrued for "B" delay that they are also entitled to specific amounts of "A" delay and less applicant delay.

Applicants assert they are entitled to following:

1) 31 days under 37 CFR 1.703(a)(4);

2) 152 days under 37 CFR 1.703(b);

Applicants assert that there were reductions for the following events:

1) 6 days under 37 CFR 1.704(b)

2) 37 days pursuant to 37 CFR 1.704(b)

3) 83 days pursuant to 37 CFR 1.704(b)

Applicants do not cite any other reduction as a failure to engage in reasonable efforts to conclude prosecution of the application.

The Office cited seven events that reduced PTA for a total of 691 days and cited Office delay of 31 days.

Upon review of the determination, the Office and applicant agree to the reductions of 6 days and the reduction of 37 days. The Office also agrees with applicants that the delay of 380 days is errant and that the proper reduction is 83 days as asserted by applicant.

However, the Office further reiterates that the reductions of 86 days, 90 days, 62 days, and 30 days pursuant to 37 CFR 1.704(b) are proper and are being maintained.

As for the Office delay of 31 days, the Office asserts that such accrual is inaccurate. Pursuant to 37 CFR 1.703(a)(4), the Office is required to respond to a compliant appeal brief within four months. Under the present scenario, the compliant appeal brief was not filed until April 22, 2003. The Office reopened the application on July 22, 2003 within four months of the filing of the compliant appeal brief.

Accordingly, at the mailing of the notice of allowance the determination is the following: 0 days of Office delay - applicant delay(6 + 83 + 86 +90 +62 + 30 + 37= 394)= 0. The Office notes that if applicant delay is greater than Office delay then the Office will post notice to applicant that they received zero days. To avoid confusion, the Office does not advise appellant that they have a negative balance of (394) day balance at the time of the mailing of the notice of allowance. Accordingly, the Office delay is zero (0) days at time of the mailing the notice of allowance.

The Office will determine the amount of "B"delay at the time of the issuance of the patent and accordingly, it is premature to address whether appellants' calculation of 152 days is accurate.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

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

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

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

---

calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Day : Monday
Date: 6/28/2010

PALM INTRANET

Time: 14:48:50

PTA Calculations for Application: 09/431519			
Application Filing Date:	11/01/1999	PTO Delay (PTO):	31
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	691
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	266		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
148	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	266		
139	10/01/2008	MAIL NOTICE OF ALLOWANCE			
138	09/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
137	09/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
136	09/29/2008	ISSUE REVISION COMPLETED			
135	09/29/2008	DOCUMENT VERIFICATION			
128	09/29/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
127	09/29/2008	NOTICE OF ALLOWABILITY			
126	07/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
125	07/07/2008	REFERENCE CAPTURE ON IDS			
124	07/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
123	08/16/2008	DATE FORWARDED TO EXAMINER			
122	07/21/2008	RESPONSE AFTER NON-FINAL ACTION		30	118
121	07/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
120	07/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	07/01/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
118	03/21/2008	MAIL NON-FINAL REJECTION			
117	03/17/2008	NON-FINAL REJECTION			
116	02/22/2008	CORRESPONDENCE ADDRESS CHANGE			
115	12/26/2007	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL			

		PAPERS, ETC).			
114	01/12/2008	DATE FORWARDED TO EXAMINER			
113	12/26/2007	RESPONSE AFTER NON-FINAL ACTION		62	111
112	12/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
111	07/25/2007	MAIL NON-FINAL REJECTION			
110	07/23/2007	NON-FINAL REJECTION			
109	05/21/2007	DATE FORWARDED TO EXAMINER			
108	05/11/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
107	05/21/2007	DATE FORWARDED TO EXAMINER			
106	05/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
105	05/21/2007	DISPOSAL FOR A RCE / CPA / R129			
104	05/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
103	05/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
102	12/13/2006	NOTICE OF APPEAL FILED		90	99
101	12/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
100	08/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
99	06/14/2006	MAIL FINAL REJECTION (PTOL - 326)			
98	06/12/2006	FINAL REJECTION			
97	04/06/2006	DATE FORWARDED TO EXAMINER			
96	04/03/2006	RESPONSE AFTER NON-FINAL ACTION		86	94
95	04/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
94	10/07/2005	MAIL NON-FINAL REJECTION			
93	10/03/2005	NON-FINAL REJECTION			
92	07/20/2005	DATE FORWARDED TO EXAMINER			
91	07/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
90	07/20/2005	DATE FORWARDED TO EXAMINER			
89	07/14/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
88	07/20/2005	DISPOSAL FOR A RCE / CPA / R129			
87	06/07/2005	NOTICE OF APPEAL FILED		380	51
86	05/24/2005	MAIL ADVISORY ACTION (PTOL - 303)			
85	05/23/2005	ADVISORY ACTION (PTOL-303)			

84	05/09/2005	REFERENCE CAPTURE ON IDS			
83.7	05/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	05/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	05/12/2005	DATE FORWARDED TO EXAMINER			
81	04/09/2005	AMENDMENT AFTER FINAL REJECTION			
80	05/09/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
57	12/16/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
56	12/16/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
55	12/16/2004	MAIL NOTICE OF RESCINDED ABANDONMENT			
54	12/16/2004	NOTICE OF RESCINDED ABANDONMENT IN TCS			
53	09/24/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
52	09/23/2004	ABAND. FOR FAILURE TO RESPOND TO O. A.			
51	02/23/2004	MAIL FINAL REJECTION (PTOL - 326)			
50	02/17/2004	FINAL REJECTION			
49	12/19/2003	DATE FORWARDED TO EXAMINER			
48	11/28/2003	RESPONSE AFTER NON-FINAL ACTION		37	46
47	11/28/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	07/22/2003	MAIL NON-FINAL REJECTION	31		40
45	07/07/2003	NON-FINAL REJECTION			
44	04/30/2003	DATE FORWARDED TO EXAMINER			
43	04/22/2003	APPEAL BRIEF FILED			
42	03/19/2003	NOTICE -- DEFECTIVE APPEAL BRIEF			
41	03/17/2003	DATE FORWARDED TO EXAMINER			
40.1	02/21/2003	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
40	02/21/2003	APPEAL BRIEF FILED			
39	03/06/2003	MAIL ADVISORY ACTION (PTOL - 303)			
38	03/06/2003	ADVISORY ACTION (PTOL-303)			
37	03/05/2003	DATE FORWARDED TO EXAMINER			
36	02/21/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			

35	12/16/2002	NOTICE OF APPEAL FILED			
34	10/23/2002	MAIL FINAL REJECTION (PTOL - 326)			
33	10/18/2002	FINAL REJECTION			
32	08/01/2002	DATE FORWARDED TO EXAMINER			
31	06/24/2002	RESPONSE AFTER NON-FINAL ACTION		6	30
30	03/18/2002	MAIL NON-FINAL REJECTION			
29	03/06/2002	NON-FINAL REJECTION			
28	02/11/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	03/01/2002	DATE FORWARDED TO EXAMINER			
26	02/11/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
25	03/01/2002	DISPOSAL FOR A RCE / CPA / R129			
24	02/11/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	02/11/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

September 18, 2002

Joseph A. Rhoa
1100 North Glebe RD, 8th Floor
Arlington, VA 22201-4714

In re application of:
Francisco et al
Serial No.: 09/431,616
Filed: November 2, 1999
For: STSTEM AND METHOD FOR CAUSING MULTIPLE PARTIES TO BE PAID FOR A SINGLE CREDIT CARD TRANSACTION

DECISION ON PETITION

This is a decision on the faxed petition received September 12, 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 December 7, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 8, 2001. A notice of abandonment was mailed on September 29, 2000.

On September 12, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney did not receive the Notice to File Missing Parts mailed December 7, 1999.

The change of address received January 21, 2000, has been entered into the record. The Notice to File Missing Parts was mailed to the designed address in the application as of December 7, 1999.

In viewing the application 3 status letters were found inquiring about the Notice to File Missing Parts. The status letters will be used as the evidence that petitioners did not receive the Notice to File Missing parts on December 7, 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
www.uspto.gov

Paper No. 14

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

NOV 21 2003

OFFICE OF PETITIONS

In re Application of
Whitehead, et al.
Application No. 09/431,737
Filed: November 1, 1999
Attorney Docket No. 41PR-7349
For: MAN MACHINE INTERFACE FOR POWER MANAGEMENT CONTROL SYSTEM

ON PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.47(a) OR IN THE ALTERNATIVE UNDER 37 CR 1.182," filed August 22, 2003 (certificate of mailing date August 20, 2003) and supplemented on August 25, 2003 (certificate of mailing date August 21, 2003). The petitions are being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.

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 1.183" and must include an oath or declaration executed by the available inventors. **Failure to respond will result in abandonment of the application.**

The June 5, 2000 declaration is not acceptable because inventors 7, 8, and 11 are not identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial. 37 CFR 1.63(a)(2) Thus, the declaration is not acceptable.

Petitioners have identified the missing inventor names for inventors 7, 8, and 11. Petitioners have also established the three inventors cannot be located.

Petitioners are required to submit an executed substitute declaration which sets forth the names of all the joint inventors and which also includes the citizenship, residence and post office/mailing address of each inventor.

If petitioners are unable to locate formerly signing inventors or the formerly signing inventors now refuse to sign the new declaration, petitioners should submit provide evidence supporting the allegation.

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 until 12/01/03:	Crystal Plaza Four, Suite 3C23 2201 South Clark Place Arlington, VA 22202
By hand post 12/01/03:	Crystal Plaza 1 Lobby 2011 South Clark Place Room 1B03 Arlington, VA 22202
By Fax until 12/01/03:	(703) 308-6916 ATTN: Office of Petitions
By FAX post 12/01/03:	(703) 872-9306 ATTN: Office of Petitions

Telephone inquiries related to this decision 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 17

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Whitehead, et al.
Application No. 09/431,737
Filed: November 1, 1999
Attorney Docket No. 41PR-7349
For: MAN MACHINE INTERFACE FOR
POWER MANAGEMENT CONTROL SYSTEM

ON PETITION

This is a decision on the reconsideration petition entitled, "PETITION UNDER 37 CFR 1.47(a) IN LIEU OF INVENTOR'S SIGNATURE," filed March 24, 2004 (certificate of mailing date March 22, 2004). The petition will be treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by all named inventors.

Petitioners have submitted an executed supplemental declaration which sets forth the names of all the joint inventors and which also includes the citizenship, residence and post office/mailing address of each inventor.

Petitioners have shown that the non-signing inventor, Surampudi Subbalakshmi, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney David Arnold establishes that the inventor has constructively refused to sign the declaration.

Therefore, the petition is **granted**. A review of financial records indicates that petitioners have paid two $130.00 petition fees. Only one is required. Deposit account no. 06-1130 will be credited one of these fees ($130.00).

The application file will be returned to Publications Division.

Telephone inquiries related to this decision 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 24

FRANK S. DiGIGLIO, ESQ.
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

COPY MAILED

JUL 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Ian S. Zagon et al	:	
Application No. 09/431,843	:	DECISION GRANTING PETITION
Filed: November 1, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 13038	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 16, 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 October 17, 2001. A Notice of Abandonment was mailed on March 20, 2002.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition is acceptable for satisfying 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 submission (amendment) under 37 CFR 1.114; (2) the petition fee; and (3) an acceptable statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 16, 2001 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 1647 for processing the RCE and for appropriate action on the concurrently filed amendment.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL W. HAAS, INTELLECTUAL PROPERTY COUNSEL
RESPIRONICS, INC.
1010 MURRY RIDGE LANE
MURRYSVILLE, PA 15668

Paper No. 5

MAILED

JUL 17 2003

Director's Office
Group 3700

In re Application of
KUEHN, DANIEL
Application No.: 09/432,192
Filed: November 02, 1999

DECISION ON PETITION

This is a decision on petitioner's request filed October 31, 2001 to review the holding of abandonment, mailed September 24, 2001 for failure to respond to the Office action of February 13, 2001.

The petition is granted.

In support of the request, petitioner has submitted a response with a certificate of mailing dated May 11, 2001. Petitioner has also submitted a statement attesting to the timely mailing as required by 37 CFR 1.8(b)

In view of the above, the Notice of Abandonment mailed September 24, 2001 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE ROSENTHAL
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

COPY MAILED

DEC 01 2005

OFFICE OF PETITIONS

In re Application of	:
Toshihisa Saruta et al	:
Application No. 09/432,272	: DECISION GRANTING PETITION
Filed: November 2, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 405507/0003	:

This is a decision on the petition, filed November 29, 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 June 6, 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 2863 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 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).*

UNITED STATES 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. 6537257
Issue Date: March 25,2003
Application No. 09432380
Filed: November 1,1999
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed January 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 8,2008 . 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)
6537257	2003-03-25	09432380	1999-11-01	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Ralph E. Locher/	Date (YYYY-MM-DD)	2008-01-08
Name	Ralph E. Locher	Registration Number	41947

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.

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA VA 22314

COPY MAILED
FEB 19 2003
OFFICE OF PETITIONS

In re Application of
J. J. Richardson et al
Application No. 09/432,498
Filed: November 2, 1999
Attorney Docket No. NA

ON PETITION

This is a decision on the petition, filed February 13, 2003, 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 (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center Art Unit 2643.

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

ARMAND M. VOZZO, ESQ.
350 SOUTH MAIN STREET SUITE 117
DOYLESTOWN PA 18901

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,155,550 :
Issue Date: 12-05-2000 :
Application No. 09/432,514 :
Filed: 11-02-1999 :
Attorney Docket No. P603 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 8, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 6, 2004 for failure to pay the first maintenance fee. This petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

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

Paper No. 14

William C. Tritt
The Lubrizol Corporation
29400 Lakeland Blvd.
Wickliffe, OH 44092-2298

COPY MAILED

AUG 14 2002

OFFICE OF PETITIONS

In re Application of
James N. Vinci
Application No. 09/432,539
Filed: November 3, 1999
Attorney Docket No. 2926R-01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2002, 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 January 3, 2002 (certificate of mailing October 25, 2001) 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 October 26, 2001. See MPEP 1215.04.

The file is being forwarded to Technology Center AU 1714 for processing of the Continued Prosecution Application filed June 7, 2002.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6287014
Issue Date: September 11,2001
Application No. 09432706
Filed: November 2,1999
Attorney Docket No. S603.12-0074

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

This is a decision on the electronic petition, filed March 4,2010 ,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 4,2010 . 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)
6287014	2001-09-11	09432706	1999-11-02	S603.12-0074

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	/Alan M. Koenck/	Date (YYYY-MM-DD)	2010-03-04
Name	Alan M. Koenck	Registration Number	43724

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

Privacy Act Statement

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

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 18

LONG ALDRIDGE & NORMAN LLP
701 PENNSYLVANIA AVENUE NW
SUITE 600
WASHINGTON DC 20004

COPY MAILED

MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Yoon, et al. :
Application No. 09/432,785 : DECISION ON PETITION
Filed: November 3, 1999 :
Attorney Docket No. 8733.20021 :

This is a decision on the petition filed on February 26, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed March 27, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No proper reply having been received, the above-identified application became abandoned on June 28, 2001. A Notice of Abandonment was mailed on October 10, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply.

With the instant petition, petitioner filed an amendment in response to the final Office action. The proposed reply to a final Office action required for consideration of a 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 under 37 CFR 1.53(b) or if applicable, 1.53(d); (4) a request for a continuing examination (RCE) under 37 CFR 1.114; or (5) if applicable, a 37 CFR 1.129(a) submission.

Petitioner's only submission, an amendment, has been determined by the examiner not to *prima facie* place the application in condition for allowance. Thus, petitioner has failed to submit the required reply.

In order for the application to be revived, petitioner must submit a required reply within the meaning of 37 CFR 1.137(b)(1). **Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, the filing of a continuation application or a RCE.** If petitioner fails to reply in the form of a Notice of Appeal (and fee), a proper continuing application, or a proper RCE, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 23

LONG ALDRIDGE & NORMAN LLP
701 PENNSYLVANIA AVENUE NW
SUITE 600
WASHINGTON DC 20004

COPY MAILED

JUL 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Yoon, et al. :
Application No. 09/432,785 : ON RENEWED PETITION
Filed: November 3, 1999 :
Attorney Docket No. 8733.039.21 :

This is a decision on the renewed petition filed on July 3, 2002, 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 final Office action mailed March 27, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No proper reply having been received, the above-identified application became abandoned on June 28, 2001. A Notice of Abandonment was mailed on October 10, 2001. Petitioner filed a petition to revive under 37 CFR 1.137(b) on February 26, 2002. However, this petition was dismissed in a decision mailed on May 13, 2002. The examiner determined that the amendment submitted on petition failed to *prima facie* place the application in condition for allowance.

Petitioner has met the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner previously paid the petition fee with the petition on February 26, 2002, submitted a reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 (with fee), including a submission in the form of an amendment, and made the proper statement of unintentional delay.

As Petitioner already paid the petition fee on February 26, 2002, the $1280 submitted on renewed petition has been refunded to Deposit Account No. 50-0911.

The application file is being forwarded to Technology Center 2800 for consideration of the RCE and the submission, an amendment filed July 3, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED

FEB 22 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 7

Banner & Witcoff, LTD
Eleventh Floor
1001 G Street, NW
Washington, DC 20001-4597

In re Application of: David Felger	)	
Application No. 09/432,811	)	DECISION ON PETITION FOR
Filed: November 4, 1999	)	ACCELERATED
For: METHOD OF BILLING A	)	EXAMINATION UNDER
PURCHASE MADE OVER THE	)	M.P.E.P. §708.02(VIII)
INTERNET	)	

This is a decision on the supplemental petition, filed February 20, 2002 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. The petition was filed in response to a denial of the original petition filed October 10, 2000.

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.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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
www.uspto.gov

MAILED

FEB 06 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

Banner & Witcoff, LTD
Eleventh Floor
1001 G Street, NW
Washington, DC 20001-4597

In re Application of: David Felger	)	
Application No. 09/432,811	)	
Filed: November 4, 1999	)	DECISION ON PETITION FOR
For: METHOD OF BILLING A	)	ACCELERATED
PURCHASE MADE OVER THE	)	EXAMINATION UNDER
INTERNET	)	M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed October 10, 2000 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, or if the Office determines that all the claims presented are not obviously directed to a single invention, ***will make an election without traverse*** as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 fails on multiple counts. The petition is deficient in that **(1)** there is no statement that applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b); **(2)** copies of the references have not been submitted; and **(3)** the discussion does not point out how the ***claimed subject matter is patentable over the references***. That is, the detailed discussion does not have the particularity required by 37 CFR 1.111(b) and (c) because the comparison to the claims is a general statement that the entirety of Claim 1 is not taught or suggested by the reference,

Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In Application of	:	
Rhee	:	
Application No.: 09/432,819	:	ON PETITION
Filed: November 2, 1999	:	
Attorney Docket No.: 10991663-1	:	
For: CONFIGURABLE ARCHITECTURE FOR VIRTUAL SOCKET CLIENT TO AN ON-CHIP BUS INTERFACE BLOCK		

This is a decision on the petition under 37 CFR 1.181, filed December 15, 2005 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee in response to the May 4, 2005 Notice of Allowance and Fee(s) Due, which set a three month period for reply. No reply being received, the Office contended that this application became abandoned on August 5, 2005. A Notice of Abandonment was mailed on November 23, 2005.

Petitioner alleges that the May 4, 2005 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has proven nonreceipt. The petition is granted.

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.

After the mailing of this decision, the application will be returned to Technology Center AU 2182 for the re-mailing of the May 4, 2005 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

CC: GUY K. CLINGER
1999 BROADWAY, SUITE 2225
DENVER, CO 80202

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. ARCHANA KAPOOR
DR. ANIL MUNSHI
3623 CAMINITO CARMEL LANDING
SAN DIEGO CA 92130

COPY MAILED

APR 17 2007

OFFICE OF PETITIONS

In re Application of Kapoor, et al. Application No. 09/432,820 Filed: November 2, 1999 Attorney Docket No. N/A For: MEMBRANE- ASSOCIATED IMMUNOGEMS OF MYCOBACTERIA	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed March 27, 2007 (certificate of mailing date March 21, 2007), to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on November 29, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A Petition to Withdraw From Representation was filed on May 9, 2005 (certificate of mailing date May 6, 2005). A withdrawal from representation is effective when it is approved, not when it is filed. The petition to withdraw was not approved until August 11, 2005. The May 17, 2005 final Office action was properly mailed to the correspondence address of record, which was the Flehr Hohback Test Albritton & Herbert address. Unfortunately, applicants' attorneys did not respond to the Office action.

Because petitioners were represented by registered practitioners, the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representatives of the applicants, and the applicants are bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). If the attorneys made any errors, petitioners are bound by such errors.[1]

---

[1] See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

An attorney must act reasonably and prudently.

If [the] attorney somehow breach[es] his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [the attorney's] action or inaction with regard to the patent application. He hired the [attorney] to represent him. [The attorney's] actions must be imputed to him.[2]

Petitioners are reminded that the U.S. Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. *See* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

The petition under 37 CFR 1.137(a) is dismissed.

The undersigned suggests that petitioners file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners 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

---

[2] Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q. 2d (BNA) 1130 (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962) ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent ... Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'" (emphasis added); Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983) ("Courts hesitate to punish a client for its lawyers 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."); 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)). See also Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D. D.C. 1981).

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. ARCHANA KAPOOR
DR. ANIL MUNSHI
3623 CAMINITO CARMEL LANDING
SAN DIEGO CA 92130

COPY MAILED

AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Kapoor, et al.	:	
Application No. 09/432,820	:	DECISION ON PETITION
Filed: November 2, 1999	:	
Attorney Docket No. N/A	:	
For: MEMBRANE- ASSOCIATED IMMUNOGEMS OF MYCOBACTERIA		

This is a decision on the petition under the unintentional standard of 37 CFR 1.137(b), filed June 29, 2007 (certificate of mailing date June 25, 2007), to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on November 29, 2005.

Applicants have submitted a RCE and required $395.00 fee and amendment in reply to the May 17, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 17, 2005 final Office action, and the $750.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision the application will be returned to Technology Center AU 1635 for consideration of the RCE and amendment filed on March 27, 207 (certificate of mailing date March 21, 2007).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
AUG 2 1 2006
OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of	:	
Roger P. Quayle, et al.	:	
Application No. 09/432,824	:	NOTICE
Filed: November 2, 1999	:	
Attorney Docket No. A-68101/JGW		

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**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

FEB 23 2000

Director's Office
Group 3700

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

In re Application of:
Cesar Z. Lina
Serial No.: 09/432,904
Filed: November 2, 1999
For: FOOT MOUNTED VENOUS COMPRESSION DEVICE

DECISION

#4

This is a decision on Applicant's Petition to Make Special filed November 2, 1999. The grounds for the petition are actual infringement.

As set forth in MPEP 708.02 II, a petition on the grounds of infringement must include the following:

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case; an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(I) and the filing of a petition accompanied by a verified statement by the applicant or assignee or a statement by an attorney/agent registered to practice before the PTO alleging; (1) That there is an infringing device or product actually 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 has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (3) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

The petition in the case meets all the above requirements and, consequently is granted.

Summary: PETITION GRANTED.

John J. Love
Director, Groups 3730/3760
703 308-0873

JJL:nlw

Wayne J. Colton
The Milam Building
Suite 1108
115 East Travis Street
San Antonio, TX 78205

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

KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

COPY MAILED

JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Cesar Lina	:	
Application No. 09/432,904	:	ON PETITION
Filed: November 2, 1999	:	
Attorney Docket No. PUL.504	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 20, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 21, 2000.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 3700 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

MAY 06 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Attn: Legal Manufacturing
Kinetic Concepts, Inc.
P.O. Box 659508
San Antonio, TX 78265-9508

Paper No. 24

In re Application of Cesar Z. Lina Serial No. : 09/432,904 Filed : November 2, 1999 For : Foot Mounted Venous Compression Device	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed April 5, 2004, to review the holding of abandonment mailed March 11, 2004 for failure to respond to the Office action mailed June 10, 2003. There is no fee required for this petition.

In support of the request, petitioner has provided a statement that on October 7, 2003, an amendment was filed in accordance with the procedures set forth in 37 CFR 1.8. The communication included a Certificate of First Class mailing dated October 7, 2003. A copy of the October 7, 2003 communication has been provided. The communication included a response to the Office action of June 10, 2003, a request for a one-month extension of time, and a transmittal letter.

In view of the above, 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, processing and consideration of the communication mailed October 7, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/4/21/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 24

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST PAUL MN 55133-3427

COPY MAILED

MAR 14 2002

OFFICE OF PETITIONS

In re Application of :
Mazurek et al :
Application No. 09/432,944 :
Filed: November 3, 1999 :
Attorney Docket No. 46835USA5D :

ON PETITION

This is a decision on the petition, filed by facsimile transmission on February 25, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 28, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center AU 1771 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

DAVID HILL
WARD & OLIVO
708 THIRD AVENUE
EW YORK NY 10017

COPY MAILED

MAR 2 2 2002

OFFICE OF PETITIONS

In re Patent No: 5,696,375 :
Issue Date: December 9, 1997 : ON PETITION
Application No. 08/560,396 :
Filed: November 17, 1995 :
Patentee: Park et al. :

This is a decision on the petition filed March 5, 2002, requesting reinstatement under 37 CFR 1.378(b), which is being treated as a petition under 37 CFR 1.377 (no fee) to review the apparent refusal of the USPTO to accept and record a timely maintenance fee for the above-identified patent.

The petition is granted.

The documents submitted with the petition establish that petitioner is entitled to the remedial provisions of 37 CFR 1.8(b), in that a timely payment for the above-identified patent was entrusted to the mails on September 26, 2001 with an executed certificate of mailing in compliance with 37 CFR 1.8, on that date, but the payment was apparently lost in the mails. Although the application filing date on the submission contained a typographical error, all the mandatory identifiers required by 37 CFR 1.366(c) were correctly entered, and although the check was apparently never negotiated, the concurrent authorization to charge counsel's deposit account constitutes payment within the meaning of the patent statute and the rules of practice . It is noted that, due to the events of September 11, 2001 and thereafter, mail to the USPTO has been delayed and, unfortunately, some correspondence may never be received. Nevertheless, the inconvenience is regretted. Should the check be subsequently negotiated by the USPTO, petitioner may obtain a refund from the Office of Finance at the USPTO.

The $850 payment and $130 surcharge due on September 26, 2001, have been accepted and processed with that date from counsel's deposit account. This decision also constitutes a notice of fee payment.

This file is being returned to the Files Repository.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the 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. 27

WARD & OLIVO
708 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

NOV 0 8 2006

OFFICE OF PETITIONS

In re Patent of	:	
Park et al.	:	
Patent No. RE 38,861	:	
Issue Date: 11/01/2005	:	
Application No. 09/432984	:	DECISION
Filing or 371(c) Date: 11/02/1999	:	ON PETITION
Title of Invention:	:	
MULTIDEFLECTOR	:	

This is a decision on the petition under 37 CFR § 1.378(b), to reinstate the above-identified patent, filed January 26, 2006.

The petition under 37 CFR 1.378(b) is **DISMISSED**.

Background

The patent is a reissue of application 08/560,396, issued December 9, 1997. The seven and one-half (7½) year maintenance fee could have been paid from December 9, 2004, through June 9, 2005, or with a surcharge during the period from June 10, 2005, to December 9, 2005. Petitioner did not do so. Accordingly, the patent expired December 10, 2005.

The instant petition

The petition asserts that delayed payment of the maintenance fee for the above-identified patent was unavoidable because the docketing system failed to generate a reminder that the maintenance fee and surcharge was due.

Patentee provides that a reminder that the 7.5 year maintenance fee was due was generated prior to June 9, 2005, and a reminder letter was sent to the client on or about August 31, 2005. Thereafter, and on or prior to December 9, 2005, the docketing system failed to generate a reminder that the maintenance fee and surcharge were due. Declaration of David Hill in Support of Petition at p.2.

The docketing system has now been corrected to automatically schedule reminders for the six-month grace period for the payment of maintenance fees. Id.

Applicable Law Under 37 CFR 1.378(b)

UNAVOIDABLE DELAY

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

> (A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
> (B) the surcharge set forth in 37 CFR 1.20(i)(1); and
> (C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard. As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 CFR § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR § 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, supra. See also Final Rule entitled "Final Rules for Patent Maintenance Fees," published in the Federal Register at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the Official Gazette at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

The Office has no duty to notify patentees

Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable.

For example, an error in a docketing system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees.

Further to this, a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(A) the error was the cause of the delay at issue;

(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. See MPEP 711.03(c)

Moreover, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); 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. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or [Manual of Patent Examining Procedure], [] does not constitute unavoidable delay." MPEP 711.03(c).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1] However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the

---

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"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. His interpretation of those provisions is entitled to considerable deference." 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, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense 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.")).

facts and circumstances into account."[2] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. An adequate showing that the delay at issue was unavoidable requires a showing of the steps taken to ensure the timely payment. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

As provided in the Manual of Patent Examining Procedure (MPEP), the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. MPEP § 2590, *See, also, In Re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd sub nom. Rydeen V. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), *aff'd* 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. Denied*, 502 U.S. 1075 (1992).

Opinion

Petitioner has not provided an adequate showing of unavoidable delay. Here, Petitioner asserts that the docketing system failed to generate a reminder that the maintenance fee and surcharge were due.

An error in a docketing system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees. Petitioner has not provided any information as to the steps taken to ensure timely payment of the maintenance fee prior to the expiration of the patent.

As noted supra, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Thus, where the record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 CFR § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR § 1.378(b).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard, which had been proposed by Commissioner Hall, which "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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)).

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

Conclusion

It is the conclusion of this Office that Petitioner's assertion – that the docketing system failed to generate a reminder that the maintenance fee and surcharge were due – failes to demonstrate unavoidable delay.

Petitioner's current options

I. *Petitioner may file a request for reconsideration.*

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.[3] The petition for reconsideration should be entitled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $130 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. *Petitioner may file a petition stating that the delay was unintentional.*

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." The same standard applies for reinstatement of an expired patent. An "unintentional" petition under 37 CFR 1.378(c) must be accompanied by the required surcharge, currently $1640.00. Petitioner may request that the surcharge for the petition to reinstate the patent based upon an unavoidably delayed payment of the maintenance fee be applied towards the surcharge the petition to reinstate the patent based upon an unintentionally delayed payment of the maintenance fee.

The filing of a petition under 37 CFR 1.378(c) cannot be intentionally delayed and therefore must be filed promptly. A person seeking reinstatement due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for reinstate under 37 CFR 1.378(c).

---

[3] No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

III. *Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.*

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Director for Patents, Washington, DC, 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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
www.uspto.gov

Paper No. 29

WARD & OLIVO
708 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Patent of	:	
Park et al.	:	
Patent No. RE38861	:	
Application No. 09/432984	:	
Filing or 371(c) Date: 11/02/1999	:	ON PETITION
Issue Date: 11/01/2005	:	
Title of Invention:	:	
MULTIDEFLECTOR	:	

This is a decision on the petition under 37 CFR § 1.378(c), filed December 1, 2006, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent is a reissue of patent application no. 08/560,396, issued December 9, 1997. The grace period for paying the seven and one-half (7½) year maintenance fee expired after December 9, 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
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 14

STUART E. KRIEGER
C/O BRISTOL-MYERS SQUIBB COMPANY
100 HEADQUARTERS PARK DRIVE
SKILLMAN, NJ 08558

COPY MAILED

FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
George Fattman	:	
Application No. 09/433,161	:	ON PETITION
Filed: November 3, 1999	:	
Attorney Docket No. CV0277A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 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 6, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 7, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1700 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

PHILIPS ELECTRONICS
NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 McKAY DRIVE, M/S-42SJ
SAN JOSE, CA 95131

COPY MAILED

FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Yevgeniy Eugene Shteyn	:	
Application No. 09/433,257	:	ON PETITION
Filed: November 4, 1999	:	
Attorney Docket No. PHA-23.782	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 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 reply to the January 9, 2006 Office action which stated that the appeal brief filed on September 1, 2005 was not entered because it was not signed. As the reply appeared to be *bona fide*, a period of one (1) month or thirty (30) days from the mailing date of the Notice was set within which to submit a signed appeal brief. As no reply was filed within the time period set, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal is, by operation of law, dismissed and the proceedings as to the rejected claims terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 20, 2006. *See* MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C). 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 patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreements Act (URAA)). 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.

As this application became abandoned while under appeal, an appropriate terminal disclaimer (and fee) must be submitted, along with a renewed petition under 37 CFR 1.137(b) (no additional petition fee is required) to effect revival of this application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
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

COPY MAILED

MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Yevgeniy Eugene Shteyn	:	
Application No. 09/433,257	:	ON PETITION
Filed: November 4, 1999	:	
Attorney Docket No. PHA-23.782	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the January 9, 2006 Office action which stated that the appeal brief filed September 1, 2005 was not entered because it was unsigned. As the reply appeared to be *bona fide*, a period of one (1) month or thirty (30) days from the mailing date of the Notice was set within which to submit a signed appeal brief. As no reply was filed within the time period set, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal is, by operation of law, dismissed and the proceedings as to the rejected claims terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 10, 2006. See MPEP 1215.04.

The petition decision mailed February 5, 2007 indicates the petition under 37 CFR 1.137(b) filed August 18, 2006 was dismissed as failing to provide the required terminal disclaimer and fee.

The instant renewed petition includes the required disclaimer and fee.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a signed appeal brief; (2) the petition fee of $1,500; (3) the required statement of unintentional delay: and (4) the terminal disclaimer and fee have been received. Accordingly, the appeal brief is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 1,020 extension of time fee submitted with the petition on June 21, 2007 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 Carl Friedman at (571) 272-6842.

The request for change in power of attorney, filed June 21, 2007 has been processed.

The application file is being referred to the Technology Center Art Unit 2154 for consideration of the appeal brief.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Notice Regarding Change of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/433,257	11/04/1999	YEVGENIY EUGENE SHTEYN	PHA-23.782

CONFIRMATION NO. 2314

POWER OF ATTORNEY NOTICE

24738
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

OC000000029922119

Date Mailed: 05/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/21/2007.

- 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).

/cdfriedman/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

COPY MAILED
SEP 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Joel Epstein	:	
Application No. 09/433,418	:	DECISION ON PETITION
Filed: November 4, 1999	:	
Attorney Docket No. 8105-013-US	:	

This is a decision on petition under 37 CFR 1.137(b), filed August 7, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file an appeal brief and submit the accompanying fee. Applicant filed a Notice of Appeal on October 19, 2005 . Pursuant to 37 CFR 41.37(a) applicant was required to file an Appeal brief two months from October 19, 2005. No extensions of time were obtained under the provisions of 37 CFR 1.136. Accordingly, this application became abandoned on December 20, 2005. A Notice of Abandonment was mailed on June 29, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 13

MAIL

JUN 12 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HARRY SMITH ESQ
OHLANDT GREELEY RUGGIERO & PERLE
ONE LANDMARK SQUARE 9TH FLOOR
STAMFORD CT 06901-2682

In re Application of:
Komooka et al.
Application No. 09/433,475
Filed: November 4, 1999
For: DRAWING METHOD AND DRAWING APPARATUS FOR DISPLAYING IMAGE DATA ABOUT A PLURALITY OF OBJECTS INCLUDING SEMITRANSPARENT OBJECT AND OPAQUE OBJECT ON COMPUTER DISPLAY SCREEN

ON PETITION

This is a decision on the petition filed April 28, 2003 under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to non-final Office action mailed August 12, 2002. This action was the second non-final Office action. A Notice of Abandonment was mailed on April 2, 2003.

On August 12, 2002, the Patent Office mailed a second non-final Office action. This Office action was inadvertently listed on the file as a Final Office action. Petitioner timely replied to the second non-final Office action with a response filed October 15, 2002 in the form of an amendment; however, the response was not entered, since the second non-final Office action was mistakenly treated as a Final Office action. An Advisory Action was mailed addressing the response on November 7, 2002. The Advisory Action indicated that the response would be entered upon timely submission of a Notice of Appeal and Appeal Brief.

The Petitioner alleges the Examiner stated that the amendment would be entered, that the application would be reconsidered, and that an Office action would be issued based on an alleged telephone conversation "on or about November 12, 2002". Regardless of the Petitioner's allegation, the amendment was timely submitted, the Advisory Action should never have been sent, and Petitioner's amendment should have been entered and considered by the Examiner.

Accordingly, the Notice of Abandonment is hereby vacated and the Holding of Abandonment withdrawn. The Advisory action mailed November 7, 2002 is also vacated

For the reasons above, the petition is **GRANTED**.

The application file will be forwarded to Technology Center's technical support staff for entry of the response to the second non-final Office action filed August 12, 2002. From there, the application file will be returned to the Examiner for consideration of the response.

Joseph J. Rolla, Jr., 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

MAILED

OCT 04 2006

Technology Center 2100

DELIO & PETERSON, LLC
121 WHITNEY AVENUE
NEW HAVEN, CT 06510

In re Application of: Edward E. KELLEY	)	
Application No. 09/433,504	)	*SUA SPONTE*
Attorney Docket No. F19990195US1	)	RECISION OF NOTICE OF
Filed: November 3, 1999	)	ABANDONMENT
For: ELECTRONIC MAIL SYSTEM	)	
	)	

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on September 21, 2006. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Board's decision, mailed on July 17, 2006. However, on September 21, 2006, Applicant filed a request for rehearing having a certificate of mailing date of September 18, 2006 (September 17, 2006 was a Sunday).

In accordance with 37 CFR § 41.52(a)(1):

> Appellant may file a single request for rehearing **within two months of the date of the original decision of the Board**. No request for rehearing from a decision on rehearing will be permitted, unless the rehearing decision so modified the original decision as to become, in effect, a new decision, and the Board states that a second request for rehearing would be permitted. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Arguments not raised in the briefs before the Board and evidence not previously relied upon in the brief and any reply brief(s) are not permitted in the request for rehearing except as permitted by paragraphs (a)(2) and (a)(3) of this section. When arequest for rehearing is made, the Board shall render a decision on the request for rehearing. The decision on the request for rehearing is deemed to incorporate the earlier opinion reflecting its decision for appeal, except for those portions specifically withdrawn on rehearing, and is final for the purpose of judicial review, except when noted otherwise in the decision on rehearing. In view of these facts, the abandonment of the application was clearly in error and is hereby rescinded.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to Board of Appeals and Interferences for consideration of the request for rehearing.

Inquiries to this decision may be directed to Special Programs Examiner Brian L. Johnson at (571) 272-3595.

Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

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.
09/433,680	11/04/1999	TOM ROBIN CAINE BOYDE	39171.00.0002	2850

23418 7590 12/02/2009
VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO, IL 60601

EXAMINER
WOOLWINE, SAMUEL C

ART UNIT	PAPER NUMBER
1637	

MAIL DATE	DELIVERY MODE
12/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

DEC 0 2 2009

In re Application of:
Tom Robin Caine Boyde
Serial No.: 09/433,680
Filed: November 4, 1999
Attorney Docket No **39171.00.0002**

DECISION ON PETITION TO RESET REPLY PERIOD DUE TO NON-RECEIPT OF OFFICE ACTION

This is in response to applicant's petition under 37 CFR. § 1.181(a), filed on September 23, 2009, to reset a mailing date for an Office action that was never received.

A review of the file history shows that the examiner mailed a final Office action June 23, 2009, setting three-month shortened statutory time period for reply.

Applicant states that the action was never received and only discovered that an Office action was mailed during a status check of PAIR. Based on the evidence presented, it is concluded that the Office action of June 23, 2009 should be remailed with a reset reply period.

Applicants' petition is **GRANTED**.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 29

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

MAIL

JUN 18 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Jaffe et al.
Application No. 09/433,730
Filed: November 3, 1999
For: DUAL MODE QAM/VSB RECEIVER

This is a decision on the Request to Withdraw the Holding of Abandonment filed March 6, 2003.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed July 17, 2002. The final Office action set a shortened statutory period of three (3) months for reply.

Petitioner alleges to have timely filed a Request for Continued Examination (RCE). To support this, Petitioner has included a copy of the date-stamped postcard indicating timely receipt by the Patent Office on August 23, 2002. A copy of the RCE is included with the Request to Withdraw the Holding of Abandonment along with a copy of a check for $740 for the RCE filing fee, a copy of an Amendment After Final Action, RCE Fee Calculation Sheet, and a copy of the postcard itemizing these documents. Thus, the RCE is timely. The RCE filing fee of $740 has been credited to the instant application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KAJANE MCMANUS
MCMANUS AND ASSOCIATES
1505 ASHLEY COURT
WOODSTOCK IL 60098

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Rushing	:	
Application No. 09/433,761	:	Corrected Letter Regarding
Filing Date: November 4, 1999	:	Patent Term Extension
Docket No. LITES	:	
For: DIFFUSE LIGHTING ARRANGEMENT	:	

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on March 3, 2006, which incorrectly states the patent term is extended by 1160 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)[1] and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on May 3, 2002. On July 5, 2005, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on May 3, 2002, the date that the Notice of Appeal was filed, and ending on July 5, 2005, the date of the final decision in favor of the applicant. Three years after the filing date of the application is November 4, 2002. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **975 days**, not 1160 days, as printed on

[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.

the Notice of Allowance, which is the period from November 4, 2002 to July 5, 2002, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **975 days**.

Further correspondence with respect to this matter should be addressed as follows:

By fax: Attn: Patent Term Extension Reply
(571) 273-8300

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 16 2004

Alisa A. Harbin
Chiron Corporation
4560 Horton Street, M/S R-338
Emeryville, California 94608-2916

In re Application of	:	
Joel R. Haynes et al	:	
Serial No. 09/433,777	:	DECISION ON PETITION
Filing Date: November 3, 1999	:	
Attorney Docket No.: 036481-0135	:	

This is in response to applicant's "Petition for Withdrawal of Holding of Abandonment under 37 CFR 1.181(b)" filed October 24, 2003. The delay is regretted.

On August 13, 2002, a Final Office action was mailed. On January 13, 2003, applicants filed a Notice of Appeal, and on September 9, 2003, a Notice of Abandonment for failure to timely file a reply was mailed. On October 24, 2003, the present petition was filed. Applicants assert that a Request for Continued Examination (RCE), a bona fide reply, and an IDS, along with the appropriate petition for extension of time and fees were timely filed on July 8, 2003.

Applicant's statement and evidence show that a response was filed on July 8, 2003. The RCE is considered to be timely filed. Accordingly, the petition is granted. The instant application has been returned t pending status and will be forwarded to examiner for consideration of the RCE.

Petition Granted.

Cecilia Tsang for
John Doll
Director, TC1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 25 2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of:
Haynes et al.
Serial No.: 09/433,777
Filed: November 3, 1999
Attorney Docket No.: APF-18.20

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181 filed on August 10, 2005, requesting withdrawal of the holding of abandonment based on failure to respond to an Office action.

A review of the file history shows that the Office mailed an Office action, setting a three-month statutory time period for reply, to applicants on July 13, 2004. A notice of Abandonment was mailed to applicants on January 25, 2005. Applicants point out that the Office action was sent to an incorrect correspondence address as evidenced by the address on the Office action of January 25, 2005. Applicants point out that a change of correspondence address was filed on July 1, 2004. Applicants also point out that a duplicate change of correspondence address was filed on January 25, 2005 and the notice of Abandonment went to the correct correspondence address on the same date. In view of this error, this application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for prompt remailing of the Office action of July 13, 2004.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C Seidel for

Jasemine Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 25

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kevin J. Ryan
Application No. 09/434,082
Filed: November 5, 1999
Attorney Docket No. 303.306US2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 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 September 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 application became abandoned on December 17, 2002.

Petitioner submitted a Request for Continued Examination (RCE), without the proper submission on December 23, 2002. Accordingly, the RCE was improper under 37 CFR 1.114. Since a RCE and a proper submission have been filed with the instant petition, the application will be revived solely for purposes of continuity with the RCE filed July 17, 2003.

In view of this decision, the filing fees submitted with the improper RCE on December 23, 2002, is being refunded to petitioner's Deposit Account No. 19-0743.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.
The application file is being forwarded to Technology Center 2100, Art Unit 2186 for processing the Request for Continued Examination under 37 CFR 1.114, filed on July 17, 2003.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley

Sherry D. Brinkley
Petitions 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

MAILED

JUL 22 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of:
Takeo OHISHI et al
Application Serial No.: 09/434,161
Filed: November 4, 1999
For: PACKET DATA RECORDING/REPRODUCING SYSTEM

DECISION ON PETITION

This is a decision on the Petition Under 37 CFR § 1.181 Request for Withdrawal of Premature Final Office Action filed March 21, 2005.

On June 15, 2004 a final Office action was mailed. In response thereto, petitioner filed a Request for Continued Examination (RCE) along with an amendment on September 15, 2004. Subsequently a final Office action was mailed on October 20, 2004. On March 21, 2005, a petition and fee for two months extension of time was filed along with a response to the final Office action of October 20, 2004.

Petitioner asserts that the final Office action mailed October 20, 2004 is premature in that the amended claims presented in the amendment filed September 15, 2004 were not the same as, or "drawn to the same invention claimed in the earlier application", and thus, a first action rejection cannot be made final prematurely.

A review of the application file reveals that a second Request for Continued Examination (RCE) was filed on April 20, 2005 along with a response and appropriate fee for extension of time. In the Remarks of the response filed April 20, 2005, it states that "This filing also effectively moots the petition to withdraw the finality of the outstanding final rejection, and said petition is hereby withdrawn."

Accordingly, the Petition is **DISMISSED AS MOOT**.

The application will be forwarded to the examiner for appropriate action in due course.

Doris To
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

JENKENS & GILCHRIST PC
3200 FOUNTAIN PLACE
1445 ROSS AVE
DALLAS, TX 75202-2799

COPY MAILED

APR 21 2004

OFFICE OF PETITIONS

In re Application of	:
Chien; Hon; and Lai	:
Application No. 09/434,318	: DECISION REFUSING STATUS
Filed: November 4, 1999	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 45688-00002	:

This is in response to the petition under 37 CFR 1.47(a), filed June 2, 2000 and supplemented on July 5, 2000, which has been treated as a petition under 37 CFR 1.47(b).[1]

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (1) set forth above.

As to item (1), Rule 47 applicant has failed to show or provide proof that the nonsigning inventors have refused to sign the declaration after having been presented with a copy of the

---

[1] A petition under 37 CFR 1.47(a) is inappropriate in this instance since none of the inventors has signed the declaration. A petition under 37 CFR 1.47(a) is only appropriate where at least one of the inventors has signed the declaration; accordingly, the petition will be treated as a petition under 37 CFR 1.47(b).

The instant petition was only brought to the attention of the deciding official. The Office sincerely apologies for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

application papers (specification, claims, and drawings). Before an allegation can be made that the inventors have refused to sign an oath or declaration, they must have been presented with a copy of the application papers. The current record fails to demonstrate that the inventors were ever presented with a copy of the application papers prior to the alleged refusal to execute the declaration. Did the nonsigning inventors receive a copy of the application papers? Unless the nonsigning inventors were presented with a copy of the application papers, they could not attest that they have "reviewed and understand the application papers" and therefore could not sign the declaration for the instant application. See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to each of the nonsigning inventors, then petitioner will have to mail a copy of the complete application papers to the last known address of the inventors, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc. See MPEP 409.03(d).

The evidence in the record, i.e., "A Post Certified Letter" (which is a translation of the letter) dated March 7, 2000, addressed to each of the nonsigning inventors, and requesting that they sign the Oath and Assignment, indicates that Mr. Wesley Shen, a senior staff member of Uni Light, spoke by telephone to each of the nonsigning inventors at 3:00 p.m. on March 3, 2000, and that each of the three nonsigning inventors refused to sign the Oath and Assignment. However, it is unclear how each of the nonsigning inventors verbally refused to sign at the same time unless there was a conference call. Accordingly, petitioner should provide an explanation as to how each of the nonsigning inventors verbally refused telephonically to execute the oath and assignment at the same time.

Further, it is unclear from the declaration of Mr. Fzung Feng Wu, President of Uni Light Technology Corporation, whether nonsigning inventor Schang-Jing Hon was unable to be located to execute the declaration. More specifically, the declaration of Mr. Wu states: "I believe that Schang-Jing Hon has moved to Germany, but I do not know how to reach him." While it appears that Mr. Shen was able to contact inventor Hon telephonically on March 3, 2000, it is now asserted by Mr. Wu that inventor Hon cannot be located. Accordingly, an explanation is required as to why inventor Hon cannot now be located. Petitioner is reminded that the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor(s). See MPEP 409.03(a).

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied ton to establish that a *diligent effort* was made to locate the inventor. The statement(s) of fact must be signed, where at al possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay, will not normally be accepted. Since petitioner has access to inventor Hon's employee

records, petitioner should indicate what an inspection of the records reveals as to a current address, forwarding address, or an address of the nearest living relative. What does inspection of the phone directories for those address locations reveal? Did any of Mr. Hon's co-workers keep in touch with him? At the very least, a search should be made of the telephone directories and any regional or national registry(s). Copies of the results of the search must be referred to in any renewed petition. See MPEP 409.03(d). If inventor Hon is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) Should be mailed to Mr. Hon's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that inventor Hon cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

If inventor Hon is located and the inventor orally refuses to join in the application or where there is an express or oral refusal by the other two nonsigning inventors, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

After this decision is mailed, deposit account No10-0447 will be charged a total of $1,490.00 -- $130.00 for the petition fee and $1,360.00 for four-month extension of time fee.

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 Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENKENS & GILCHRIST PC
3200 FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TX 75202-2799

COPY MAILED

AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of	:
Fen-Ren Chien et al	:
Application No. 09/434,318	: DECISION GRANTING STATUS
Filed: November 4, 1999	: UNDER 37 CFR 1.47(b)
For: FLIP-CHIP LIGHT-EMITTING DEVICE	:

This is a decision on the petition filed July 20, 2004, requesting reconsideration of a decision mailed April 21, 2004, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is granted.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has demonstrated that the non-signing inventors refuse to sign the application. Specifically, petitioner established that the nonsigning inventor Fen-Ren Chien refuses to sign the declaration after being sent a copy of the above-identified application and the assignment and that the nonsigning inventor Schang-Jing Hon cannot be reached to sign the application.

As provided in Rule 1.47(c), 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.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.[1]

This matter is being referred to Publishing Division to be processed into a patent.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

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

MAIL

OCT - 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Joel E. Lutzker
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, NY 10022

In re Application of:	)	
John S. Yates Jr., et al.	)	
Application No. 09/434,394	)	**DECISION ON REQUEST FOR**
Filed: November 04, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: DETECTING REORDERED SIDE-EFFECTS	)	

This is a decision on the Request To Withdraw from Representation filed August 29, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed August 29, 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.

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: David E. Boundy
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019

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

FEB 5 2002

Mailed:

VJ
Paper Number 13

In re application of
Munehiro DATE et al.
Serial No.: 09/434,498
Filed: November 5, 1999
For: REVERSIBLE HEAT-SENSITIVE PAPER AND METHODS FOR WRITING INFORMATION

DECISION ON PETITION

This is a decision on the petition filed on October 1, 2001 (Paper No. 11) to request withdrawal of a restriction requirement and an election of species requirement against pending claims 1 and 3-7 given in the Office Action mailed August 29, 2001 (Paper No. 9). Although applicants did not indicate the rule under which the petition was filed, it is noted that a petition from a restriction and/or election of species requirement is considered under 37 CFR 1.144.

DECISION

The applicants' principal argument is that the examination of the totality of all pending claims does not impose a serious (or undue) burden on the examiner because, "the examiner has already examined all claims on the merits," and they cite MPEP 803 in support of their position.

A review of the restriction requirement set forth in Paper No. 9, as well as a perusal of the Office Action in which all the originally filed claims, 1-5, in Paper No. 7 were searched, examined and rejected, followed, further, by a comparison of the limitations in the originally filed claims (1-5) *vis-à-vis* the limitations in the presently pending claims (1 and 3-7) reveals that applicants' position is well-founded. The reasons are detailed below.

Originally filed claims 1 and 2 were drawn to a reversible heat-sensitive paper whilst original claims 3 to 5 were directed to a method of writing information on a reversible heat-sensitive paper. The examiner searched and examined all these claims on the merits and rejected them (cf. Paper No. 7). In response to that the applicants filed an amendment (cf. Paper No. 8) in which they:

- Deleted original claim 2 and incorporated the limitation of that claim into claim 1.
- Amended original claims 3 to 5 with respect to the language in the claims, rather than the incorporation of any new limitations, presumably, to improve the clarity of the claims.

- Introduced new claims 6 and 7 drawn to a method of writing information on a reversible heat-sensitive paper and to a paper, respectively.

Turning now to the examiner's grouping of inventions in the restriction requirement in Paper No. 9, it is observed that the groups are: Group I embracing claims 1 and 7 (the latter depending on claim 1) and Group II encompassing claims 3 to 6. The implication from a restriction requirement based on the above groups is very clear, *viz.*, claims 1 and 3 to 5 are patentably distinct and that there would have been serious or undue burden to search and examine these claims. However, such a position is undermined by the plain fact that the examiner had searched, examined and rejected original claims 1 and 3 to 5 in Paper No. 7. Noting that the presently amended version of claims 1 and 3 to 5, for the reason elucidated in the second "bullet" above, are not different in any patentably material sense from originally filed, searched and examined claims 1 to 5, the restriction requirement is clearly untenable. That is, it is improper to have restricted claim 1 (of Group I) from claims 3 to 5 (of Group II). With respect to newly filed claims 6 and 7, since it is the examiner's position that there would have been no serious or undue burden to search and examine claim 6 together with claims 3 to 5 or, likewise, claim 7 together with claim 1, in view of the preceding discussion regarding the indivisibility of claims 1 and 3 to 5, it stands to reason that it is illogical to hold that there would have been serious or undue burden to search and examine claims 1 and 3 to 7.

The election of species requirement to elect an embodiment for "the process of imaging" (in examiner's own phraseology cf. page 3 in Paper No. 9), likewise, proves untenable since such a process was part and parcel of claims 1 and 3 to 5 which were already searched and examined by the examiner. Furthermore, since claim 7, which depends on claim 1, recites the absence of a opto-thermal conversion layer rather than any new positive process limitation, and, claim 6 was grouped with claims 3 to 5 the search and examination of which had caused the examiner no serious or undue burden, it is not at all apparent, nor is there is any objective argument of record, as to why the limitations in claim 6 and 7 and the clarification of the language of claims 1 and 3 to 5 would have justified an election of species requirement.

In view of the above discussion, having weighed both the examiner's position and the applicants' arguments, it is concluded that, on the balance, the restriction/election of species requirement imposed on claims 1 and 3 to 7 is incorrect. While, applicants have amended claim 5 in Paper No. 12 concurrently with the filing of their petition, that amendment merely turns the claim from being a dependent claim to an independent claim with no new limitations, that were not previously searched and examined, being thrown in. Hence, the present decision is unaffected by that amendment to claim 5. Accordingly, the examiner is directed to withdraw the restriction requirement in Paper No. 9, and set forth a non-final action on the merits of all pending claims, 1 and 3 to 7.

The petition is **GRANTED**.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

GRIFFIN BUTLER WHISEHUNT & SZIPL LLP
Suite PH-1
2300 Ninth Street South
Arlington, Virginia 22204-2396

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Griffin, Butler, Whisenhunt & Szipl
2300 Ninth Street South
Arlington, Va 22204-2396

COPY MAILED

NOV 13 2006

OFFICE OF PETITIONS

In re
Date et al.
Application No. 09/434,498
Filing Date: November 5, 2999
Attorney Docket: ASAIN0058

RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This decision is in response to Applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE timely[1] filed on October 12, 2006 requesting that the Office reconsider the PTA determination in view of the Office not providing any delays under 37 CFR 1.702(a)(1).

Applicants request for PTA reconsideration is **DISMISSED.**

Applicants assert that the determination of Zero (0) days of applicants delay is not accurate. Applicant submitted a list of entry dates for filing of the action as well as the date that the Office initially replied.

Applicants' submission is not persuasive because this application is not eligible for PTA. Accordingly, the grounds of Office delay and applicant delay enumerated in 37 CFR 1.702-1.705 are not applicable to this application. Rather, the only grounds in which the applicants may receive administrative delay are enumerated in 37 CFR 1.701.[2] This application is not eligible for PTA because the filing date of the application was filed prior to May 29, 2000.

[1]Issue fee paid with/after filing of request for reconsideration of PTA..

[2]Under PTE, applications filed between June 8, 1995 and May 28, 2000, applicants not assessed any reductions against patent term but the grounds in which applicants may receive additional term are limited .

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the application into a patent.

The Office has assessed the required $200.00 petition fee. No additional fees are required by the Office in determining this request.

Any questions relating to this decision should be directed to Kery A. Fries, Office of Patent Legal Administration, at 571-272-7757.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner for
Patent Examination Policy

cc: PTE calculation

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

24 JAN 2002

Paper No. 11

In re Application of
Charles J. Stouffer *et al*
Application No. 09/434,507
Filed: November 5, 1999
Attorney Docket No. 2288-006

DECISION ON PETITION

This is a decision on the petition filed on December 31, 2001 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file an appeal brief.

The petition is granted.

Petitioners allege that an appeal brief was timely filed, together with the fee therefor. These allegations are supported by attached copies of the brief as filed, together with copies of a post card receipt showing that the brief was received in the Office on October 31, 2001 and by a copy of the Express Mail Label for the brief showing that the brief was deposited as Express Mail on October 31, 2001. The originally filed appeal brief has now been located and associated with the application file. In addition, Office financial records show that the fee for the appeal brief was received and applied. 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 examiner for action on the appeal brief filed on October 31, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Roberts Abokhair & Mardula LLC
11800 Sunrise Valley Drive
Suite 1000
Reston, VA 20191-5302

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025

COPY MAILED
JUN 22 2005
OFFICE OF PETITIONS

In re Application of :
Bodnar, et al. : DECISION ON PETITION
Application No. 09/434,703 :
Filed: November 5, 1999 :
Atty. Dkt. No.: LS/0001.01 :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 27, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned June 30, 2004 for failure to timely submit a proper reply to the final Office action mailed March 29, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed January 25, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action mailed March 29, 2004 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2600 for processing of the RCE submitted herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAIL

AUG 1 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No.9

Robert H. Frantz
P.O. Box 2334
Oklahoma City, Oklahoma 73123-2334

In re Application of: John W. Dunsmoir et al.	) **DECISION ON PETITION UNDER**
Application No. 09/434,797	) **37 C.F.R. § 1.8 TO ACCEPT PAPERS**
Filed: November 5, 1999	) **AS TIMELY FILED AND UNDER 37**
For: METHOD AND SYSTEM FOR	) **C.F.R. § 1.181 TO WITHDRAW**
MULTILINGUAL WEB SERVER	) **HOLDING OF ABANDONMENT**

This is a decision on the petition filed, July 22, 2003, under 37 C.F.R. § 1.8(b) to accept papers as timely filed and under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.(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 November 14, 2002. A Notice of Abandonment was mailed July 16, 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 (7 pages); a certificate of transmission by facsimile signed by Robert H. Frantz dated February 13, 2002 stating that 8 pages were being sent (including the certificate of facsimile transmission); and a copy of an auto-reply

response to the facsimile transmission from the U.S. Patent and Trademark Office acknowledging that 8 pages were received on February 13, 2002.

Petitioner has established that a timely response was filed and the Application was not abandoned in fact. Accordingly, the petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS
1667 K STREET N.W.,
SUITE 700
WASHINGTON DC 20006

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Foster et al.	:	
Application No. 09/434,832	:	ON PETITION
Filed: November 5, 1999	:	
Attorney Docket No. HAR66 813 DIV 1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (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 the Publishing Division for processing into a patent.

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
WASHINGTON, D.C. 20231
www.uspto.gov

JJGJr.:12-01

Paper 5

KLARQUIST SPARKMAN CAMBELL
LEIGH & WHINSTON, LLP
ONE WORLD TRADE CENTER/STE. 1600
121 S.W. SALMON ST.
PORTLAND, OR 97204

COPY MAILED

JAN 22 2002

OFFICE OF PETITIONS

In re Application of
Ream, et al.
Application No. 09/434,837
Filed: 4 November, 1999
Attorney Docket No. 245-53722

ON PETITION

This is a decision on the petition styled as "Petition for Withdrawal of Abandonment (37 C.F.R. §1.8(b))" (sic) and filed on 30 April and supplemented on 31 December, 2001. The petition is more appropriately treated as a request for the withdrawal of the holding of abandonment under the provisions of 37 C.F.R. §1.181.[1]

NOTE: As indicated at Fn. 4, the basic filing fee was paid for a not-small entity.

Assignments recorded and checks for subsequent fees suggest that the entity is a small entity. However, while the Office accepts payment of the Basic Filing Fee in the exact amount for a small entity as a statement of such status, no other fee payments constitute such a statement.

Therefore, within one (1) month of the mailing of this decision Petitioner must satisfy the requirements under 37 C.F.R. §1.27.[2]

---

[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * *

[2] The regulations at 37 C.F.R. §1.27 provide, in pertinent part:

§ 1.27 Definition of small entities and establishing status as a small entity to permit payment of small entity fees; when a determination of entitlement to small entity status and notification of loss of entitlement to small entity status are required; fraud on the Office.

(a) *Definition of small entities*. A small entity as used in this chapter means any party (person, small business concern, or nonprofit organization) under paragraphs (a)(1) through (a)(3) of this section.

* * *

(3) *Nonprofit Organization*. A nonprofit organization, as used in paragraph (c) of this section, means any nonprofit organization that:

* * *

(i) Has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or

The request to withdraw the holding of abandonment is **GRANTED**, and the petition under 37 C.F.R. §1.8(b)[3] is **DISMISSED as moot**.

---

license, any rights in the invention to any person, concern, or organization which would not qualify as a person, small business concern, or a nonprofit organization, and

(ii) Is either:

(A) A university or other institution of higher education located in any country;

* * *

(b) *Establishment of small entity status permits payment of reduced fees.* A small entity, as defined in paragraph (a) of this section, who has properly asserted entitlement to small entity status pursuant to paragraph (c) of this section will be accorded small entity status by the Office in the particular application or patent in which entitlement to small entity status was asserted. Establishment of small entity status allows the payment of certain reduced patent fees pursuant to 35 U.S.C. 41(h).

(c) *Assertion of small entity status.* Any party (person, small business concern or nonprofit organization) should make a determination, pursuant to paragraph (f) of this section, of entitlement to be accorded small entity status based on the definitions set forth in paragraph (a) of this section, and must, in order to establish small entity status for the purpose of paying small entity fees, actually make an assertion of entitlement to small entity status, in the manner set forth in paragraphs (c)(1) or (c)(3) of this section, in the application or patent in which such small entity fees are to be paid.

(1) *Assertion by writing.* Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:

(i) Be clearly identifiable;

(ii) Be signed (see paragraph (c)(2) of this section); and

(iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement.

(2) *Parties who can sign and file the written assertion.* The written assertion can be signed by:

(i) One of the parties identified in § 1.33(b) (*e.g.*, an attorney or agent registered with the Office), § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;

(ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or

(iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part.

(3) *Assertion by payment of the small entity basic filing or basic national fee.* The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), (f), (g), (h), or (k), or one of the small entity basic national fees set forth in §§ 1.492(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5), will be treated as a written assertion of.entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error.

(i) If the Office accords small entity status based on payment of a small entity basic filing or basic national fee under paragraph (c)(3) of this section that is not applicable to that application, any balance of the small entity fee that is applicable to that application will be due along with the appropriate surcharge set forth in § 1.16(e), or § 1.16(l).

(ii) The payment of any small entity fee other than those set forth in paragraph (c)(3) of this section (whether in the exact fee amount or not) will not be treated as a written assertion of entitlement to small entity status and will not be sufficient to establish small entity status in an application or a patent.

* * *

(d) *When small entity fees can be paid.* Any fee, other than the small entity basic filing fees and the small entity national fees of paragraph (c)(3) of this section, can be paid in the small entity amount only if it is submitted with, or subsequent to, the submission of a written assertion of entitlement to small entity status, except when refunds are permitted by § 1.28(a).

(e) *Only one assertion required.*

(1) An assertion of small entity status need only be filed once in an application or patent. Small entity status, once established, remains in effect until changed pursuant to paragraph (g)(1) of this section. Where an assignment of rights or an obligation to assign rights to other parties who are small entities occurs subsequent to an assertion of small entity status, a second assertion is not required.

(2) Once small entity status is withdrawn pursuant to paragraph (g)(2) of this section, a new written assertion is required to again obtain small entity status.

(f) *Assertion requires a determination of entitlement to pay small entity fees.* Prior to submitting an assertion of entitlement to small entity status in an application, including a related, continuing, or reissue application, a determination of such entitlement should be made pursuant to the requirements of paragraph (a)of this section. It should be determined that all parties holding rights in the invention qualify for small entity status. The Office will generally not question any assertion of small entity status that is made in accordance with the requirements of this section, but note paragraph (h) of this section.

* * *

[47 Fed. Reg. 40139, Sept. 10, 1982, added effective Oct. 1, 1982; para. (c) added, 47 Fed. Reg. 43276, Sept. 30, 1982; paras. (b), (c), and (d), 49 Fed. Reg. 553, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec.1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Sept. 8, 2000]

[3] The regulations at 37 C.F.R. §1.8(b) provide:

§ 1.8 Certificate of mailing or transmission.

* * *

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this

Review of the record indicates that:

- a Notice of Missing Parts (Filing Date Granted) was mailed on 2 December, 1999, and required that signed oaths or declarations (and fee)[4] be filed;
- as reflected by a copy of the date-stamped (31 January, 2000) receipt card filed with the petition, on 31 January, 2000, Petitioner filed a response to the Notice of Missing Parts, including therein a copy of the Notice, two combined declaration/power of attorney forms (one signed by two inventors and the other signed by the remaining one inventor) a check for fees and authorization to charge a deposit account if necessary, and two assignment forms and fees;
- Office records indicate that those fees were "booked" at the small entity rate on 3 February, 2000;
- apparently the signed oath/declarations were separated from the file and those documents may have been forwarded to the Assignment Branch with other documents to be recorded;
- while a Notice of Incomplete Reply (Filing Date Granted) was mailed on 16 February, 2000, no Notice of Abandonment was mailed;[5]

Nonetheless, for reasons that are unclear, with or without a Notice of Abandonment, the application is coded in the Office database as being abandoned--and held so.

Accordingly, the Holding of Abandonment contained in the Office database is in error and is withdrawn. The petition fee is waived.[6] In addition, the Notice of Incomplete Reply of 16 February, 2000, was mailed in error and is vacated.

---

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 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.

* * *

[41 Fed. Reg. 43721, Oct. 4, 1976; 43 Fed. Reg. 20461, May 11, 1978; para. (a). 47 Fed. Reg. 47381, Oct. 26, 1982, effective Oct. 26, 1982; para. (a),48 Fed. Reg. 2708, Jan. 20, 1983; para. (a) 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (a), 49 Fed. Reg.5171, Feb. 6, 1985, effective Mar. 8, 1985; 52 Fed. Reg. 20046, May 28, 1987; subparas. (a)(2)(xiv)-(xvi), 54 Fed. Reg. 37588, Sept. 11, 1989, effective Nov. 16, 1989; revised, 58 Fed. Reg. 54494, Oct. 22, 1993, effective Nov. 22, 1993; para. (a) revised, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (a)(2)(i)(A) & (b) revised; 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[4] The application was filed with fees for a not-small entity, however, the application clearly was assigned to an entity for which small entity status is appropriate, and subsequent fees were paid as though the applicant/assignee was a small entity.

[5] At that stage, it appears that the file was misplaced and could not be retrieved between the filing of the instant petition in April 2001 and the drafting of this decision eight months later.

[6] No fee was charged upon the filing of this petition.

The additional copies of the oath or declaration provided with the instant petition have been separated from those materials and prominently placed in the file for review by OIPE and, in due course, the Examiner.

This application is being forwarded to OIPE for such processing as necessary before being assigned to a technology center for examination.

Telephone inquiries should be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703) 305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 21

Woodcock Washburn
One Liberty Place – 46th Floor
Philadelphia, PA 19103

COPY MAILED

FEB 11 2003

OFFICE OF PETITIONS

In re Application of :
Luxemburg et al. :
Application No. 09/434,965 : ON PETITION
Filed: November 5, 1999 :
Attorney Docket No. ORT-1060 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 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 22, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 23, 2002.

The application is being forwarded to Technology Center AU 1644 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE, SUITE 550
SAN JOSE CA 95110

COPY MAILED

APR 03 2008

OFFICE OF PETITIONS

In re Application of :
JIAO, Fan :
Application No. 09/435,015 : DECISION ON PETITION
Filed: November 5, 1999 :
Attorney Docket No. **50325-0081** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before May 23, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 23, 2007. Accordingly, the date of abandonment of this application is May 24, 2007.

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.

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 $1400, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
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)
6243896	2001-06-12	09435086	1999-11-05	187280-0001

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	/Samantha C. Pak/	Date (YYYY-MM-DD)	2009-10-27
Name	Samantha C. Pak	Registration Number	58839

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. 6243896
Issue Date: June 12,2001
Application No. 09435086
Filed: November 5,1999
Attorney Docket No. EWM.187280-0

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 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 October 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

Paper No. 17

JOHN S. PRATT
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Max P. McDaniel et al
Application No. 09/435,113
Filed: November 5, 1999
Attorney Docket No. 33815US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 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 October 16, 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 January 17, 2002.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 8, 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 1700 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2009

TO SPE OF : ART UNIT 2611 Chieh M. Fan

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/435,246 Patent No.: 6377631 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

SHOULD COCIN filed April 17, 2007 be approved?

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE — 2611 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. 21

MICHAEL L GOLDMAN
NIXON PEABODY
CLINTON SQUARE
P O BOX 31051
ROCHESTER, NY 14603

COPY MAILED
APR 0 7 2004
OFFICE OF PETITIONS

In re Application of	:	
Charles W. Francis et al	:	
Application No. 09/435,286	:	NOTICE
Filed: November 5, 1999	:	
Attorney Docket No. 176/60501(6-11405-808)	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3737.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2009

TO SPE OF : ART UNIT 2611 Chieh M. Fan

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/435,293 Patent No.: 6452981 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

SHOULD COCIN dated April 17, 2007 be approved?

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: _____

Chieh M. Fan
SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313
www.uspto.go

Paper No. 1103

SUGHRUE MION ZINN MACPEAK AND SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037

NOV 20

In re Application of	:	
Yasuyoshi Yamada	:	
Application No. 09/435448	:	ON PETITION
Filed: November 22, 1999	:	
Attorney Docket No. Q56857	:	

This is a decision on the petition, filed June 19, 2003, requesting that the finality of the Office action of May 20, 2003, be withdrawn.

The petition to withdraw the finality of the final Office action is GRANTED.

A petition was filed on June 19, 2003, to withdraw finality of the office action dated May 20, 2003. A nonfinal office action was mailed on August 19, 2002. In response, an amendment was filed on November 20, 2002. This amendment did not amend independent claim 1 and amended independent claim 7 to change "provided" to "arranged." This amendment also added new claims 13-18 and 20 which depend from claims 1 or 7. Petitioner alleges that the change to claim 7 was to correct an informality. Subsequently, a final office action was mailed on May 20, 2003 which introduced a new grounds of rejection for claims 1 and 7 under 35 U.S.C. 102(a) over JP 10-56093. Petitioner then filed arguments after final on August 20, 2003 alleging that the new grounds of rejection were not necessitated by amendment. To this, the office responded with the advisory action of September 25, 2003, which maintained the finality of the final office action and stated that the new grounds of rejection were presented in response to the addition of claims 13-18 and 20 which depends from claims 1 or 7. Therefore, the new rejection was to address the amendments. Petitioner then filed the petition of June 19, 2003.

A review of the application file record indicates that the new grounds of rejection for claims 1 and 7 was not necessitated by direct amendment of these claims. As MPEP § 706.07(a) states, a second or subsequent action will not be made final if it includes a rejection, on newly cited art, of any claim not amended by applicant in spite of the fact that other claims may have been amended to require the newly cited art. Amendment of the dependent claims in no way changed the scope of independent claims 1 and 7. Therefore, the petition to withdraw the finality of the office action of May 20, 2003, is hereby granted and the finality of that action is withdrawn.

Since the finality of the office action of May 20, 2003 is being withdrawn, the amendment filed August 20, 2003, will be entered. The application is being forwarded to the technical support staff for entry of the amendment of August 20, 2003. Subsequently, the application will be forwarded to examiner for action.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

kc

UNITED STATES 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. 10

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Anna Malgorzata Celler et al	:	
Application No. 09/435,458	:	DECISION GRANTING PETITION
Filed: November 5, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 080142-000000US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 28,l 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a complete reply to the Notice to File Missing Parts of Application (Notice), mailed December 6, 1999, which set a period for reply of two months. A Notice of Abandonment was mailed on July 8, 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 executed oath by previously nonsigning inventors Celler and Farncombe; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 6, 1999 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to the Office of Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-12-07.

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 7103204 B2 (09/435458

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.

Claims (should they be entered?

Thank You For Your Assistance

E. James
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON, DC 20036

COPY MAILED

JAN 24 2005

OFFICE OF PETITIONS

In re Application of :
Steven R. Donovan :
Application No. 09/435,540 :
Filed: November 8, 1999 :
Attorney Docket No. RIC99057 :

ON PETITION

This is a decision on the petition, filed December 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2153 for further processing of the request for continued examination under 37 CFR 1.114 filed December 10, 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

MCI, INC
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED

JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Steven R. Donovan	:	
Application No. 09/435,540	:	ON PETITION
Filed: November 8, 1999	:	
Attorney Docket No. RIC99057	:	

This is a decision on the petition, filed July 1, 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 June 13, 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 2153 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

09/435540

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051128

DATE : November 29, 2005

TO SPE OF : ART UNIT 2152

SUBJECT : Request for Certificate of Correction on Patent No.: 6,970,930

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Bunjob Jaroenchonwanit **Art Unit** 2152

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,970,930 B1
DATED: November 29, 2005
INVENTOR(S): Steven R. Donovan

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Item (56) References Cited,

Please add to the U.S. PATENT DOCUMENTS section the following:

6,324,279 B1	11/2001	Kalmanek, Jr. et al.
6,755,701 B1	8/2004	Pan et al.
6,801,940 B1	10/2004	Moran et al.
6,826,613 B1	11/2004	Wang et al.
6,857,012 B2	2/2005	Sim et al.
2002/0016839 A1	2/2002	Smith et al.
2002/0026513 A1	2/2002	Hoglund et al.

Please add to the OTHER PUBLICATIONS section the following:
Aiken et al., "Network Policy and Services: A Report of a Workshop on Middleware", Internet Engineering Task Force, Request for Comment 2768, February 2000.
Aspnes et al., "On-Line Routing of Virtual Circuits with Applications to Load Balanacing and Machine Scheduling", Journal of the ACM, Vol. 44, No. 3, May 1997, pp. 486-504.
Bhuyan et al., "Impact of Switch Design on the Application Performance of Cache-Coherent Multiprocessors", 1998, http://www.cs.tamu.edu/people/ravi/IPP398.ps.g2.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Paper No. 12

MAILED

DEC 2 0 2002

Director's Office
Group 3700

In re Application of
KUBIK ET AL.
Application No.: 09/435,570
Filed: November 08, 1999

DECISION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed March 27, 2002, for failure to respond to the Office Action mailed August 15, 2001. A "Request for Reinstatement of Application for No Fee" was filed on May 2, 2002, and a Second "Request for Reinstatement of Application for No Fee" was filed on August 21, 2002. These papers will be treated as a request to withdraw the holding of abandonment.

A review of the file indicates that a request for a two month extension of time and a response were timely filed on February 26. 2002 (Proof of Certificate of Mailing, January 15, 2002.) Inspection of the Response filed February 26, 2002, reveals that the first page of that amendment was not omitted (original staples still intact). Analysis of that Response shows that the submitted pages 2-4 do, in fact, constitute a complete response, supporting a proper traversal of the rejection of claims 1-11 set forth in the Office Action of August 15, 2001.

In view of the above, the Notice of Abandonment mailed March 27, 2002 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 10

BROWDY AND NEIMARK
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

NOV 20 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Takuo Yamamoto et al.
Application No. 09/435,770
Filed: November 8, 1999
Attorney Docket No. YAMAMOTO=16A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed December 10, 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 February 11, 2000.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Allen C. Yun
Browdy and Neimark
624 Ninth Street, N.W.
Suite 300
Washington, D.C. 20001

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

GERON CORPORATION
230 CONSTITUTION DRIVE
MENLO PARK CA 94025

COPY MAILED

APR 19 2002

OFFICE OF PETITIONS

In re Application of
Kealey, et al.
Application No. 09/436,060
Filed: November 8, 1999
Docket No. 014/002C

ON PETITION

This is a decision on the petition filed on January 17, 2002 (Certificate of Mailing dated November 13, 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 reply 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. No reply having been received, the above-identified application became abandoned on July 11, 2001. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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.

Receipt of the Power of Attorney submitted with the instant petition is acknowledged and made of record. Future correspondence concerning the above-identified application will be mailed to the above address of record.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment, filed January 17, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
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

JUN -7 2002

Paper No. 14

In re Application of
Ebrahim Andideh *et al*
Application No. 09/436,092
Filed: November 8, 1999
Attorney Docket No. 042390P3955D

: DECISION ON PETITION

The papers filed by facsimile transmission on May 3, 2002 and June 5, 2002 are being treated collectively as a petition filed on June 5, 2002 under 37 CFR 1.181. Petitioners are requesting withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated August 28, 2001. No fee is required for the petition.

The petition is granted.

Petitioners have provided a copy of papers that were received in the Office on February 13, 2002, said papers including a reply and a petition for a two month extension of time, together with a check for the extension fee. Petitioners have also provided a copy of a postcard receipt showing that these items were in fact received in the Office on February 13, 2002. Further, the papers have affixed thereto a 37 CFR 1.8(a) certificate of mailing dated January 28, 2002. In addition, Office financial records show that the extension fee was in fact received.

In view of the evidentiary showing in support of petitioners' statement that a reply to the Office letter in question was timely filed, it is clear that a timely reply was in fact filed and that this application was never 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 examiner for action on the reply filed on February 13, 2002, certificate of mailing date January 28, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh 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

Paper No. 27

Kevin J. Zimmer
Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

MAILED

NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of:
ZAWADZKI et al.
Application No. 09/436,146
Filed: November 9, 1999
For: CENTRALIZED SYSTEM AND METHOD FOR MANAGING ENTERPRISE OPERATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition under 37 CFR § 1.181 and MPEP § 711.03(c) requesting the withdrawal of the holding of abandonment, filed September 12, 2005, in response to a Notice of Abandonment.

The petition is **DENIED**.

This application was held abandoned for applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed on May 4, 2004. A Notice of Abandonment was mailed on August 17, 2005.

In support of the petition, petitioner submitted that a reply to the Notice of Allowability and Notice of Allowance and Issue Fee Due was timely filed on May 27, 2004. **Petitioner also submitted that corrected drawings were inadvertently not filed with the reply**.

A review of the petition and the application file, it reveals that applicant did receive both the Notice of Allowability and the Notice of Allowance and Issue Fee Due mailed on May 4, 2004. It also reveals that the Notice of Draftsperson's Patent Drawing Review (PTO-948) was attached to the Office action mailed November 18, 2003 to inform applicant to make corrections to the drawings filed November 9, 1999 and the Notice of Allowability mailed May 4, 2004 was further alerted applicant to timely submit corrected drawings in response to this Notice of Allowability. **It is pointed out that the application was held abandoned for applicant's failure to timely file corrected drawings as required by and within the three-month period set in the Notice of Allowability, not applicant's failure to pay the required Issue Fee.** Petitioner admitted in the petition filed September 12, 2005 that the corrected drawings were inadvertently not filed with the payment of issue fee.

Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this decision, he should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Otherwise, the petitioner may wish to consider filing a petition to revive under 37 CFR § 1.137(b).

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Peter Wong, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

COPY MAILED
JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of

Zawadzki, et al.

Application No. 09/436,146

Filed: November 9, 1999

Attorney Docket No. 247/235

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 21, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed May 4, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on August 17, 2005.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Corrected drawings were received on September 12, 2005.

Deposit account 03-3117 will be charged $750.00 for the instant petition fee.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

COPY MAILED

SEP 21 2007

OFFICE OF PETITIONS

In re Patent No. 7,138,128
Issued: November 21, 2006
Application No. 09/436,171
Filed: November 9, 1999
Attorney Docket No. **BEIERSDORF59**

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed October 4, 2006 and "SUPPLEMENTAL APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed November 22, 2006. The supplemental application for patent term adjustment under 37 CFR 1.705(d) is properly treated as a separate request for reconsideration of patent term adjustment under 37 CFR 1.705(d).

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED.**

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **GRANTED to the extent indicated herein**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On Application for Patent Term Adjustment under 37 CFR 1.705(b)

On July 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was five hundred sixty one (561) days. An application for PTA (with required fee), was timely filed October 4, 2006 with payment of the issue fee. Applicants asserted that the patent should have been adjusted by 88 days, not 122 days in association with their response to a non-Final Office Action mailed June 7, 2002. Applicants argue that their response was filed on December 6, 2002, resulting in a delay attributable to applicants of 88 days, and that a courtesy copy of the response was faxed to the Examiner on January 7, 2003. Applicants maintain that no reduction should be entered for the submission of the courtesy copy.

The Office initially determined a patent term adjustment of five hundred sixty one (561) days including one hundred seventy one days of applicant delay. Applicants argue that

the response to the non-Final Office Action mailed June 7, 2002 was filed on December 6, 2002 with a three month extension of time and not on January 7, 2003 as is indicated in PTO records. Applicants further argued therefore that applicant delay should be 88 days.

Applicants' argument has been considered but is not found to be persuasive.
A review of the file reveals that the response was received in the office on January 7, 2003 however without any evidence (i.e. certificate of mail, post card receipt or facsimile confirmation) to show that the response was timely filed on December 6, 2002. The image file wrapper is the Official record of the papers received in this application. No response with a date of receipt of (or about) December 6, 2002 is present in the application record. Further, a review of the response received January 7, 2003 does not establish that the response should be considered timely filed on December 6, 2002. The response contained a certificate of facsimile transmission dated December 6, 2002. However, the certificate was not signed. As the certificate is not properly signed and dated, the benefit of 37 CFR 1.8(b) to consider the response timely filed does not apply.

Moreover, for purposes of calculation of the patent term adjustment, the date of receipt of the paper and not the date of any certificate of mailing is used. In this regard, applicant's attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). As previously indicated, applicants have not shown by submission of a postcard receipt or a facsimile transmission confirmation that the response was received in the Office on December 6, 2002 and thus, that date should be used for purposes of calculating applicant delay pursuant to 37 CFR 1.704(b).

In view thereof, the initial determination of patent term adjustment of 561 days at the time of the mailing of the notice of allowance is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

With respect to the timeliness of the response to the Office action mailed June 7, 2002, applicants are reminded that the application goes abandoned by operation of law for failure to timely prosecute. 35 U.S.C. 133. Accordingly, further action is required by applicants irrespective of the determination of patent term to close this gap in prosecution by establishing of record that the response was timely filed on December 6, 2002, or by filing a petition to revive to close the gap in prosecution.

On Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)

On November 21, 2006, the above-identified application matured into U.S. Patent No. 7,138,128 with a revised patent term adjustment of five hundred sixty one (561) days. On November 22, 2006, patentees timely submitted the instant request for reconsideration of patent term adjustment, within two months of the patent grant. See § 1.705(d). Patentees contend that a period of reduction of 49 days should not have been entered for a miscellaneous letter filed October 4, 2006. Given their arguments on petition under 37 CFR 1.705(b) and on instant request for reconsideration, patentees maintain that the patent should have issued with a revised patent term adjustment of six hundred forty-four (644) days.

49 days were deducted for applicant delay for a miscellaneous incoming letter filed on October 4, 2006. A review of the application record reveals that the reduction of 49 days was based on the filing after allowance of an Application for Patent Term Adjustment, filed October 4, 2006. 37 CFR 1.704(e) provides that:

> The submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Thus, it is concluded that the patent term adjustment should not have been reduced by 49 days.

In view thereof, the patent should have issued with a revised patent term adjustment of six hundred ten **(610)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the request for reconsideration of the revised patent term adjustment under 37 CFR 1.705(d).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred ten (610) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosures: Draft Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,138,128 B2

DATED : November 21, 2006

INVENTOR(S) : Andreas Bleckmann

It is certified that error appears in the above -identified patent a nd 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 (561) days

Delete the phrase "by 561 days" and insert – by 610 days--

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.
09/436,258	11/09/1999	TOKUMICHI MURAKAMI	0649-0707P	6369

7590 02/09/2009
BIRCH STEWART KOLASCH AND BIRCH
8110 GATEHOUSE ROAD
SUITE 500 EAST
FALLS CHURCH, VA 22042

EXAMINER
LEE, Y YOUNG

ART UNIT	PAPER NUMBER
2613	

MAIL DATE	DELIVERY MODE
02/09/2009	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.:20090204

DATE : February 9, 2009

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6,798,834

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Inventorship should be corrected to delete Takahiro FUKAHARA. No new matter has been introduced. The scope or meaning of the claims has not been changed.

SPE: /Mehrdad Dastouri/ **Art Unit** /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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

Paper No. 21

COPY MAILED

FEB 28 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Charles E. HUNTER
Application No. 09/436,281
Filed: November 8, 1999
Attorney Docket No. **6394**

This is a decision on the petition under 37 CFR 1.137(b), filed on August 4, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 on June 17, 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 application became abandoned, by operation of law, on September 18, 2003. A Notice of Abandonment was mailed on June 1, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

As stated above, the above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 17, 2003. Therefore, 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). Petitioner has filed an RCE.

37 CFR 1.111(b) states:

> (b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

37 CFR 1.114(c) states:

> (c) 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 requirements of § 1.111.

The aforementioned RCE is not a proper reply, because it is not accompanied by a submission responsive within the meaning of 37 CFR 1.111 to the last Office action mailed on June 17, 2003. Consideration of whether the submission is responsive within the meaning of 37 CFR 1.111 to the last Office action is done without factoring in the "final" status of such action. See MPEP 711.03(c)(II)(A)(2)(d). Petitioner had merely filed an Information Disclosure Statement(s) concurrently with the RCE, which is not a responsive submission within the meaning of 37 CFR 1.111.

Further correspondence with respect to this matter should be addressed as follows:

Application No. 09/436,281

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

Paper No. 25

In re Application of	:	
Charles E. HUNTER	:	
Application No. 09/436,281	:	ON PETITION
Filed: November 8, 1999	:	
Attorney Docket No. WT-I-CIP	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 2, 2006, 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 17, 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) was obtained. Accordingly, the above-identified application became abandoned on September 18, 2003.

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, Information Disclosure Statement, a Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of June 17, 2003 is accepted as having been unintentionally delayed.

Since the $1500 petition fee and the $790 RCE filing fee submitted with the response on May 2, 2006 was previously submitted with the petition filed August 4, 2005, these fees are unnecessary and will be credited to petitioner's deposit account no. 23-3050.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed Request for Continued Examination, amendment, and Information Disclosure Statement.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/7/09

2 Serial/Patent # 09/436,281

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
X	Filing	22	5/2/06	$ 790
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	22	5/2/06	$ 1500
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 2290

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 2 3 -- 3 0 5 0

10 REASON:

	Overpayment
X	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: David Ruggi TITLE: Petitions Examiner

SIGNATURE: [signature] PHONE: 272-7099

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 1/10/07

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)

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN 19 2001

#9

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
1100 NEW YORK AVENUE, NW
NINTH FLOOR
WASHINGTON, D.C. 20005-3918

In re Application of:
Christine A. White et al.
Serial No. 09/436,347
Filed: November 9, 1999
Attorney Docket No: 23522.0643

WITHDRAWAL OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181, filed March 7, 2001, requesting revival of the above identified application based on a timely filed reply to an Office action.

A review of the file history shows that the examiner mailed an Office letter to applicants on February 29, 2000, setting a three month shortened statutory period for reply. When no reply was received within six months of the Office action, the application was held abandoned by Notice of Abandonment mailed November 9, 2000. Applicants state that a reply to the Office action was filed August 29, 2000, including a request for a three-month extension. Applicants provide a copy of the reply and an Office date stamped postcard indicating receipt by the Office on August 29, 2000. In view of the evidence presented it is concluded that the Notice of Abandonment was mailed in error and is hereby vacated.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing of this decision.

The application will be forwarded to the examiner for further consideration.

No petition fee is required for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No.03-3975, as directed.

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

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)
6,355,171	2002-03-12	09/436,587	1999-11-09	OF-101US

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	/Peter N. Jansson/	Date (YYYY-MM-DD)	2007-09-05
Name	Peter N. Jansson	Registration Number	26185

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. 6355171
Issue Date: March 12,2002
Application No. 09436587
Filed: November 9,1999
Attorney Docket No. OF-101US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 5,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6206697
Issue Date: March 27,2001
Application No. 09436723
Filed: November 9,1999
Attorney Docket No. 26026US-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6206697	2001-03-27	09436723	1999-11-09	HAWE-11

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kristi L. Davidson/	Date (YYYY-MM-DD)	2009-07-21
Name	Kristi L. Davidson	Registration Number	44643

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

OBLON SPIVAK MCCLELLAND MAIER
& NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

OCT 1 0 2001

OFFICE OF PETITIONS

In re Application of
Ishihara et al
Application No. 09/436,756
Filed: November 9, 1999
Attorney Docket No. 0010-1054-0

ON PETITION

This is a decision on the petition, filed September 18, 2001, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on August 13, 2001 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed September 18, 2001.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center 1600 for processing of the CPA.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DATE : August 5, 2002 Paper 14

No.: 14

TO : Supervisor, Art Unit 3725

SUBJECT : Certificate of Correction Request in Patent No.: 6,250,998

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.

EXPEDITE

Magdalene Talley

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, by placing a check mark (✓) in the box that reflects your decision, which corresponds to the question checked above.

☑ YES ☐ NO ☐ Comments below

EXPEDITE

☐ Comments:

Supervisor

3725

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,250,998 B1
DATED : June 26, 2001
INVENTOR(S) : Lloyd Fladgard et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page, Item [54] and Column 1, lines 1-2,
Title "**HAND-HELD CUTTING TOOL FOR CUTTING FIBER**" should be
-- **HAND-HELD CUTTING TOOL FOR CUTTING FIBER-CEMENT SIDING** --

Item [63], **Related U.S. Application Data**, should only be "Continuation of application No. 09/036,249, filed on Mar. 6, 1998, now Pat. No. 5,993,303."

Item [57], **ABSTRACT**,
Line 6, "unit The" should be "unit. The"

Column 1,
Lines 7-10, should only be "This application is a continuation of Ser. No. 09/036, 249, filed on Mar. 6, 1998, now U.S. Pat No. 5,993, 303."
Line 14, "fibercement" should be -- fiber-cement --
Line 31, "laborintensive" should be -- labor-intensive --
Line 32, "Fiber-cements" should be -- Fiber-cement --
Line 54, "environment" should be -- environment. --

Column 2,
Line 16, "driven." should be -- driven --.

Column 3,
Line 16, "0.160 and 0.160" should be -- 0.160 and 0.165 --

Column 5,
Line 49, "cut Because" should be -- cut. Because --

Column 6,
Line 33, "0055" should be -- 0.055 --

Column 7,
Line 2, "face" should be -- surface --
Line 5, "of is" should be -- of --
Line 13, "fibercement" should be -- fiber-cement --
Line 17, "by a distance first" should be -- by a first --
Line 59, "0045" should be -- 0.045 --
Line 66, "to, the drive" should be -- to the drive --

Column 8,
Line 58, "tool comprising:" should be -- tool, comprising: --

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,250,998 B1
DATED : June 26, 2001
INVENTOR(S) : Lloyd Fladgard et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 9,
Line 9, "fast" should be -- first --

Column 10,
Line 3, "fiber cement" should be -- fiber-cement --

Signed and Sealed this

Seventeenth Day of September, 2002

Attest:

Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

DATE: August 8, 2001

TO: **CERTIFICATE OF CORRECTION BRANCH**
CPK 3, Suite 918

RE: Application No. 09/436790

There was no Certificate of Correction form attached to the subject application. Please be advised that the 312 (a) amendment ~~for~~ would have been enterable.

William Hong
Examiner
AU 3725

APPROVED
AUG 1 8 2001
FOR THE DIRECTOR OF USPTO

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,250,998 B1

DATED : 6/26/2001

INVENTOR(S) : fladgard et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, line 6-10, delete the entire paragraph.

Column 1, line 6-10, please add the following --This application is a continuation of United States Patent Application No. 09/036,249, filed on March 6, 1998, now issued as U.S. Patent No. 5,993,303.--

PTO/SB/ 44 (02-01)
Approved for use through 01/31/2004. 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

6250998 B1

INVENTOR(S) : Lloyd Fladgard et al.

DATED JUNE 26, 01

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

TITLE PG, Item [54]

NOTE

~~Cover page~~, **Title**, "HAND-HELD CUTTING TOOL FOR CUTTING FIBER" should be "HAND-HELD CUTTING TOOL FOR CUTTING FIBER-CEMENT SIDING"

~~Cover page,~~ (63) **Related U.S. Application Data**, should only be "Continuation of application No. 09/036,249, filed on Mar. 6, 1998, now Pat. No. 5,993,303."

~~Cover page,~~ (57) **ABSTRACT** line 6, "unit The" should be "unit. The"

Column 1, Line 1-2, "HAND-HELD CUTTING TOOL FOR CUTTING FIBER" should be "HAND-HELD CUTTING TOOL FOR CUTTING FIBER-CEMENT SIDING"

Column 1, Line 7-10, should only be "This application is a continuation of Ser. No. 09/036,249, filed on Mar. 6, 1998, now U.S. Pat. No. 5,993,303."

Column 1, Line 14, "fibercement" should be "fiber-cement"

Column 1, Line 31, "laborintensive" should be "labor-intensive"

Column 1, Line 32, "Fiber-cements" should be "Fiber-cement"

Column 1, Line 54, "environment" should be "environment."

Column 2, Line 16, "driven." should be "driven"

Column 3, Line 16, "0.160 and 0.160" should be "0.160 and 0.165"

Column 5, Line 49, "cut Because" should be "cut. Because"

Column 6, Line 33, "0055" should be "0.055"

Column 7, Line 2, "face" should be "surface"

Column 7, Line 5, "of is" should be "of"

Column 7, Line 13, "fibercement" should be "fiber-cement"

Column 7, Line 17, "by a distance first" should be "by a first"

Column 7, Line 59, "0045" should be "0.045"

Column 7, Line 66, "to, the drive" should be "to the drive"

Column 8, Line 58, "tool comprising:" should be "tool, comprising:"

Column 9, Line 9, "fast" should be "first"

Column 10, Line 3, "fiber cement" should be "fiber-cement"

MAILING ADDRESS OF SENDER: Perkins Coie LLP
PATENT - SEA
PO Box 1247
Seattle, WA 98111-1247

PATENT NO. 6,250,998 B1

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,250,998 B1
DATED : June 26, 2001
INVENTOR(S) : Fladgard et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page,
Delete all continuing data in item (63), and subsitute therefor the following:
-- Continuation of application No. 09/036,249, Mar. 6, 1998, Pat. No. 5,993,303 --, therefor.

Column 1,
Lines 6-10, delete the entire paragraph.
Lines 6-10, please add the folowing:
-- This application is a continuation of United States Patent Application No. 09/036, 249, filed on March 6, 1998, now issued as U.S. Patent No. 5,993,303. --

Signed and Sealed this

Eighteenth Day of September, 2001

Attest:

Nicholas P. Godici

Attesting Officer

NICHOLAS P. GODICI
Acting Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,250,998 B1

DATED : 6/26/2001

INVENTOR(S) : fladgard et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, line 6-10, delete the entire paragraph.

Column 1, line 6-10, please add the following --This application is a continuation of United States Patent Application No. 09/036,249, filed on March 6, 1998, now issued as U.S. Patent No. 5,993,303.--

On the title page:
Delete all continuing data in (63), and substitute therefor the following

--Continuation of application No. 09/036,249, Mar. 6, 1998, Pat. No. 5,993,303--, therefor.

Kel
Sig

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. 20

ERIC J ROBINSON
SIXBEY FRIEDMAN LEEMAN & FERGUSON
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN VA 22102

COPY MAILED

MAR 2 0 2002

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/436,984 :
Filed: November 9, 1999 :
Attorney Docket No. 0756-2063 :

This is a decision on the petition, filed February 13, 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 February 11, 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]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey L. Costellia

---

[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.**

appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Costellia desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Costellia, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center AU 2823 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

cc:

JEFFREY L. COSTELLIA
NIXON PEABODY LLP
8180 GREENSBORO DRIVE, SUITE 800
MCLEAN, VA 22102

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

Paper No. 6

Townsend & Banta
1225 Eye Street, NW
Suite 500
Washington, DC 20005

COPY MAILED
OCT 1 6 2001
OFFICE OF PETITIONS

In re Application of
Akitsugu Ninjouji, et. al.
Application No. 09/437,111
Filed: November 9, 1999
Attorney Docket No. SUD-002-USA-P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 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 Notice to File Missing Parts of Application (Notice) mailed December 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 after midnight February 8, 2000.

It has been made of record that Petitioner claims small entity status. Since the Office misapplied the petition fee, and surcharge for the late filing of an oath/declaration as large entity fees, petitioner is entitled to half the refund. Therefore, fees totaling $705.00 will be refunded to Petitioners deposit account.

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.

The application file is being forwarded to the Office of Initial Patent Examination Unit for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: DEC 3 2004

spg
Paper Number _____

In re application of
Akitsuka Ninjouji et al.
Serial No. 09/437,111
Filed: November 09,1999
For: SPARKLING LOW ALCOHOLIC SAKE AND PRODUCING METHOD THEROF

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed July 06, 2004 The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 21, 2004, for failure to timely file a proper reply to the Office letter mailed May 03, 2003 be withdrawn since the applicants period for response had yet to expire before the mailing of the Notice of Abandonment of June 21 ,2004.(Note a Response to the Office Action along with a Petition for Extension of Time under 37 C.F.R. 1.136(a) and filing fee for the same were submitted along with this Petition for Rescindment of Abandonment)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicants' time period for response had yet to expire as evidenced by the statement within the Office action that "applicant is given a shortened statutory period of One Month or thirty days from the mailing date of this letter whichever is longer to submit a complete reply. This statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 C.F.R. 1.136(a)." Thus a reply by applicant was due by June 03, 2004 and could have been extended up to five months under 37 C.F.R. 1.136(a). A Notice of Abandonment was mailed June 21, 2004. This Notice of Abandonment was mailed within the period wherein Applicant could have extended his time period for response. Thus, the Notice of Abandonment was premature in view of the time period set for response in the Office action mailed May 03, 2004.

Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed May 03, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply filed July 06, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Donald E. Townsend
Townsend & Banta
601 Pennsylvania Avenue, N.W.
Suite 900, South Building
Washington, D.C. 20004

1416.06-US-01

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

OIPE JC109
APR 1 6 2004
PATENT & TRADEMARK OFFICE

Paper No. 15

DOCKETED

Peter S. Dardi
Patterson, Thuente, Skaar and Christensen
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

RECEIVED
FEB 2 5 2002
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.

COPY MAILED
FEB 2 0 2002
OFFICE OF PETITIONS

In re Application of
Yi-Ren Woo, et al.
Application No. 09/437,167
Filed: November 10, 1999
Attorney Docket No. S16.12-0079

ON PETITION

This is a decision on the petition, filed January 10, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 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) 306-3475.

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee**. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

office action
rec'd: 7-10-02 [illegible]

The application is being forwarded to Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC109
APR 1 6 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Woo, et al.	Examiner:	Cary E. O'Connor
Serial No.:	09/437167	Group Art Unit:	3732
Filed:	November 10, 1999	Docket No.:	01610.0002-US-01
Confirmation No.:	7610		
Title:	MEDICAL ARTICLE WITH A DIAMOND-LIKE CARBON COATED POLYMER		

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 13, 2004.

Hallie A. Finucane
Name

Hallie A. Finucane
Signature

REQUEST TO APPLY ISSUE FEE TO NEW NOTICE OF ALLOWANCE

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with the Notice of Allowance and Fee(s) Due dated January 13, 2004, submitted herewith are documents associated with payment of the issue fee for the above-referenced application. Applicants respectfully request that the issue fee paid on October 17, 2001, be applied towards the current issue fee due as indicated on the Notice of Allowance and Fee(s) Due.

Applicants previously paid the issue fee in the amount of $1,255.00 on October 17, 2001. A petition withdrawing the application from issue following payment of the issue fee was filed on January 10, 2002, and was subsequently granted by the Patent Office. A copy of the Patent Office Decision on the Petition filed January 10, 2002 (Paper No. 15), Part B – Fee(s) Transmittal, and a check in the amount of $75.00 [$1330 (the current issue fee due) - $1,225 (issue fee paid on October 17, 2001) = $75] are being submitted with this communication. Petitioner requests that $1,255.00 be applied towards the balance due on the new issue fee. Authorization is hereby given to charge payment of any fees relating to payment of this issue

fee to avoid abandonment of this application, or credit any overpayments, to Deposit Account Number 50-1038.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' attorney of record, Hallie A. Finucane at (952) 253-4134.

Respectfully submitted,

Altera Law Group, LLC
Customer No. 22865

Date: April 13, 2004

By: Hallie A. Finucane
Hallie A. Finucane
Reg. No. 33,172
HAF/mar

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: AUG 21 2002

Paper No. 15

In re Application of John M. Krajnik et al.
Serial No.: 09/437,171
Filed: November 09, 1999
For: WATERBORNE COATING HAVING IMPROVED CHEMICAL RESISTANCE

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed June 3, 2002 to correct inventorship under 37 CFR 1.48(a) by adding the names of Linwood G. Koger to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W Wu

David W. Wu
Supervisory Patent Examiner
Technology Center 1700

The Sherwin-William Company
101 Prospect Avenue, NW
1100 Midland Bldg. – Legal Dept.
Cleveland, OH 44115-1075

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUL 09 2010

OFFICE OF PETITIONS

MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

Patent No. 09/437,262	:	
Issue Date: September 23, 2003	:	
Application No. 09/437,262	:	ON PETITION
Filed: November 10, 1999	:	
Attorney Docket No. ASA-832	:	

This is a decision on the petition filed June 10, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions