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OFFICE OF PETITIONS

TIMOTHY N. TROP
TROP PRUNER HU & MILES PC
8554 KATY FREEWAY STE 100
HOUSTON, TX 77024

In re Application of	:	
Dake, et al.	:	
Application No. 09/469,277	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. INTL-0278-US	:	

This is a decision on the petition under 37 CFR 1.181, filed February 13, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before December 20, 2005. Accordingly, this application became abandoned on December 21, 2005. A Notice of Abandonment was mailed on February 2, 2006.

Petitioner asserts the Office communication was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The petition fee will be refunded to deposit account no. 20-1504.

This application is being forwarded to Technology Center 2100, for re-mailing of the Notice of Allowance mailed September 20, 2004, with a new period for response.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,399	12/22/1999	DAVID E. EDGREN	ARC2885R1	4929

7590 11/21/2002

JOHN A DHUEY
ALZA CORPORATION
PO BOX 7210
MOUNTAIN VIEW, CA 940397210

EXAMINER
CHOI, FRANK I

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 11/21/2002

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

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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 - 8 2002

#11

JOHN A DHUEY
ALZA CORPORATION
PO BOX 7210
MOUNTAIN VIEW CA 94039-7210

In re Application of	:
David E. Edgren et al	:
Serial No.: 09/469,399	: PETITION DECISION
Filed: December 22, 1999	:
Attorney Docket No.: ARC 2885R	:

This is a decision on the Petition under 37 CFR 1.181, filed August 1, 2002, to Withdraw Holding of Abandonment based on non-receipt an Office action.

A review of the file history shows that the examiner mailed an Office action to applicants on November 6, 2001, setting a three month shortened statutory period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicants on June 4, 2002. Applicants state that the Office action was not received and provide copies of docket records establishing non-receipt. In view of the statements and evidence presented it is concluded that applicants did not receive the Office action. In view thereof, the Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for prompt remailing of the Office action of November 6, 2001.

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

John Doll
Director, Technology Center 1600

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Paper No. 11

JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATION
TWO INDEPENDENCE WAY P O BOX 5312
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of :
Tomoki Saeki :
Application No. 09/469,480 :
Filed: December 22, 1999 :
Attorney Docket No. RCA87619A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 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 April 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 application became abandoned on July 24, 2003.

The application file is being forwarded to Technology Center 2600, Art Unit 2615 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

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CHRISTOPHER M TUROSKI
FOLEY & LARDNER
FIRSTAR CENTER
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5367

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Director's Office
Group 3700

Paper No. 23

In re Application of
DAVIS ET AL.
Application No.: 09/469,494
Filed: January 04, 2000

DECISION ON PETITION

This is a decision on petitioner's request filed October 23, 2002 to review the holding of abandonment, mailed September 16, 2002 for failure to respond to the Office action of March 14, 2002.

In support of the request, petitioner has submitted a copy of a response with a certificate of mailing dated April 3, 2002. 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 16, 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

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

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OFFICE OF PETITIONS

In re Application of :
Baldomero M. Olivera et al :
Application No. 09/469,496 :DECISION ON PETITION
Filed: December 22, 1999 :
For: CONOTOXINS I :

This is in response to the petition under 37 CFR 1.183, filed November 18, 2004, to waive 37 CFR 1.175(b)(1) for a supplemental oath or declaration executed by less than all the inventors.

The petition is **dismissed as moot**.

When an inventor who executed the original declaration is refusing or cannot be found to execute a supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. If there is no joint inventor or inventors, then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

The record discloses that the Examiner held the originally executed declaration defective because "[c]laims 9-22 are rejected as being based upon a defective reissue declaration under 37 U.S.C. 231.

In view of the efforts recounted in the petition to obtain the signature of John Dykert, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed November 18, 2004.

This matter is being referred to Technology Center AU 1653.

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

Frances Hicks

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

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OFFICE OF PETITIONS
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PAUL A ROBERTS
1133 19TH STREET NW
WASHINGTON, DC 20036

In re Application of
Stone and Sibley
Application No. 09/469,505
Filed: 22 December, 1999
Attorney Docket No. UUN99006

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on 10 April and supplemented by facsimile on 12 May, 2000.

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(a)" 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).

The above-identified application was filed on 22 December, 1999, without an executed oath or declaration.

Accordingly, on 7 February, 2000, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on 4 June, 1999, petitioner filed, *inter alia*, the instant petition under 37 CFR 1.47(a), and (a) authorization to charge counsel's deposit account for the required surcharge and petition fee, (b) an unsigned oath or declaration, (c) a facsimile transmittal page purporting to transmit the assignment and declaration for the above-referenced patent application to joint inventor Sibley.

Petitioner asserts that the assignment and Declaration for the present application was sent to the non-signing inventor. The inventor, however, has refused to sign and return the Declaration.

Application No. 09/469,505

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 items (1) and (2).

In regards to item (1), petitioner has not provided proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review.[1] Petitioner states merely that a copy of the assignment and declaration were forwarded to the non-signing inventor. Petitioner must send or give a copy of the entire application as filed to the non-signing inventor. A copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Additionally, petitioner must submit proof of the inventor's refusal to sign. If there is a written refusal, petitioner must present a copy of the written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or a declaration of facts.

In regards to item (2), the declaration presented is not acceptable because it must be signed by the joint inventors who have not refused to sign. The declaration is acceptable if all of the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank <u>or</u> all of the signing inventors sign a statement stating that they are signing on behalf of the non-signing inventor. Additionally, the oath or declaration must state both the residence and post office addresses for each inventor.

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

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

---

[1] MPEP 403.03(d).

Application No. 09/469,505

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

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

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WORLDCOM, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH ST, NW
WASHINGTON, DC 20036

In re Application of
Stone and Sibley
Application No. 09/469,505
Filed: 22 December, 1999
Attorney Docket No. UUN99006

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 12 February, 2001.

The petition is again 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(a)" 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).

The above-identified application was filed on 22 December, 1999, without an executed oath or declaration. Accordingly, on 7 February, 2000, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The petition under 37 CFR 1.147(a) filed on 4 June and supplemented by facsimile on 12 May, 2000, was dismissed in a decision mailed on 8 November, 2000.

The present petition, accompanied by a request and payment for a one (1) month extension of time under 37 CFR 1.47(a) was filed on 12 February, 2001 (certificate of mailing date 8 February, 2001).

In the present renewed petition, petitioners assert that a copy of the application papers was mailed to the last known address of joint inventor Matthew J. Sibley (Sibley), now stated as 20231 Birdsnest Place, Ashburn, VA 22011, but was returned as undeliverable. A copy of the cover letter purporting to transmit the application papers to joint inventor Sibley, and a copy of an Express Mail envelope showing that the application papers were returned as undeliverable are also enclosed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, 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 petition lacks item (1).

In regards to item (1), petitioner has not submitted sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. In this regard, it is noted that although the declaration filed on 22 March, 2000, lists Sibley's last known address as 5245 West Runningbrook Road, Apt. 201, Columbia, MD 21044, petitioners now state that the last known address is 20231 Birdsnest Place, Ashburn, VA 22011. A brief Internet search suggests, however, that Sibley may reside at the Columbia, MD address provided above. Additionally, it is noted that the Zip code for the Ashburn, VA address is miscaptioned as 20147-3318 on the Express Mail envelope returned as undeliverable. As such, it appears that the envelope may not have been properly addressed to Sibley.

Petitioners should verify the correct last known address for Sibley, and send or give a copy of the application papers to him at that address. If the application papers are returned, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable. Petitioner should also explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.

Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having *first hand* knowledge of the details. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

It is also noted that the residence address listed on the declaration for joint inventor Sibley is the Columbia, MD address stated above rather than the Ashburn, VA address referenced as the last known address in the petition. If petitioner determines the Columbia, MD address is in fact not the last known address, petitioner should include a supplemental statement to the effect that the information included in the declaration is correct to the best of petitioners' knowledge and belief.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

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

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MR. PAUL ROBERTS
MCI WORLDCOM
1133 19TH STREET NW (9854/003)
WASHINGTON , DC 20036

In re Application of	:
Stone and Sibley	:
Application No. 09/469,505	: DECISION GRANTING STATUS
Filed: 22 December, 1999	: UNDER 37 CFR 1.47(a)
Attorney Docket No. UUN99006	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 20 June, 2001.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of petitioners' attorney, Brian C. Oakes, establishes that the inventor was mailed a copy of the application papers but has failed to execute the declaration naming him as a joint inventor along with Robert J. Stone.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 2700 for examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

for D. Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 13

Matthew J. Sibley
5245 West Runningbrook Rd., Apt. 201
Columbia, MD 21044

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JUL 13 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Stone et al.
Application No. 09/469,505
Filed: 22 December, 1999
For: OVERLAY NETWORK FOR TRACKING DENIAL-OF-SERVICE FLOODS IN UNRELIABLE DATAGRAM DELIVERY NETWORKS

Dear Mr. Sibley:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. 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).

for D Wood

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

MR. PAUL ROBERTS
MCI WORLDCOM
1133 19TH STREET NW (9854/003)
WASHINGTON , DC 20036

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TECHNOLOGY LAW DEPARTMENT
MCI WORLDCOM INC
1133 19TH STREET NW
WASHINGTON , DC 20036

In re Application of
Michael D. O'Dell, et al.
Application No. 09/469,506
Filed: December 22, 1999
For: METHOD AND SYSTEM FOR PROVIDING MULTI-USER ACCESS TO A PACKET SWITCHED NETWORK

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

COPY

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 12, 2000, and supplemented by facsimile on May 12, 2000.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts by Paul A Roberts indicating that he personally met with Mr. Mamakos and received positive notification that Mr. Mamakos was in receipt of the Declaration/Power of Attorney and Assignment, and had reviewed the finalized patent application approved by the inventors and that Mr. Mamakos refused to sign the declaration is deemed sufficient to establish that the inventor was mailed the application papers, including the specification, claims and drawings, but refused to sign the declaration.

The petition fee of $130.00 will be charged to the practitioner's deposit account as authorized.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file will be forwarded to Technology Center 2100.

Telephone inquiries should be directed to Petitions Attorney, Jennifer M. Hayes, at (703) 306-5608.

Jennifer M. Hayes
Attorney Advisor
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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MUSERLIAN, LUCAS AND MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of	:	
Christian Dampeirou, et al	:	
Application No. 09/469,530	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. CEI-075	:	

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

The petition is GRANTED.

The application became abandoned for failure to timely reply to the final Office action mailed May 6, 2004. The present petition included, inter alia, a Notice of Appeal.

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

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the $490 extension of time fee submitted with the petition is unnecessary and will be credited to counsel's deposit account as authorized.

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center AU 1617.

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

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

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GARY E LANDE ESQ
OPPENHEIMER WOLFF & DONNELLY LLP
SUITE 3800
2029 CENTURY PARK EAST
LOS ANGELES CA 90067-3024

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In re Patent No. 6,179,672	:	
Issue Date: January 30, 2001	:	
Application No. 09/469,564	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. 490042-84	:	

This is a decision on the petition filed September 29, 2009, 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 **DISMISSED AS MOOT**.

The patent expired on January 31, 2009 for failure to pay the seven and one-half maintenance fee. Therefore, the petition can not be granted at this time. If the patent is reinstated, petitioner may consider filing a renewed petition under 37 CFR 3.81(b).

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 may be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Barbara A. Wrigley
45 South Seventh Street
Plaza VII, Suite 3300
Minneapolis, MN 55402

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)
6318670	2001-11-20	09469565	1999-12-22	

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 Tavella/	Date (YYYY-MM-DD)	2007-02-02
Name	Michael Tavella	Registration Number	29351

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. 6318670
Issue Date: November 20,2001
Application No. 09469565
Filed: December 22,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed February 2,2007 ,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 2,2007 . 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

Joel J. Hayashida
The Clorox Company
P. O. Box 24305
Oakland, CA 94623-1305

COPY MAILED

APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Sheila E. Ali, et al. :
Application No. 09/469,575 : ON PETITION
Filed: December 22, 1999 :
Attorney Docket No. 430.134 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on July 26, 2001, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 27, 2001.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114 and an amendment. Receipt of the RCE and amendment is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600 for processing the RCE.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

COPY MAILED

JUN 1 8 2009

OFFICE OF PETITIONS

In re Application of :
Vollmers, et al. :
Application No. 09/469,606 : ON PETITION
Filed: December 22, 1999 :
Attorney Docket No. 50274/007002 :
For: SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR MEDICATIONS AS WELL AS A PROCESS

This is a decision on the petition, filed May 15, 2009 (certificate of mailing date May 12, 2009), requesting that the Office withdraw the holding of abandonment of the above-identified application. The petition will be treated under 37 CFR 1.181.

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

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed October 29, 2008, which set forth an extendable three (3) month period for reply. A Notice of Abandonment, mailed May 5, 2009, states that no reply to the October 29, 2008 final Office action was received in the Office.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and a RCE were timely filed in the Office on certificate of mailing date April 29, 2009 and physically present in the Office on May 4, 2009. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required three month extension of time fee and the required RCE fee were charged on accounting date May 4, 2009. The petition for extension of time, the RCE, and the accompanying amendment contain proper certificates of mailing attached thereto.

Under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the

certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

As stated above, all salient pieces of correspondence included a proper certificate of mailing, in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the May 5, 2009 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

This application is being referred to Technology Center AU 1643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

OIPE
MAY 0 4 2009
PATENT & TRADEMARK OFFICE

1fw RCE

PATENT
ATTORNEY DOCKET NO. 50274/007002

Certificate of Mailing: Date of Deposit: April 29, 2009

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Michael E. Connors
Printed name of person mailing correspondence

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
Title:	SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR MEDICATIONS AS WELL AS A PROCESS		

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

REQUEST FOR CONTINUED EXAMINATION UNDER 37 C.F.R. § 1.114

Applicants hereby request continued examination of the above-captioned application under 37 C.F.R. § 1.114. The application is a non-provisional application that was filed on or after June 8, 1995.

This request is being submitted after the mailing of a final Office Action. Enclosed is a reply to the final Office Action.

Enclosed is a check for $405.00 in payment of the fee required by 37 C.F.R. § 1.17(e) for this Request for Continued Examination.

Adjustment date: 06/17/2009 CKHLUK
05/04/2009 CCHAU1 00000026 09469606
01 FC:2801 -405.00 OP

05/04/2009 CCHAU1 00000026 09469606
01 FC:2801 405.00 OP

06/17/2009 CKHLUK 00000010 09469606
01 FC:2801 405.00 OP

If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 29 April 2009

Kristina Bieker-Brady, Ph.D.
Reg. No. 39,109
JAY M. TITTEL, PH.D.
Reg. No. 52,290

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

OIPE
MAY 0 4 2009
PATENT & TRADEMARK OFFICE

PATENT
ATTORNEY DOCKET NO. 50274/007002

Certificate of Mailing: Date of Deposit: April 29, 2009

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Michael E. Connors
Printed name of person mailing correspondence

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
Title:	SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR MEDICATIONS AS WELL AS A PROCESS		

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

PETITION FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. § 1.136, Applicants hereby petition that the period for replying to the final Office Action that was mailed in connection with the above-captioned application on October 29, 2008 be extended for three (3) months, to and including April 29, 2009.

Enclosed is a check for $555.00 for the fee required by 37 C.F.R. § 1.17(a).

Adjustment date: 06/17/2009 CKHLOK
05/04/2009 CCHAU1 00000026 09469606
02 FC:2253 -555.00 OP

06/17/2009 CKHLOK 00000010 09469606
02 FC:2253 555.00 OP

05/04/2009 CCHAU1 00000026 09469606
02 FC:2253 555.00 OP

If there are any other charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 29 April 2009

Kristina Bicker-Brady, Ph.D.
Reg. No. 39,109

JAY N. TITTEL, Ph.D.
Reg. No. 52,290

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

UNITED STATES 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

AXCESS INC.
3208 COMMANDER DRIVE
CARROLLTON, TX 75006

COPY MAILED
MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of
Griebenow, Allan R.
Application No. 09/469,644
Filed: December 22, 1999
Attorney Docket No. 065446.0128

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 27, 2003. A Notice of Abandonment was mailed November 4, 2003.

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

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks none of the above items.

However, the instant petition appears to be on behalf of the assignee. Accordingly, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner;

---

[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).

(2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; **(3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee**; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. The 3.73(b) statement included with the instant petition does not give the petitioner authorization to act on behalf of the assignee, consequently not meeting the third requirement listed above. An additional 37 CFR 3.73(b) statement is enclosed for petitioner's convenience.

The Power of Attorney and Correspondence Address Indication Form submitted with the instant petition on March 31, 2004, is hereby not accepted. The form requests that the correspondence address be changed to the address associated with Customer Number 05073, *as well as* the current address of record. The Office will not engage in double correspondence except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address. Accordingly, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

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

Enclosure: PTO/SB/96 – Statement under 3.73(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

Paper No. 22

BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Griebenow, Allan R.	:	
Application No. 09/469,644	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. 065446.0128	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 27, 2003. A Notice of Abandonment was mailed on November 4, 2003.

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

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Robert Groover
17000 Preston Road #230
Dallas, TX 75248

COPY MAILED

JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Ron Turfitt	:	
Application No. 09/469,673	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. LARUE-6	:	

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

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1) .

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final rejection of August 16, 2001, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and fee required by law); an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance; the filing of a request for continued examination (RCE) (accompanied by a submission and the requisite fee) under 37 CFR 1.114 (for utility or plant applications filed on or after June 8, 1995); the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR

1.53(d) if the application is a utility or plant application filed before May 29, 2000, or a design application). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal and requisite fee, an RCE accompanied by a submission; or the filing of a continuing application. See Attachment.

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

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

OR

U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202

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

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Robert Groover
17000 Preston Road #230
Dallas, TX 75248

COPY MAILED

AUG 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Ron Turfitt :
Application No. 09/469,673 : ON PETITION
Filed: December 22, 1999 :
Attorney Docket No. LARUE-6 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 22, 2002, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner submitted a Request for Continued Examination (RCE) with the renewed petition on July 22, 2002. The amendment under 37 CFR 1.116 previously submitted on May 7, 2002 will be considered as a submission with the Request for Continued Examination (RCE).

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 3724 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

ROBERT GROOVER
11330 VALLEY DALE DRIVE
DALLAS, TX 75230

COPY MAILED
JUN 27 2003
OFFICE OF PETITIONS

In re Application of :
Ron Turfitt :
Application No. 09/469,673 : ON PETITION
Filed: December 22, 1999 :
Attorney Docket No. LARUE-6 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 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 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.

The Change of Correspondence Address has been accepted and recorded.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3724 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. 9

MORRISON AND FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304-1018

COPY MAILED

FEB 21 2002

OFFICE OF PETITIONS

In re Application of :
Hugh L. Narciso, Jr. :
Application No. 09/469,717 :
Filed: December 21, 1999 :
Attorney Docket No. 353532000710 :

DECISION ON PETITION

This is a decision on the petition filed November 21, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely reply to the non-final Office action mailed November 3, 2000, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on February 4, 2001. A Notice of Abandonment was mailed on June 4, 2001.

With the instant petition, petitioner filed a request for a continued prosecution application (CPA) of the above-identified application under 37 CFR 1.53(d), and met all other requirements for a grantable petition under 37 CFR 1.137(b).

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the CPA, filed November 21, 2001.

In the "Statement of Unintentional Abandonment" submitted with the instant petition, petitioner points out that Corvascular, Inc. is the current assignee of record. However, Office records do not indicate that any assignment papers under 37 CFR 3.73(b) have been filed in the above-identified application.[1]

Furthermore, Office computer records indicate a Revocation and Power of Attorney was filed on November 30, 2001, granting the power of attorney to the law firm of Johnson & Johnson. However, as no such paper is found in the application file, the power of attorney and correspondence address of record have been changed

[1] "Documents and cover sheets to be recorded should be addressed to the Commissioner, United States Patent and Trademark Office, Box Assignment, Washington, D.C. 20231, unless they are filed together with new applications or with a request under §3.81." 37 C.F.R. 3.27.

back to the firm of Morrison and Foerster at the above address.

The application file is being forwarded to Technology Center 3700 for processing of the CPA filed November 21, 2001.

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

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

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. 19

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APR 0 8 2002

OFFICE OF PETITIONS

ON PETITION

Hale and Dorr LLP
60 State Street
Boston, MA 02109

In re Application of
Dekker et al.
Application No. 09/469,812
Filed: December 22, 1999
Attorney Docket No. 109846-137

This is a decision on the petition under 37 CFR 1.183, filed September 14, 2001, requesting waiver of 37 CFR 1.605.

The petition is **DISMISSED**.

When is waiver of a federal regulation appropriate?

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate the existence of an extraordinary situation where justice requires waiver of one or more federal regulations. It is the responsibility of the Commissioner to determine the definitions of the terms "extraordinary" and "as justice requires" as the terms are used in 37 CFR 1.183.[1] The Commissioner drafted the federal regulations which may be waived including 37 CFR 1.183. The Commissioner is the party responsible for determining when a party has demonstrated that an "extraordinary" situation exists such that "justice requires" waiver of a federal regulation.

In determining when waiver is appropriate, the Office *may* consider the circumstances when courts have exercised their equitable powers to waive requirements of a statute or regulation on behalf of a party. Courts, in determining when waiver is proper, have required due diligence and have required more than a "garden variety claim of excusable neglect."[2]

---

[1] See Bowles, Price Administrator v. Seminole Rock & Sand Co., 325 U.S. 410, 413-414, 89 L. Ed. 1700, 1702, 65 S. Ct. 1215, 1217 (1945) ("Since this involves the interpretation of an administrative regulation a court must necessarily look to the administrative construction of the regulation if the meaning of the words used is in doubt. . . . [T]he ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.")

"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.")).

[2] See Wiggins v. State Farm Fire and Casualty Co., 153 F. Supp. 2d 16, 21 (D. D.C. 2001) ("A court can equitably toll the statute of limitations . . . plaintiff will not be allowed extra time to file unless he has exercised due diligence, and the plaintiff's excuse must be more than a 'garden variety claim of excusable neglect.'") (citations omitted).

The applicable federal regulation (emphasis added):

37 CFR 1.605. Suggestion of claim to applicant by examiner.

(a) If no claim in an application is drawn to the same patentable invention claimed in another application or patent, the examiner may suggest that an applicant present a claim drawn to an invention claimed in another application or patent for the purpose of an interference with another application or a patent. The applicant to whom the claim is suggested **shall amend the application by presenting the suggested claim** within a time specified by the examiner, not less than one month. Failure or refusal of an applicant to timely present the suggested claim shall be taken without further action as a disclaimer by the applicant of the invention defined by the suggested claim. At the time the suggested claim is presented, the applicant may also call the examiner 's attention to other claims already in the application or presented with the suggested claim and explain why the other claims would be more appropriate to be designated to correspond to a count in any interference which may be declared.

MPEP 2305 (emphasis added):

2305 Examiner Suggests Claim to Applicant

Also under 37 CFR 1.605(a), when an examiner suggests a claim, the applicant will be **required to copy verbatim the suggested claim**. At the time the suggested claim is copied, however, the applicant may also (A) call the examiner's attention to other claims already in the application or which are presented with the copied claim and (B) explain why the other claims would be more appropriate to be designated to correspond to a count in any interference which may be declared. **A reply to the examiner's suggestion of a claim is not complete unless it includes an amendment adding the exact claim suggested to the application**. Even though the applicant may consider the suggested claim unpatentable, too narrow, or otherwise unsuitable, it must be presented; otherwise, the invention defined by the suggested claim is considered to be disclaimed. The applicant must make known any such objections to the examiner, and may at the same time present other claims, or call the examiner's attention to other claims already in the application, and explain why those claims would be more appropriately designated to correspond to a count in the interference. The examiner may then determine whether the applicant's alternatively proposed claims are more appropriate than the claim suggested.

Facts:

On March 28, 2001, a non-final Office action was mailed to petitioner. The cover page stated, "A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION." The cover page stated that extensions of time were available.

The first page of the Office action suggested a claim for interference and stated, "Applicant should make the suggested claim within ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer." The second page of the Office action stated that extensions of time were not available to make the suggested claim.

Therefore, the Office action set two separate time periods. One for responding to the suggested claim for interference, and a separate time period for responding to the rest of the Office action.

Petitioner argues that the notice for the one month time period was placed in the body of the Office action and that "the time restraints for response to an Office Action are normally ascertained by identifying the mailing date of the document and examining requirements detailed on the [cover sheet]."

On August 28, 2001, petitioner submitted an amendment and the instant petition, and a request for an extension of time.

Application of the law to the facts:

37 CFR 1.605 states that petitioner must submit the suggested claim within the time period set by the examiner. The issue presented by petitioner appears to be, should the alleged ambiguity regarding the time period to reply to the Office action result in a decision to grant petitioner the longer time period?

It is unnecessary to address the above issue in so far as the suggested claim was not submitted by petitioner within either the one month period or the three month extendable time period. As of February 25, 2002, the suggested claim has not been submitted by applicant.

37 CFR 1.605(a) states in part (emphasis added),

> The applicant . . . **shall amend** the application by **presenting the suggested claim** within a time specified by the examiner. . . . Failure or refusal of an applicant to timely present **the suggested claim** shall be taken without further action as a disclaimer by the applicant of the invention defined by the suggested claim.

Petitioner has not submitted the suggested claim.

As stated in MPEP 2305, petitioner was "required to copy verbatim the suggested claim. . . . A reply to the examiner's suggestion of a claim is not complete unless it includes an amendment adding the exact claim suggested to the application."

The Office action clearly states, "The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR § 1.605(a)."

Petitioner's failure to file the suggested claim is not an extraordinary situation where justice requires waiver of the rule.

The Federal Circuit has stated, "Equitable powers . . . should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence."[3] An attorney's, or agent's, lack of knowledge, misinterpretation of a law, miscalculation of a time period, or failure to exercise due care and diligence will not justify waiver.[4]

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[3] U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983) (citations omitted) ("Lockheed had several means at its disposal which it could have employed to guarantee compliance with the regulation, yet it neglected to use any of them. Equitable powers . . . should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence."); See also Grymes v. Sanders et al., 93 U.S. 55, 61; 23 L. Ed. 798, 801 (1876) ("Mistake, to be available in equity, must not have arisen from negligence. . . . The party complaining must have exercised at least the degree of diligence 'which may be fairly expected from a reasonable person.') (citing Kerr on Fraud and Mistake, 407); Garcia v. Office of Personnel Management, 2001 U.S. App. LEXIS 21616, 6 (Fed. Cir. 2001) ("Equity will not intervene, however, to protect a claimant from his or her own failure to exercise due diligence in preserving their legal rights.") (citing Irwin v. Department of Veterans Affairs, 498 U.S. 89, 95 (1990)); Goetz & Goetz v. Secretary of Health and Human Services, 2001 U.S. App. LEXIS 943, 5 (Fed. Cir. 2001) ("the special master's finding of a lack of due diligence was not arbitrary, capricious, or an abuse of discretion, and precludes the application of equitable tolling.") (citing Baldwin County Welcome Ctr. V. Brown, 466 U.S. 147, 151, 80 L. Ed. 2d 196, 104 S. Ct. 1723 (1984) which states, "One who fails to act diligently cannot invoke equitable principles to excuse their lack of diligence.")

[4] See Felder v. Johnson, 204 F.3d 168 171-172 (5th Cir. 2000) (Pro se status is not "rare and exceptional" circumstance, but is typical of those bringing a 28 U.S.C. § 2254 claim. "Mere ignorance of the law or lack of knowledge of filing deadlines does not justify equitable tolling or other exceptions to a law's requirements.") (citing United States v. Flores, 981 F.2d 231, 236 (5th Cir. 1993) as "holding pro se status, illiteracy, deafness, and lack of legal training are not external factors excusing abuse of the writ."); citing Barrow v. New Orleans S.S. Ass'n, 932 F.2d 473, 478 (5th Cir. 1991) as "holding equitable tolling . . . within the Age Discrimination in Employment Act not warranted by plaintiff's unfamiliarity with legal process, his lack of representation, or his ignorance of his legal rights.": other citations omitted). See also Harris v. Hutchinson, 209 F.3d

Petitioner failed to comply with the language in the Office action. Petitioner failed to comply with the language in the MPEP. Petitioner failed to comply with 37 CFR 1.605(a). Petitioner failed to act with reasonableness, due care, and diligence when the choice was made to ignore the language of the Office action, MPEP, and federal regulation.

Petitioner argues that a substantially similar claim exists in the application when one reads claim 8 and claim 2 together. However, the existence of the alleged substantially similar claim did not prevent petitioner from filing the suggested claim with the instant petition. Perhaps petitioner feels that the substantially similar claim is more appropriate for the interference, but even if such an assertion is correct, the presence of the claim does not justify petitioner's failure to file the suggested claim. 37 CFR 1.605 states,

> Even though the applicant may consider the suggested claim unpatentable, too narrow, or otherwise unsuitable, it must be presented . . . applicant must make known any such objections to the examiner, and may at the same time present other claims, or call the examiner's attention to other claims already in the application, and explain why those claims would be more appropriately designated to correspond to a count in the interference. The examiner may then determine whether the applicant's alternatively proposed claims are more appropriate than the claim suggested.

Petitioner had the capability to file the suggested claim, but chose not to file the claim. Petitioner's conduct does not justify waiver of 37 CFR 1.183.

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

325, 330-331 (4th Cir. 2000) (Plaintiff argues that he relied on "negligent and erroneous advice" of his attorney. Attorney agrees his advice was erroneous. The court holds, "[A] mistake by a party's counsel in interpreting a statute of limitations does not present the extraordinary circumstance beyond the party's control where equity should step in to give the party the benefit of his erroneous understanding.") (citing Taliani v. Chrans, 189 F.3d 597, 598 (7th Cir. 1999) as "holding that a lawyer's miscalculation of a limitations period is not a valid basis for equitable tolling."; citing Sandvik v. United States, 177 F.3d 1269, 1272 (11th Cir. 1999) (per curiam) as "refusing to toll the limitations period where the prisoner's delay was assertedly the result of a lawyer's decision to mail the petition by ordinary mail rather than to use some form of expedited delivery."; citing Gilbert v. Secretary of Health and Human Services, 51 F.3d 254, 257 (Fed. Cir. 1995) as "holding that a lawyer's mistake is not a valid basis for equitable tolling."; other citations omitted.)

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

Hale and Dorr LLP
60 State Street
Boston, MA 02109

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JUL 1 7 2002

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Dekker et al. :
Application No. 09/469,812 :
Filed: December 22, 1999 :
Attorney Docket No. 109846-137 :

This is a decision on the renewed petition under 37 CFR 1.183, filed June 7, 2002, requesting waiver of 37 CFR 1.605.

The petition is **DISMISSED**.

Upon further consideration of the facts and circumstances, the Office of Petitions has determined that the Board of Appeals is the proper entity to determine the extent to which petitioner's actions should be construed as a concession or disclaimer of subject matter.

Facts:

On March 28, 2001, a non-final Office action was mailed to petitioner. The cover page stated, "A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION." The cover page stated that extensions of time were available.

The first page of the Office action suggested a claim for interference and stated, "Applicant should make the suggested claim within ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer." The second page of the Office action stated that extensions of time were not available to make the suggested claim.

Therefore, the Office action set two separate time periods. One for responding to the suggested claim for interference, and a separate time period for responding to the rest of the Office action.

Petitioner failed to file an amendment adding the suggested claim within one month.

Analysis:

The present facts present issues which are appropriately under the jurisdiction of the examiner and the Board of Appeals, and not the Office of Petitions.

It is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between petitionable and appealable subject matter. See 37 CFR 1.181(a); MPEP 1201. The questions of whether or not claims are patentable or have been disclaimed relate to the merits of the invention, and the appropriate remedy for resolution of these issues ultimately lies by appeal as provided by statute, not by petition.[1]

[1] See e.g. In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985).

It is well settled that the Commissioner will not, on petition, usurp the functions or impinge upon the jurisdiction of the BPAI.[2]

The appropriateness of any forthcoming rejection[3] based on an Oguie concession or disclaimer, or any forthcoming interference, must be reviewed by way of appeal, not by way of petition.[4] The Board of Appeals is the appropriate entity to determine whether or not petitioner has conceded or disclaimed subject matter by failing to timely submit the requested amendment.

A standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation.[5] Since in this case, petitioner may appeal to the Board of Appeals, the creation of other schemes (*e.g.*, 37 CFR 1.182 or 1.183) in order to accomplish petitioner's goals is inappropriate. It is brought to petitioner's attention that "justice" does not require an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought.[6] In this case, if a rejection is made, petitioner may file an appeal.

Petitioner may wish to note that an amendment adding the requested claim has still not been received by the Office. During a prior telephone conversation, petitioner informed the Office that he felt that an amendment could not be filed until the petition under 37 CFR 1.183 was granted. Petitioner was informed on the telephone that the amendment must be filed with any request for reconsideration. Therefore, even if the Office of Petitions had jurisdiction to decide the instant petition, the petition would be dismissed.

This file is being returned to Technology Center 1600 for examination in due course.Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] See In re Dickerson, 299 F. 2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

[3] Normally, when a claim is suggested to an applicant for purpose of interference and the applicant refuses to make it, such refusal constitutes a concession that the subject matter of the claim was the prior invention of another in this country, and thus is prior art against the applicant under 35 U.S.C. 102(g)/103. In re Ogiue, 517 F.2d 1382, 186 USPQ 227 (CCPA 1975).

If petitioner disagrees with the merits of a future rejection by the examiner, the proper step to take will be to file a Notice of Appeal and to appeal the rejection. It is the function of the Board of Appeals, not the Office of Petitions, to determine if the merits of an examiner's claim are correct.

[4] An example of the Board's jurisdiction in areas concerning possible disclaimer of subject matter is illustrated in MPEP 2307.02 which states, "There is an important distinction between a limited time for reply under 37 CFR 1.607(b) and a shortened statutory period under 37 CFR 1.134. The penalty resulting from failure to reply within the time limit under 37 CFR 1.607(b) is loss of the claim or claims involved, on the doctrine of disclaimer, and this is **appealable**." (emphasis added).

[5] See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929) ("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode").

[6] See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982).

UNITED STATES 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. 6325997
Issue Date: December 4,2001
Application No. 09469971
Filed: December 21,1999
Attorney Docket No. A797.12-0003

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

This is a decision on the electronic petition, filed June 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6325997	2001-12-04	09469971	1999-12-21	O155.12-0003

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	/David R. Fairbairn/	Date (YYYY-MM-DD)	2010-06-22
Name	David R. Fairbairn	Registration Number	26047

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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JJGJr: 08-03

Paper No: 14

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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AUG 22 2003

OFFICE OF PETITIONS

In re Application of:
Claycomb, et al.
Filed: 25 January, 1995
Application No. 09/470,116
Docket No.: 11016.02

ON PETITION

This is a decision on the petition filed herein on 29 July, 2003, alternatively under 37 C.F.R. §1.137(a)[1] (as to unavoidable delay) and §1.137(b)[2] (as to unintentional delay) to revive the above-identified application, and in light of the allegations and express request considered as a

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[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

petition to withdraw the holding of abandonment under 37 C.F.R. §1.181.[3]

For the reasons set forth below, the petition:

- the petition as considered under 37 C.F.R. §1.181 to withdraw the holding of abandonment is **DISMISSED**; and
- under 37 C.F.R. §1.137(a) is **DISMISSED**.
- under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[4] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37

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[3] 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.

© 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. * * *

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

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

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 November, 2001, and due (absent extension of time) on or before Friday, 8 February, 2002;

- the application was deemed abandoned after midnight 8 February, 2002;

- Petitioner Paul J. Prendergast (Reg. No. 25,364) and former associate Robert J. Scheffel (Reg. No. 43,090) detail that:

  --following Mr. Scheffel's 24 January, 2002, telephone conference with the Examiner regarding Petitioner's amendment filed on 24 August, 2001, and the non-final Office action of 8 November, 2001, the "Interview Summary" (transmitted via FAX on 25 January, 2002, and then mailed on 27 August, 2002) indicated that the Examiner would have to perform a further search; and

  --Petitioner and Mr. Scheffel interpreted that to mean that they had to make no further response to the 8 November, 2001, non-final Office action;

- Mr. Scheffel also indicates that he left the employ of Petitioner's office in July 2002 to commence a judicial clerkship;

- the Interview Summary indicates that:

  --"Agreement with respect to the claims * * * g)**x** was not reached" (emphasis supplied); and

  --the Examiner stated: "Discussed the differences and similarities between the claimed invention and the prior art reference. A search will be needed based on the discussion[,]" however, there is no indication that the Examiner withdrew or otherwise modified the Office action, and so relieved Petitioner of the timely response

requirement under statute;

- Notice of Abandonment was mailed on 12 February, 2003;
- it does not appear that a Status Inquiry was filed regarding this matter between the date of abandonment (8 February, 2002) and the mailing of the Notice of Abandonment (12 February, 2003);
- as of this writing, Petitioner has failed to file a written reply to the 8 November, 2001, non-final Office action.[5]

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).[6]

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.[7]

Delays in responding properly raise the question whether delays are unavoidable.[8] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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[5] On Wednesday, 13 August, 2003, a call was placed by the Office of Petitions to Petitioner regarding this failure to file a reply, and when Petitioner did not answer his line a message was left with his office. As of this writing (Thursday, 14 August, 2003, Petitioner has not responded to that call..

[6] 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.

[7] 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.

[8] 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).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[9] And the Petitioner must be diligent in attending to the matter.[10] Failure to show diligence does not constitute the care required under Pratt.

(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.[11]))

Allegations as to the Request to Withdraw
the Holding of Abandonment and
the Petition Alleging Unavoidable Delay

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[12]

Petitioner has failed to evidence that the Office improperly deemed the instant application abandoned (e.g., that Petitioner did not receive the 8 November, 2001, Office action or Petitioner filed and the Office received a reply to that Office action), and thus fails to satisfy the requirements for having the holding of abandonment withdrawn.

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[13]

In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[14]

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and

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

[10] 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.

[11] 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.

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

[13] See MPEP 711.03(c)(III)(C)(2).

[14] 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).

circumstances into account."[15]

Petitioner was informed in the 8 November, 2001, Office action that the then-pending claims had been rejected.

Apparently Mr. Scheffel sought and obtained a telephone conference with the Examiner, and, as a result of the telephone conference on 24 January, 2002, the Examiner expressly told Petitioner (via the Interview Summary) that, Mr. Scheffel and the Examiner "[d]iscussed the differences and similarities between the claimed invention and the prior art reference. A search will be needed based on the discussion." However, despite the discussion, "[a]greement with respect to the claims * * * was not reached."

In short, there is no indication that the Examiner withdrew or otherwise modified the Office action of 8 November, 2001.

At that point in time Petitioner had two weeks remaining in the shorted statutory period and could have requested and obtained up to three (3) months in extensions of time to reply within the statutory maximum.

Moreover, the Interview Summary form itself contains an excerpt of the controlling regulations at 37 C.F.R. §1.133,[16] which provide that: "[a]n interview does not remove the necessity for reply to Office action as specified in §§1.111 and 1.135 (35 U.S.C. §132)."

Nonetheless, Petitioner simply failed to file a timely and proper response to the final Office action--and then allowed both the shortened statutory period and the statutory maximum period to expire.

Such practice clearly does not satisfy the Pratt requirements of diligence in attending to one's most important business affairs.

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[15] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[16] The regulations at 37 C.F.R. §1.133 provide:

§1.133 Interviews.

(a)(1) Interviews with examiners concerning applications and other matters pending before the Office must be conducted on Office premises and within Office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Director.

(2) An interview for the discussion of the patentability of a pending application will not occur before the first Office action, unless the application is a continuing or substitute application.

(3) The examiner may require that an interview be scheduled in advance.

(b) In every instance where reconsideration is requested in view of an interview with an 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 actions as specified in §§1.111 and 1.135.

[Para. (b) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a)(1) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

Therefore, Petitioner fails to satisfy the showing as required under 37 C.F.R. §1.137(a).

Presuming for the purposes of discussion that it was an act/omission of Counsel that contributed to any of the delay herein, the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client[17] in the absence of evidence that the attorney/agent has acted to deceive the client.[18]

(It long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[19] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[20] Such delays are inconsistent with a showing of diligence in the prosecution of one's application,[21] and such a course of action would preclude revival of an application under 37 C.F.R. §1.137.[22])

Accordingly, Petitioner has failed to establish to the satisfaction of the Commissioner that the delay was "unavoidable" within the meaning of 37 C.F.R. §1.137.[23]

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[17] The actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them. Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 82 S.Ct. 1386, 1390-91 (1962).

The failure of a party's attorney to take a required action or to notify the party of its rights does not create an extraordinary situation. Moreover, the neglect of a party's attorney is imputed to that party and the party is bound by the consequences. See Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992); Herman Rosenberg and Parker-Kalon Corp. v. Carr Fastener Co., 10 USPQ 106 (2d Cir. 1931).

[18] When an attorney intentionally conceals a mistake he has made, thus depriving the client of a viable opportunity to cure the consequences of the attorney's error, the situation is not governed by the stated rule in Link for charging the attorney's mistake to his client. In re Lonardo, 17 USPQ2d 1455 (Comm'r. Pat. 1990).

[19] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[20] 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.

[21] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[22] That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's "most important business." See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 C.F.R. §1.137 within two to three months of discovering its abandonment. See In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see also Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

[23] See Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

Allegations as to the Petition
Alleging Unintentional Delay

Petitioner has filed the petition (with fee authorization).

However, as of this writing Petitioner has not made the statement of unintentional delay and filed a reply to the 8 November, 2001, Office action. Thus, Petitioner has not satisfied the "reply" and "statement" requirements of the regulation.

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

Moreover, the circumstances of this application do not demonstrate as of this writing that the delay in filing the first petition was/is within the statutory and regulatory meaning of unavoidable delay--and the instant petition fails to satisfy the "showing" and the "reply" requirements as to relief sought.

In the absence of those requirements, the petition herein under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

Finally, the circumstances of this application do not demonstrate as of this writing that Petitioner has satisfied "reply" and "statement" requirement as to relief sought.

In the absence of those requirements The petition herein 37 C.F.R. §1.137(b) must be and hereby is **dismissed**.

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

By mail: (Effective 1 May, 2003)[24]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
ATTN.: Office of Petitions

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fax Cover Sheet

Date: 26 Feb 2004

To: Pam Rader	**From:** Navin Natnithithadha
Application/Control Number: 09/470,116	**Art Unit:** 3736
Fax No.: (303) 629-3450	**Phone No.:** (703) 305-2445
Voice No.: (303) 629-3400	**Return Fax No.:** (703) 872-9306
Re: Copy of Decision to Grant the Petition	**CC:**

☐ **Urgent** ☐ **For Review** ☐ **For Comment** ☐ **For Reply** ☒ **Per Your Request**

Comments:
Attachment:
Decision to Grant Petition 11/05/03 (5 Pages)

Number of pages 6 including this page

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OFFICE OF PETITIONS

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

In re Application of:	:	
Claycomb, et al.	:	
Filed: 25 January, 1995	:	ON PETITION
Application No. 09/470,116	:	
Docket No.: 11016.02	:	

This is a decision on the renewed petition filed herein on 22 October, 2003, under 37 C.F.R. §1.137(b) (as to unintentional delay) to revive the above-identified application.

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

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 November, 2001, and due (absent extension of time) on or before Friday, 8 February, 2002;

- the application was deemed abandoned after midnight 8 February, 2002;

- in the original petition, filed 29 July, 2003, Petitioner Paul J. Prendergast (Reg. No. 25,364) and former associate Robert J. Scheffel (Reg. No. 43,090) detail that: following Mr. Scheffel's 24 January, 2002, telephone conference with the Examiner regarding Petitioner's amendment filed on 24 August, 2001, and the non-final Office action of 8

November, 2001, the "Interview Summary" (transmitted via FAX on 25 January, 2002, and then mailed on 27 August, 2002) indicated that the Examiner would have to perform a further search; and Petitioner and Mr. Scheffel interpreted that to mean that they had to make no further response to the 8 November, 2001, non-final Office action; Mr. Scheffel also indicated that he left the employ of Petitioner's office in July 2002 to commence a judicial clerkship;

- the Interview Summary indicated that:

  --"Agreement with respect to the claims * * * g)x <u>was not reached</u>" (emphasis supplied); and the Examiner stated: "Discussed the differences and similarities between the claimed invention and the prior art reference. A search will be needed based on the discussion[,]" however, there is no indication that the Examiner withdrew or otherwise modified the Office action, and so relieved Petitioner of the timely response requirement under statute;

- Notice of Abandonment was mailed on 12 February, 2003;

- no Status Inquiry was filed regarding this matter between the date of abandonment (8 February, 2002) and the mailing of the Notice of Abandonment (12 February, 2003);

- Petitioner failed to file with the original petition a written reply to the 8 November, 2001, non-final Office action;[1]

- the original petition was dismissed on 22 August, 2003, for failure to satisfy the "showing" and "reply" requirements of the regulations;

- the renewed petition was filed on 22 October, 2003, with a reply in the form of an amendment.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

[1] On Wednesday, 13 August, 2003, a call was placed by the Office of Petitions to Petitioner regarding this failure to file a reply, and when Petitioner did not answer his line a message was left with his office. As of this writing (Thursday, 14 August, 2003, Petitioner has not responded to that call..

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 show diligence does not constitute the care required under Pratt.

(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]))

It long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[8] The Office has

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[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.

[8] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[9] Such delays are inconsistent with a showing of diligence in the prosecution of one's application,[10] and such a course of action would preclude revival of an application under 37 C.F.R. §1.137.[11])

Allegations as to the Petition
Alleging Unintentional Delay

Petitioner has filed the petition (with fee), a reply in the form of an amendment and made the statement of unintentional delay.

CONCLUSION

The record (including the petition filed on 22 October, 2003) does not necessitate a finding that the delay between midnight 8 February, 2002, and 22 October, 2003, was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on Petitioner's (Paul J. Prendergast (Reg. No. 46,068) duty of candor and good faith when accepting Petitioner's representation that the delay in filing the response was unintentional.[12]

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is being forwarded to Technology Center 3700 for further processing in due course.

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

[10] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[11] That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's "most important business." See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 C.F.R. §1.137 within two to three months of discovering its abandonment. See In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see also Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

[12] 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
725 S. FIGUEROA STREET, SUITE 2800
LOS ANGELES, CA 90017

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
David M. Putzolu et al	:	
Application No. 09/470,163	:	DECISION GRANTING PETITION
Filed: December 22, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 81674-264193	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 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 10, 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 11, 2003. A Notice of Abandonment was mailed on March 29, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment ; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 10, 2003 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2141 for appropriate action on the concurrently filed reply.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ANGELES, CA 90025-1030

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FEB 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
David M. Putzolu et al	:	
Application No. 09/470,163	:	DECISION GRANTING PETITION
Filed: December 22, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 42390P7777	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 13, 2006, as required by the Notice of Allowance and Fee(s) Due mailed December 13, 2006. A Notice of Abandonment was mailed on April 26, 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 payment of the $1,400 issue fee, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The application file is being referred to Publishing Division.

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
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JOHN E BECK
XEROX CORPPRATION
XEROX SQUARE-20A
ROCHESTER NY 14644

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Salgado, et al.	:	
Application No. 09/470,234	:	DECISION ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. D/99173	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 13, 2006.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a proper response to the final Office action mailed April 20, 2004. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on October 5, 2006.

On petition, applicant asserts that he timely filed an RCE, together with an Amendment, on June 2, 2004. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of an Auto Reply Facsimile Transmission Receipt. See MPEP 503.

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

The Notice of Abandonment is hereby **VACATED**.

Deposit Account No. 24-0025 has been charged the $770 fee for the RCE that was in effect on June 2, 2004.

The matter is being forwarded to Group Art Unit 2625 for consideration of the Amendment, filed on June 2, 2004 (copy re-supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

FISH & RICHARDSON, PC
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SUITE 500
SAN DIEGO CA 92122

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MAY 22 2002

OFFICE OF PETITIONS

In re Application of
Campbell
Application No. 09/470,284
Filed: December 22, 1999
Attorney Docket No. 08305/062001
FOR: CONTOURED SURFACE COVER PLATE
FOR IMAGE SENSOR ARRAY

ON PETITION

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on February 20, 2002 (certificate of mailing date November 7, 2001).

The deficiency payment of $482.00 is hereby accepted.

Small entity status will no longer apply.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 9

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SUITE 500
SAN DIEGO CA 92122

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JAN 3 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/470,284

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

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. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

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AUG 17 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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LOS ANGELES CA 90025-1026

In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed January 14, 2005.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner states within their renewed petition that the Advisory Action mailed September 9, 2003 was never received, that applicants were not aware that the response after final did not place the application in condition for allowance and that the Office admits the advisory action was returned to the Patent Office by the U.S. postal service. Petitioner requests the withdrawal of the holding of abandonment because the advisory action was not delivered to applicant.

The application record reveals that an after final amendment submitted on August 21, 2003. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. As stated in the decision mailed November 10, 2004 and as argued by petitioner, the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service on September 16, 2003. A Notice of Abandonment was mailed on April 16, 2004 that references the reply on August 21, 2003, specifically that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

As stated within the decision mailed November 10, 2004, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. <u>The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance</u>.

Although the record clearly evidences that the advisory action was not received by applicant, failure to receive an advisory action after submission of an amendment after final does not negate the fact that the mere submission of an amendment after final does not stop the statutory period for reply from running. It is incumbent upon applicants to inquire about the status of an application when an amendment after final is submitted, especially when a response to said amendment has not been received.

If a Notice of Appeal was not filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), then the application would appropriately become abandoned. The application record does not reveal that a Notice of Appeal was filed. Although applicant's lack of receipt of the advisory action is regretted, failure to timely file a Notice of Appeal by applicants resulted in the expiration of the maximum extendable statutory period for reply to the final rejection.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. 1.137.

Andrew Faile, Acting Director
Technology Center 2600
Communications

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AUG 17 2005

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LOS ANGELES CA 90025-1026

In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed January 14, 2005.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner states within their renewed petition that the Advisory Action mailed September 9, 2003 was never received, that applicants were not aware that the response after final did not place the application in condition for allowance and that the Office admits the advisory action was returned to the Patent Office by the U.S. postal service. Petitioner requests the withdrawal of the holding of abandonment because the advisory action was not delivered to applicant.

The application record reveals that an after final amendment submitted on August 21, 2003. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. As stated in the decision mailed November 10, 2004 and as argued by petitioner, the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service on September 16, 2003. A Notice of Abandonment was mailed on April 16, 2004 that references the reply on August 21, 2003, specifically that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

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If a Notice of Appeal was not filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), then the application would appropriately become abandoned. The application record does not reveal that a Notice of Appeal was filed. Although applicant's lack of receipt of the advisory action is regretted, failure to timely file a Notice of Appeal by applicants resulted in the expiration of the maximum extendable statutory period for reply to the final rejection.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. 1.137.

Andrew Faile, Acting Director
Technology Center 2600
Communications

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AUG 17 2005

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In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed January 14, 2005.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner states within their renewed petition that the Advisory Action mailed September 9, 2003 was never received, that applicants were not aware that the response after final did not place the application in condition for allowance and that the Office admits the advisory action was returned to the Patent Office by the U.S. postal service. Petitioner requests the withdrawal of the holding of abandonment because the advisory action was not delivered to applicant.

The application record reveals that an after final amendment submitted on August 21, 2003. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. As stated in the decision mailed November 10, 2004 and as argued by petitioner, the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service on September 16, 2003. A Notice of Abandonment was mailed on April 16, 2004 that references the reply on August 21, 2003, specifically that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

As stated within the decision mailed November 10, 2004, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. <u>The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance</u>.

Although the record clearly evidences that the advisory action was not received by applicant, failure to receive an advisory action after submission of an amendment after final does not negate the fact that the mere submission of an amendment after final does not stop the statutory period for reply from running. It is incumbent upon applicants to inquire about the status of an application when an amendment after final is submitted, especially when a response to said amendment has not been received.

If a Notice of Appeal was not filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), then the application would appropriately become abandoned. The application record does not reveal that a Notice of Appeal was filed. Although applicant's lack of receipt of the advisory action is regretted, failure to timely file a Notice of Appeal by applicants resulted in the expiration of the maximum extendable statutory period for reply to the final rejection.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. 1.137.

Andrew Faile, Acting Director
Technology Center 2600
Communications

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TECHNOLOGY CENTER 2600

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In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the Petition filed May 6, 2004, which is being treated 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 and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner alleges to have timely filed a proper response to the Final Office Action on August 19, 2003. To support this position, Petitioner has included with the instant petition, a copy of the response mailed on August 19, 2003 and a copy of a post card receipt date stamped as having been received in the U.S. Patent and Trademark Office on August 21, 2003.

A review of the application record reveals that the amendment submitted on August 21, 2003 was in fact received and entered into the application. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. A copy of the advisory action is enclosed with this decision. It would also appear as though the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service. It is also noted that the Notice of Abandonment mailed on April 16, 2004 references the reply on August 21, 2003 and that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

While the response to the Final rejection has been deemed to have been timely filed, petitioner should note that the admission of, or refusal to admit, any amendment after a final rejection, will not operate to relieve the application from its condition as subject to appeal or to save the application from abandonment under § 1.135. See 37 CFR 1.113 and 1.116. In other words, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The mere filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal

was not filed properly within the period for reply, then the application was appropriately held as abandoned. The application record does not provide evidence that a Notice of Appeal was filed.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Any request for reconsideration including necessary evidence must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment." This is not a final agency action within the meaning of 5 USC 704.

Alternatively, petitioner may file a petition to revive the application under 37 C.F.R. 1.137.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

Enclosure: Advisory Action (3 pages)

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.
09/470,299	12/22/1999	BOON-LOCK YEO	042390.P7940	5988

7590 09/09/2003

JOHN P WARD
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 900251026

EXAMINER
RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 09/09/2003 18

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

RECEIVED
SEP 1 6 2003
Technology Center 2600

Advisory Action	Application No. 09/470,299	Applicant(s) YEO ET AL.9	
	Examiner Andy S. Rao	Art Unit 2613	

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

THE REPLY FILED 21 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) will not be entered because:

(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *See Continuation Sheet*.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *1, 3-9, 11-17, and 19-24*.

Claim(s) withdrawn from consideration: _____.

8.☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

ANDY RAO
PRIMARY EXAMINER

Andy S. Rao
Primary Examiner
Art Unit: 2613

Continuation of 2. NOTE: the proposed amendment of claims 1, 9, and 17 now adding "...assigning varying..." from canceled claims 3, 11, and 19 (respectively), would require further search/consideration of the relevant art with regards to dependent claims 4-8, 12-16, and 20-24, and will not be entered.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

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MAIL

AUG 1 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed January 14, 2005.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner states within their renewed petition that the Advisory Action mailed September 9, 2003 was never received, that applicants were not aware that the response after final did not place the application in condition for allowance and that the Office admits the advisory action was returned to the Patent Office by the U.S. postal service. Petitioner requests the withdrawal of the holding of abandonment because the advisory action was not delivered to applicant.

The application record reveals that an after final amendment submitted on August 21, 2003. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. As stated in the decision mailed November 10, 2004 and as argued by petitioner, the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service on September 16, 2003. A Notice of Abandonment was mailed on April 16, 2004 that references the reply on August 21, 2003, specifically that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

As stated within the decision mailed November 10, 2004, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. <u>The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance</u>.

Although the record clearly evidences that the advisory action was not received by applicant, failure to receive an advisory action after submission of an amendment after final does not negate the fact that the mere submission of an amendment after final does not stop the statutory period for reply from running. It is incumbent upon applicants to inquire about the status of an application when an amendment after final is submitted, especially when a response to said amendment has not been received.

If a Notice of Appeal was not filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), then the application would appropriately become abandoned. The application record does not reveal that a Notice of Appeal was filed. Although applicant's lack of receipt of the advisory action is regretted, failure to timely file a Notice of Appeal by applicants resulted in the expiration of the maximum extendable statutory period for reply to the final rejection.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. 1.137.

Andrew Faile, Acting 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
DIW 0c3-05

Paper No. 27

JOHN P WARD
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

COPY MAILED

OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Yeo et al.	:	
Application No. 09/470,299	:	ON PETITION
Filed: 22 December, 1999	:	
Atty Docket No. 042390.P7940	:	

This is a decision on the petition filed on 27 September, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 20 September, 2003, for failure to file a proper reply to the final Office action mailed on 19 June, 2003, which set a three (3) month shortened statutory period for reply. On 21 August, 2003, petitioners filed an amendment after final rejection. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 9 September, 2003. Notice of Abandonment was mailed on 16 April, 2004. The petition to withdraw the holding of abandonment filed on 6 May, 2004, was dismissed on 10 November, 2004. The renewed petition to withdraw the holding of abandonment filed on 14 January, 2005, was dismissed on 17 August, 2005.

Petitioners have filed a Request for Continued Examination (RCE) and have indicated that the previously filed amendment is the submission required under 37 CFR 1.114.

This application is being referred to Technology Center 2600 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

GE HEALTHCARE
c/o FLETCHER YODER, PC
P.O. BOX 692289
HOUSTON, TX 77269-2289

Mail Date: 04/23/2010

Applicant	: DANIEL I. KERPELMAN	: DECISION ON REQUEST FOR
Patent Number	: 7606720	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/470,344	: OF WYETH
Filed	: 12/22/1999	:
		:

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. 11

Kenneth M. Seddon
Blakely, Sokoloff, Taylor & Zaffman, LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

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DEC 18 2002

OFFICE OF PETITIONS

In re Application of	:	
David W. Frame, et. al.	:	
Application No. 09/470,542	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. 042390.P7651	:	

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

The petition is **GRANTED**.

The application file is being forwarded to the Office Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

PETER J. MANSON
EDWARDS & ANGELL
1150 EAST LAS OLAS BOULEVARD
SUITE 1150
FORT LAUDERDALE, FL 33301

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DEC 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Dave Bova	:	
Application No. 09/470,603	:	ON PETITION
Filed: December 22, 1999	:	
Attorney Docket No. 20720-103793	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Notice to of Non-Compliant Amendment (37 CFR 1.121) (Notice) mailed March 8, 2002. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later) 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 April 9, 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 1615.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KAREN J. MESSICK, ESQ.
C/O KOS PHARMACEUTICALS INC.
1001 BRICKELL BAY DRIVE, 25TH FLOOR
MIAMI, FL 33133

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:	
David J. Bova	:	
Application No. 09/470,603	:	DECISION GRANTING PETITION
Filed: December 22, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20720-103793	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 until otherwise instructed.

---

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

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

This matter is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

cc:

Karen J. Messick, Esq.
Kos Pharmaceuticals, Inc.
2200 North Commerce Parkway
Suite 300
Weston, FL 33326

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 14 2005

KAREN J. MESSICK, ESQ.
C/O KOS PHARMACEUTICALS, INC.
1001 BRICKELL BAY DRIVE, 25TH FLOOR
MIAMI, FL, 33133

In re Application of	:
David Bova et al	:
Serial No.: 09/470,603	: PETITION DECISION
Filed: December 22, 1999	:
Attorney Docket No.: 50454-56101US	:

This is a response to the petition under 37 CFR 1.59(b), filed March 10, 2005, to expunge information from the above identified application.

Petitioner requests that documents submitted in an Information Disclosure Statement (IDS), filed March 10, 2005, 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.

The decision on the petition is held in abeyance. It is noted that a concurrently file petition to withdraw this application from issue has been granted, thus reopening prosecution for consideration of the IDS containing confidential material. Therefore, 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.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

The petition to expunge is at this time **DISMISSED**.

Upon termination of prosecution of the application applicants should submit a renewed petition to expunge the proprietary material. No fee will be due for the renewed petition.

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

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SEP 26 2005

KAREN J. MESSICK, ESQ.
C/O KOS PHARMACEUTICALS, INC.
1001 BRICKELL BAY DRIVE, 25TH FLOOR
MIAMI, FL, 33133

In re Application of	:
David Bova et al	:
Serial No.: 09/470,603	: PETITION DECISION
Filed: December 22, 1999	:
Attorney Docket No.: 50454-56101US	:

This is a response to the renewed petition under 37 CFR 1.59(b), filed July 21, 2005, to expunge information from the above identified application.

Petitioner requests that documents submitted in an Information Disclosure Statement (IDS), filed March 10, 2005, 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.

The information has been reviewed by the examiner and the application has now been found allowable over it.

The petition to expunge is **GRANTED**. The confidential material will be returned under separate cover.

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

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Paper No. 6

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

LEE, MANN, SMITH, MCWILLIAMS,
SWEENEY & OHLSON
P O BOX 2786
CHICAGO, IL 60690-2786

In re Application of
Tomlins et al.
Application No. 09/470,629
Filed: December 22, 1999
Attorney Docket No. 476-1871
For: COMMUNICATIONS NETWORK

DECISION REFUSING
STATUS UNDER
37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 10, 2000 (certificate of mailing date August 7, 2000).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on December 22, 1999 without an executed oath or declaration. Accordingly, on February 8, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on August 10, 2000 (certificate of mailing August 7, 2000), a petition for a four month extension of time and required fee, a declaration executed by 4 of six co-inventors, the surcharge, the petition fee, and the instant petition were filed. The petition was authored by an attorney of record, Mr. William M. Lee, Jr. Mr. Lee explains that the two non-signing inventors, Osama Bhagat and Greg Bernstein, were temporary employees of the assignee company, Nortel Networks Limited, and that their last known address is unknown and they cannot be found.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1), (2), and (4) above.

As to item (1), Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has simply stated that the Human Resource Department of Nortel Networks Limited has no record of either company identity numbers or any forwarding addresses for the non-signing inventors. The Office is not convinced that a diligent search was conducted. Petitioners should widen the scope of search beyond the confines of the Human Resource Department of the assignee. Searches of telephone registries and Internet databases and inquiries of temporary agencies that the assignee frequently utilized should be performed. A copy of the application

papers should be sent to the last known address of each non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventors, e.g. through computer or the telephone continue to fail, then applicants will have established that the inventors cannot be reached. 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 to locate the non-signing inventors.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not contain the residence or post office address of either Mr. Bhagat or Mr. Bernstein. The address of the former temporary employer is not an acceptable substitute. In addition, the statement of citizenship for the non-signing inventors is ambiguous. Petitioners should make a statement in a renewed petition that to the best of their knowledge that the respective citizenships of Mr. Bhagat and Mr. Bernstein are as listed. The format of the declaration is not acceptable. The first page of the Declaration does not list all joint inventors and the Declaration does not include page numbers -- i.e. 1 of 2; 2 of 2. As such, there could be ambiguity with respect to how many inventors there are. The Declaration should set forth all of the joint inventors on the same page to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Bhagat and Mr. Bernstein is REQUIRED. See MPEP 409.03(a).

As to item (4), a statement of both non-signing inventors last known address is missing and is required. The most recent home address (or place where mail was received) of both non-signing inventors should be listed.

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 should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

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APR 13 2001

OFFICE OF PETITIONS
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LEE MANN SMITH MCWILLIAMS
SWEENEY & OHLSON
P O BOX 2786
CHICAGO, IL 60690-2786

In re Application of :
Tomlins, et al. :
Application No. 09/470,629 : ON RENEWED PETITION
Filed: December 22, 1999 :
Attorney Docket No.: 476-1871 :
For: COMMUNICATIONS NETWORK :

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 1, 2000.

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 December 22, 1999 without an executed oath or declaration and naming Andrew Geoffrey Tomlins, Simon Daniel Brueckheimer, David John Stacey, John A. Shotton, Osama Bhagat, and Greg Bernstein as the joint inventors.

Accordingly, on February 8, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. In response, on August 10, 2000, a petition under 37 CFR 1.47(a) was filed. This petition was dismissed September 27, 2000.

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.

Petitioner lacks items (1), (2), and (4) set forth above.

As to item (1), the petition lacks sufficient evidence to establish that the nonsigning inventors cannot be reached, were ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refuse to sign the oath or declaration.

Petitioner has included the declaration of John Peter William Ryan. In this declaration, declarant states that co-inventor Tomlins informed him that co-inventors Bhagat and Bernstein were no longer employed by Nortel Networks Harlow Laboratories, partial assignee of the present application. The declaration goes on to state that the Human Resource Centre of the partial assignee has no residential addresses for either nonsigning inventor.

The declaration also asserts that there is a misspelling of one of the inventor's names, namely, "Bhagat" is more correctly spelled "Bahgat[1]."

Declarant states that he has searched United Kingdom telephone directories to no avail seeking listings for the nonsigning inventors. No evidence of these searches has been presented to date.

Declarant also states that he has searched for each of the nonsigning inventors through online means, has made telephone calls to nineteen "Greg Bernsteins" and three "Osama Bahgats", all to no avail. Again, no evidence of these efforts has been presented.

Declarant states further that he has made inquiries with the Canadian offices of Nortel Networks, the partial assignee of the instant application, and have not been able to acquire a last known address or point of contact for either nonsigning inventor.

The declaration also states that declarant suspects the nonsigning inventors are currently residing within the United States, yet, the instant renewed petition is not accompanied by evidence of any search efforts conducted throughout the United States.

The petition states the last known address of nonsigning inventor Bhagat is 1420 McDowell Boulevard, North Petaluma, California. However, the petition is not accompanied by any evidence that applicant attempted to contact the nonsigning inventor at this address or provide the nonsigning inventor with a copy of the application papers (specification, claims, and drawings). Dated cover letters and/or mailing receipts as evidence that the nonsigning inventor was presented with a copy of the application papers or having been presented with the application papers, refused to sign the oath or declaration should be provided.

In addition, information regarding attempts to acquire a forwarding address for the nonsigning inventor should accompany any renewed petition.

A recent brief search of the Lexis®.com EZFIND Combined Person Locator Nationwide database revealed the following:

---

[1] Petitioner is advised that a petition under 37 CFR 1.182 to correct the spelling of the inventor's name is required.

(1) OSAMA BAHGAT
1420 MCDOWELL BLVD.
PETALUMA, CA 94954
address current as of 5/97

(2) OSAMA BAHGAT
259 CAMBRIDGE LN.
PETALUMA, CA 94952
address current as of 3/99
previous address listed at (1) above

(3) OSAMA BAHGAT
20128 PACIFICA DRIVE
CUPERTINO, CA 95014
TELEPHONE NO. 763-9811
address current as of 2/1/01
previous address listed at (2) above

Petitioner is required to undertake additional efforts to acquire a current address of the nonsigning inventor as well as present a copy of the application papers (specification, claims, and drawings) to the nonsigning inventor.

As to nonsigning inventor Bernstein, no persuasive evidence exists in the record that sufficient efforts have been made to locate this person and provide them with a copy of the application papers. 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 on to establish that a *diligent effort* was made to locate the inventor. The statement(s) 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. At the very least, a search of telephone directories should be undertaken of the regions where it is suspected the nonsigning inventor may reside. Petitioner may wish to utilize regional, national, or international registries to seek information regarding this inventor. Copies of the results of such searches must be referred to in any renewed petition. See, MPEP 409.03(d).

It is important that the forthcoming communication contain statements of fact as opposed to conclusions. If there is an express oral refusal, a statement from the person to whom that refusal was made should be made of record.

As to item (2), the declaration submitted with the instant petition is not acceptable as it fails to comply with 37 CFR 1.63 and 1.64. The declaration presented with the instant petition does not list the addresses of inventors Bhagat and Bernstein. In addition, the declaration is improperly executed. Specifically, the signature blocks for the nonsigning inventors have been signed by one other than the inventor. Where it is alleged in a petition under 37 CFR 1.47(a) that an inventor cannot be located or refuses to sign the oath or declaration, the remaining inventors should sign the declaration in their own name and on behalf of the nonsigning inventors. Therefore, the signature blocks of the nonsigning inventors should remain unexecuted. Petitioner is advised that any renewed petition should include a

properly executed oath or declaration.

As to item (4), the petition fails to state the last known address of at least one nonsigning inventor. A last known address is required under 37 CFR 1.47(a). If, after diligent efforts have been exerted, such as those discussed above, and a last known address is still not available, applicant may wish to file a petition under 37 CFR 1.183 requesting a suspension of the rule requiring applicant to provide the last known address of the nonsigning inventor.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 13

LEE MANN SMITH McWILLIAMS
SWEENEY & OHLSON
P O BOX 2786
CHICAGO, ILLINOIS 60690-2786

COPY MAILED

SEP 5 2001

OFFICE OF PETITIONS

In re Application of	:
Tomlins et al	:
Application No. 09/470,629	: DECISION GRANTING STATUS
Filed: December 22, 1999	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 476-1871	:

This is in response to the petition, filed June 15, 2001, requesting reconsideration of a decision mailed April 13, 2001, which refused to accord status under 37 CFR 1.47(a).

The petition is GRANTED.

Petitioner has shown that the nonsigning inventor, Greg Bernstein, has 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 nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The decision mailed April 13, 2001 stated that the declaration submitted with the petition of December 1, 2000, failed to set forth the mailing address of joint inventor Bernstein. Rather than setting forth the mailing address of inventor Bernstein in a declaration complying with 37 CFR 1.63 and 37 CFR 1.64 or in an Application Data Sheet (ADS), petitioner included the mailing address in the petition. However, the rules provide that the mailing address must be set forth in a declaration complying with 37 CFR 1.63 and 37 CFR 1.64 or submitted in an ADS in accordance with 37 CFR 1.76. Therefore, the mailing address should be provided either in a substitute declaration complying with 37 CFR 1.63(c)(1) or

supplied by way of an ADS in accordance with 37 CFR 1.76 prior to issuance of the instant application or at such time as may be required by the examiner.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2739 for examination in due course.

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
Washington, D.C. 20231
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Paper No. 7

MAIL

JUL 2 4 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

REED SMITH, LLP
375 Park Ave
New York, NY 10152-1799

In re Application of:
Chae-Hum CHUNG et al.,
Application No.: 09/470,852
Fled: December 23, 1999
Attorney's Docket No.: YOO PN0376
For: BASE STATION FOR COMPENSATING ROUTE DELAY BETWEEN BASE STATION AND MOBILE STATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney or Agent of record, filed July 5, 2001.

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

The request is **GRANTED**.

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.

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

cc: J. Harold Nissen Esq.
Lachenback Siegel Marzullo Aronson & Greenspan
One Chase Road, Penthouse Suite
Scarsdale, NY 10583

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 16 2004

FLEHR HOHBACH TEST ALBRITTON
& HERBERT, LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRNACISCO, CA 94111-4187

In re Application of	:
Roy Geoffrey Sargent	:
Serial No.: 09/470,859	: PETITION DECISION
Filed: December 23, 1999	:
Attorney Docket No.: A-68342-1	:

This is in response to the petition under 37 CFR 1.181 or, alternatively, under 37 CFR 1.137(b), filed January 9, 2004, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on April 10, 2003, setting a three month shortened statutory period for reply. On or about July 18, applicant's attorney called the examiner requesting a copy of the Office action indicating that they had received, but misplaced, their copy of the Office action. The examiner mailed a courtesy copy of the Office action to applicant on July 24, 2003, but did not reset the period for reply. On or about December 17, 2003, applicant's attorney again contacted the examiner with regard to two references which were not in the file (and were not sent with the remailed courtesy copy of the Office action). As noted in the interview summary, the examiner informed applicant that the application was abandoned for failure to timely reply to the April 10, 2003, Office action. A Notice of Abandonment was then sent to applicant.

Applicant requests that the abandonment be withdrawn in view of the incorrect mail date of July 24, 2003, on their copy of the Office action. Applicant also filed with the petition a request for an extension of time and a Notice of Appeal. However, applicant acknowledges that the Office action, even according to their records, was mailed April 10, 2003, and that the docketing error occurred only because the replacement copy of the Office action had a new date thereon. Although it appears that the remailed copy of the Office action did not include the original cover sheet with the original mail date thereon, it likely would not have been noted by applicant's docketing personnel since it was not the first page of the Office action. Applicant and his attorney knew of the original due date of July 10, 2003, and maximum extendable due date of October 10, 2003, and failed to take appropriate action timely. In view of the evidence presented the Notice of Abandonment is not withdrawn under 37 CFR 1.181.

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

Applicant's conditional petition under 37 CFR 1.137(b) is not a petition which is decided within the Technology Center. In addition, each petition presented must be a separate paper. Applicant should resubmit this petition as a separate paper. This type of petition is decided in the Office of Petitions. This petition is **DISMISSED**.

The application will be retained in storage. This application may be revived by filing a timely petition under 37 CFR 1.137(b). Any such petition must be filed within TWO MONTHS of the mail date of this decision in order to be considered timely.

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

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FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Roy Geoffrey Sargent et al	:	
Application No. 09/470,859	:	ON PETITION
Filed: December 23, 1999	:	
Attorney Docket No. A-68342-1/RM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2004, 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 April 10, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 11, 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 $950.00 extension of time submitted on January 9, 2004 and August 20, 2004 was subsequent to the maximum extendable period for reply.

The Office Finance records show that the petition fee ($665.00) and the notice of appeal fee ($165.00) were inadvertently charged twice. Therefore, a total refund of $1,780.00 is being credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1632.

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
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In re Patent No. 6086520
Issue Date: July 11,2000
Application No. 09470867
Filed: December 23,1999
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed July 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 July 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)
6086520	2000-07-11	09470867	1999-12-23	

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	/Eugenio J. Torres Oyola/	Date (YYYY-MM-DD)	2010-07-09
Name	Eugenio J. Torres Oyola	Registration Number	47141

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 24

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 2 5 2004

OFFICE OF PETITIONS

In re Application of

Gerard Gundling

Application No. 09/470,944

Filed: December 22, 1999

Attorney Docket No. 6653.US.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 30, 2003, 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 May 1, 2003. A Notice of Abandonment was mailed on August 12, 2003.

The amendment filed January 26, 2004, is noted and made of record.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 19

KAREN LEE ORZECHOWSKI, ESQ.
LINIAK, BERENATO, LONGACRE & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of
James Francis Glover, et al.
Application No. 09/470,997
Filed: December 23, 1999
Attorney Docket No. 41565/192844

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) 1.

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding office action mailed on July 5, 2002. Petitioner must submit a proper response upon the filing of a renewed petition. Until a proposed response is received, this application cannot be revived. As requested by applicant, a copy of the Office Action is enclosed.

The Revocation of Power of Attorney and Appointment of New Attorney and Change of Correspondence Address filed on May 12, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied.

Specifically, § 3.73 provides that:

> (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

A blank copy of Statement under 37 CFR 3.73(b) accompanies this decision.

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

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

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

Attachments to cc: Office Action and Blank copy of Statement under 37 CFR 3.73(b) form.

cc: Richard E. Fichter
Bacon & Thomas, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

#24

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RICHARD E. FICHTER
BACON & THOMAS, PLLC
625 SLATERS LANE
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ALEXANDRIA VA 22314

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of
GLOVER, ET AL.
Application No. 09/470,997
Filed: December 23, 1999
Attorney Docket No. GLOV3002/REF

ON PETITION

This is a decision on the **renewed** petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 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 Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed April 8, 2002. 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 application became abandoned on June 9, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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)(III)(C) and (D). **The instant petition lacks item(s) (1).**

The reply filed with the petition is not fully responsive to the outstanding requirement. In the instant case, the sequence listing filed is not in compliance. See attached "Raw Sequence Listing Error Report." Petitioner must submit a proper response upon the filing of a renewed petition.

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

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

By 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) 272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

Attachment: Raw Sequence Listing Error Report

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 28

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of
GLOVER, et. al.
Application No. 09/470,997
Filed: December 23, 1999
Attorney Docket No. GLOV3002/REF

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the **renewed** petition under 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The 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 April 8, 2002. 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 application became abandoned on June 9, 2002.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment and acceptable Sequence Listing ; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the office communication dated April 8, 2002 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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 of the reply 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. 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)).

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center 1644.

The application matter is being forwarded to Technology Center Art Unit 1644 for appropriate action on the concurrently filed amendment on November 15, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Knut S. Grimsrud, et al.
Application No. 09/471,100
Filed: December 21, 1999
Attorney Docket No. 10559/111001

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 15, 2004, 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 30, 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]

A review of the application file record does not indicate a change of address has been filed in this case; however, the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

---

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2186 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

cc:

FISH & RICHARDSON, P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

UNITED STATES 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

WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

COPY MAILED
APR 0 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Robert Bedichek et al	:	
Application No. 09/471,447	:	NOTICE
Filed: December 23, 1999	:	
Attorney Docket No. TRANS18	:	

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 2128.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Alan J. Kasper
Sughrue, Mion, Zinn,
MacPeak & Seas, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

COPY MAILED

MAY 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Lester F. Ludwig :
Application No. 09/471,577 : ON PETITION
Filed: December 23, 1999 :
Attorney Docket No. VISN-007/03U :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 January 9, 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 April 10, 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), 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.

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 March 12, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 19-4880.

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 2600, Art Unit 2643 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

RANDALL B. BATEMAN
BATEMAN IP LAW GROUP
8 EAST BROADWAY, SUITE 550
PO BOX 1319
SALT LAKE CITY, UT 84110

COPY MAILED
AUG 23 2006
OFFICE OF PETITIONS

In re Patent No. 6,178,613	:	
Issued: January 30, 2001	:	
Application No. 09/471,627	:	NOTICE
Filed: December 24, 1999	:	
Attorney Docket No. 0162.CI1.CN	:	

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 (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

PTO/SB/44 (09-07)
Approved for use through 06/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,657,426

APPLICATION NO.: 09/471,634

ISSUE DATE : December 2, 2003

INVENTOR(S) : Powell et al.

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

On the face page, in field (54), under "Title", in column 1, line 1, delete "PROGRAMMER" and insert - - PROGRAMMING SYSTEM WITH SOCKETS FOR MICRO DEVICES - -, therefor.

already corrected

In column 1, line 1, delete "PROGRAMMER" and insert - - PROGRAMMING SYSTEM WITH SOCKETS FOR MICRO DEVICES - -, therefor.

In column 1, line 8, below "thereto." insert - - The present application contains subject matter related to a copending U.S. Patent Application by Lev M. Bolotin entitled "MANUFACTURING SYSTEM WITH FEEDER/PROGRAMMING/BUFFER SYSTEM". The related application is assigned to Data I/O Corporation, is identified by docket number 1015-001 and serial number 09/418,732, and is hereby incorporated by reference. - -.

In column 1, lines 9-16, delete "The present application also contains subject matter related to U.S. patent Application Ser. No. 09/419,172, now U.S. Pat. 6,449,523 B1, by Bradley Morris Johnson, Lev M. Bolotin, Simon B. Johnson, Carl W. Olson, Bryan D. Powell, and Janine Whan-Tong entitled "FEEDER/PROGRAMMING/BUFFER OPERATING SYSTEM". The related application is assigned to Data I/O Corporation and is hereby incorporated by reference.".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081125

DATE : November 25, 2008

TO SPE OF : ART UNIT 2839

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Changes are acceptable as noted.

/T C Patel/
Supervisory Patent Examiner.Art Unit 2839

UNITED STATES 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. 37

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

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
John P. Anderson et al	:	
Application No. 09/471,669	:	ON PETITION
Filed: December 24, 1999	:	
Attorney Docket No. 00228-US-NEW	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action 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 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)). This petition lacks item (3) above.

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
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

The Power of Attorney to Prosecute Applications Before the USPTO and the Change of Correspondence Address filed on September 21, 2004 have not been entered since a Change of Address to Customer Number filed on March 31, 2003 has been noted and made of record.

Telephone inquiries concerning this decision 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

UNITED STATES 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. 41

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

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
John P. Anderson et al	:	
Application No. 09/471,669	:	ON PETITION
Filed: December 24, 1999	:	
Attorney Docket No. 00228-US-NEW	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 18, 2004, to revive the above-identified application.

The petition is GRANTED.

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

The application file is being forwarded to Publishing Division via Technology Center AU 1652.

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

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

COPY MAILED
AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:
Anderson, et al.	: DECISION ON PETITION
Application No. 09/471,669	:
Filed: December 24, 1999	:
Atty. Dkt. No.: 00228-US-NEW	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 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 December 16, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed June 30, 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 1600 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-23-09

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/471669 Patent No.: 7456007

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. 123

Thank You For Your Assistance

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

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

Comments: _____

_____ **SPE** 1652 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 11

DATE : Oct. 16, 2008

TO SPE OF : ART UNIT 2185

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/471675 /6535780

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

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: Gramatical corrections only. Do not change scope of disclosure

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

OIPE
APR 17 2000
PATENT & TRADEMARK OFFICE

Scator

PATENT

Case Docket No. TETRAGN.002A
Date: April 13, 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Irena N. Merenkova
App. No.	:	09/471,703
Filed	:	December 23, 1999
For	:	ANALYSIS OF NUCLEOTIDE POLYMORPHISMS AT A SITE
Group Art Unit	:	1643

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

April 13, 2000
(Date)

Daniel Hart
Daniel Hart, Reg. No. 40,637

TRANSMITTAL LETTER

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

ATTENTION: BOX MISSING PARTS

Dear Sir:

In response to the Notice to File Missing Parts of Application Under 37 CFR 1.53(f), which was mailed by the Office on February 15, 2000, enclosed are:

(X) An executed Declaration by Inventor.

(X) A Power of Attorney Form and Copy of Assignment.

(X) A verified statement to establish small entity status under 37 CFR 1.9 and 1.27.

(X) A Notice to File Missing Parts.

(X) Information Disclosure Statement and Form PTO-1449 with nine (9) references.

(X) Return prepaid postcard.

KNOBBE, MARTENS, OLSON & BEAR, LLP
620 NEWPORT CENTER DR 16TH FLOOR NEWPORT BEACH, CA 92660
(949) 760-0404 FAX (949) 760-9502

PATENT

Case Docket No. TETRAGN.002A
Date: April 13, 2000

(X) Fees as calculated below:

FILING FEE		$ 1150
FEE FOR EXTENSION OF TIME (LARGE ENTITY)	months	$ 0
SURCHARGE 37 CFR 1.16(e)		$ + 130
TOTAL OF ABOVE CALCULATIONS		$ 1280
REDUCTION BY 1/2 FOR FILING BY SMALL ENTITY. Note 37 CFR 1.9, 1.27, 1.28. If applicable, verified statement must be attached.		$ - 640
TOTAL FEES SUBMITTED HEREWITH		$ 640

(X) A check in the amount of $640 to cover the above fees is enclosed.

(X) The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment, to Account No. 11-1410. A duplicate copy of this sheet is enclosed.

Daniel Hart

Daniel Hart
Registration No. 40,637
Attorney of Record

S:\DOCS\DOP\DOP-1201.DOC
041200

TETRAGN. 002A
DOH / DOP

OIPE
APR 17 2000
PATENT & TRADEMARK OFFICE

#3

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
09/471,703	12/23/99	MERENKOVA	I TETRAGN.002A

020995 0222/0215
KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

DATE MAILED: 1643

02/15/00

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 $ 1280.

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

☑ 2. The following additional claims fees are due:
$ 234 for 13 total claims over 20.
$ 156 for 2 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

09/19/2000 ASAHLE 00000058 09470703
FC:201 380.00 OP
FC:202 78.00 OP
FC:203 117.00 OP
FC:205 65.00 OP

FORM PTO-1533 (REV. 9/98) U.S. GPO 1999-450-3875

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

September 24, 2003

Steven Lieske
Oppenheimer Wolff & Donnelly
Plaza VII, Suite 3300
45 South 7th St.
Minneapolis, MN 55402-1609

In re application of:
Sachse et al DECISION ON PETITION
Serial No.: 09/471,777
Filed: December 23, 1999
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR CONTROLLING DATA COLLECTION, MANIPULATION AND STORAGE ON A NETWORK WITH SERVICE ASSURANCE CAPABILITIES

This is a decision on the petition received by fax on January 9, 2003, 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 March 2, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned May 3, 2000. The Notice of Abandonment was mailed on August 13, 2001.

On January 9, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on May 30, 2000.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on May 30, 2000.

The petition is hereby Granted.

The application has been completed for release to Technology Center 2772.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of :
Masatsugu Hatanaka, et al. :
Application No. 09/471,829 : ON PETITION
Filed: December 23, 1999 :
Attorney Docket No.: 49481(551) :

This is a decision on the petition, filed July 21, 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 June 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2877 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).

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Paper No. 7

Christopher J. Reckamp
Vedder Price Kaufman & Kammholz
222 N. LaSalle Street
Chicago, IL 60601

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Adrian Sfarti et al.	:	
Application No. 09/471,877	:	ON PETITION
Filed: December 23, 1999	:	
Attorney Docket No. 0100.9910145	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final office action mailed July 24, 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 application became abandoned on October 25, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), The petition filed December 29, 2003, lacks the required reply to the Office action mailed July 24, 2002. Accordingly, this application cannot be revived until the required reply has been submitted.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the un-extended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

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

By mail: Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
Attn: Office of Petitions

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

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

Latrice Bond

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

Attachment: Copy of Office action mailed July 24, 2002.

UNITED STATES 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

Christopher J. Reckamp
Vedder Price Kaufman & Kammholz
222 N. LaSalle Street
Chicago, IL 60601

COPY MAILED
MAR 1 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Adrian Sfarti et al.	:	
Application No. 09/471,877	:	ON PETITION
Filed: December 23, 1999	:	
Attorney Docket No. 0100.9910145	:	

This is a decision in response to the reply filed March 3, 2004, to revive the above-identified application.

The petition is Granted.

The application file is being forwarded to Technology Center AU 2183 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 20, 2008

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.:/09/471971 /7209892

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

FOR IFW FILES: Should drawing be approved

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

Jeffrey A. Smith
SPE AU 3625
7/31/09

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: DOUGLAS CHARLES HANSON	: DECISION ON REQUEST FOR
Patent Number	: 6682736	: RECALCULATION of PATENT
Issue Date	: 01/27/2004	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/472,087	: OF WYETH
Filed	: 12/23/1999	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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FEB 01 2006

OFFICE OF PETITIONS

In re Application of
Henry Whitfield
Application No. 09/472,100
Filed: December 20, 1999
Attorney Docket No.: ADEX0001

ON PETITION

This is a decision on the petition filed December 5, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 11, 2004. 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 August 12, 2005. Accordingly, a Notice of Abandonment was mailed on December 8, 2004.

This matter is being referred to Technology Center 3621 for appropriate action on the amendment filed December 5, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 5/10/10

TO SPE OF : ART UNIT 3684

SUBJECT : Request for Certificate of Correction for Appl. No. 9/472100 Patent No.: 7209889 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)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

5/18/2010

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

Paper No. 3

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

Mailed

MAR 2 2 2000

Director's Office
Group 2700

In re Application of:	:	
Will H. Gardenswartz, et al.	:	
Application No.: 09/472,197	:	
Filed: December 27, 1999	:	
For: COMMUNICATING WITH A COMPUTER BASED ON THE OFFLINE PURCHASE HISTORY OF A PARTICULAR CONSUMER	:	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under M.P.E.P. § 708.02 (VIII) to make the above-identified application special, filed December 27, 1999.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Ruy Tchao	:	
Application No.: 09/472490	:	DECISION ON
Filing or 371(c) Date: 12/23/1999	:	PETITION
Attorney Docket Number: 102-302RE/CO	:	

This is a decision in response to the Petition to Withdraw Holding Abandonment Based on Failure to Receive Office Action under 37 CFR 1.181(a), filed June 11, 2008.

This Petition is hereby **dismissed**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 22, 2004, wherein the Examiner rejected claims 46-50. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on March 21, 2005, and Appeal Brief on May 19, 2005. The Examiner filed an Answer on June 14, 2006. A Request for Oral Hearing and Reply Brief were filed July 31, 2006. On October 24, 2006 the Board of Patent Appeals and Interferences ("Board") entered an "Order Returning Undocketed Appeal to Examiner," to hold the Appeal Brief Defective and to have the Examiner consider an Information Disclosure Statement ("IDS"). The Examiner mailed a Notice of Non-Compliant Appeal Brief on November 8, 2006. In response to the Notice, Applicant filed an Appeal Brief on December 8, 2006; the Examiner filed an Answer on February 23, 2007, and Applicant filed a Reply Brief on April 19, 2007.

On June 7, 2006, the Board again entered an "Order Returning Undocketed Appeal to Examiner," to have the Examiner consider the IDS. Thereafter the case was docketed, and the Board issued a Decision on January 28, 2008, affirming the rejection of claims 46-50 under the judicially created doctrine of obviousness patenting of claims 1-19 of RE38,383 E; affirming the rejection of claims 46-50 under 35 U.S.C. § 251 based on a defective reissue oath/declaration, and reversing the Examiner on claims 46-48 and 50 under 35 U.S.C. § 112, first paragraph, for lack of enablement, and reversing the Examiner's rejection of claims 46-48 and 50 under 35 U.S.C. § 251 as improperly broadening the scope of the claims of Patent No. 5,601,997. The case was returned to the Examiner for action consistent with the Board's Decision.

The Present Petition

Applicant files the present petition and states that the Examiner failed to issue an action consistent with the Board's decision, but only issued a Notice of Abandonment. Applicant's therefore petition to withdraw the holding of abandonment based on the failure to receive an Office action consistent with the Board's Decision.

Applicable Law, Rules and MPEP

37 CFR 1.197A, Return of jurisdiction from the Board of Patent Appeals and Interferences; termination of proceedings, provides

> (a) Return of jurisdiction from the Board of Patent Appeals and Interferences. Jurisdiction over an application or patent under ex parte reexamination proceeding passes to the examiner after a decision by the Board of Patent Appeals and Interferences upon transmittal of the file to the examiner, subject to appellant 's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the application or patent under ex parte reexamination proceeding may require, to carry into effect the decision of the Board of Patent Appeals and Interferences.
>
> (b) Termination of proceedings.
>
> (1) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:
>
> (i) Where claims stand allowed in an application; or
>
> (ii) Where the nature of the decision requires further action by the examiner.
>
> (2) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

The MPEP 1214.06, Examiner Sustained in Whole or in Part, states:

> The practice under the situations identified in paragraphs I-III below is similar to the practice after a decision of the court outlined in MPEP § 1216.01. Examiners must be very careful that case files that come back from the Board are not overlooked because every case, except applications in which all claims stand rejected after the Board's decision, is up for action by the examiner in the event no court review has been sought. See MPEP § 1216.01 and § 1216.02 for procedure where court review is sought. The

> time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Director. See MPEP § 1216. When the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration. The situations which can arise will involve one or more of the following circumstances:
>
> I. NO CLAIMS STAND ALLOWED
>
> The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files. In an ex parte reexamination proceeding, a reexamination certificate should be issued under 37 CFR 1.570.

MPEP 711.03(c)

Analysis

In this instance, all claims stood rejected after the Board's decision of January 28, 2008. The present application was held abandoned because Court proceedings were terminated on January 28, 2008. A Notice of Abandonment was mailed May 12, 2008.

The MPEP 1216.01(I)(A) states:

> If all claims in the case stand rejected, proceedings in the case are considered terminated on the >issue< date ** of the Federal Circuit's mandate. Because the case is no longer considered pending, it is ordinarily not open to subsequent amendment and prosecution by the applicant. Continental Can Company v. Schuyler, 326 F. Supp. 283, 168 USPQ 625 (D.D.C. 1970). However, exceptions may occur where the mandate clearly indicates that further action in the U.S. Patent and Trademark Office is to be taken in accordance with the Federal Circuit's opinion.

In view of the above, the Notice of Abandonment mailed May 12, 2008 was proper and the application is being returned to abandoned status.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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DEC 0 8 2008

In re Application of	:	
Ruy Tchao	:	
Application No.: 09/472490	:	DECISION ON
Filing or 371(c) Date: 12/23/1999	:	PETITION
Attorney Docket Number: 102-302RE/CO	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 16, 2008.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 22, 2004, wherein the Examiner rejected claims 46-50. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on March 21, 2005, and Appeal Brief on May 19, 2005. The Examiner filed an Answer on June 14, 2006. A Request for Oral Hearing and Reply Brief were filed July 31, 2006. On October 24, 2006 the Board of Patent Appeals and Interferences ("Board") entered an "Order Returning Undocketed Appeal to Examiner," to hold the Appeal Brief Defective and to have the Examiner consider an Information Disclosure Statement ("IDS"). The Examiner mailed a Notice of Non-Compliant Appeal Brief on November 8, 2006. In response to the Notice, Applicant filed an Appeal Brief on December 8, 2006; the Examiner filed an Answer on February 23, 2007, and Applicant filed a Reply Brief on April 19, 2007.

On June 7, 2006, the Board again entered an "Order Returning Undocketed Appeal to Examiner," to have the Examiner consider the IDS. Thereafter the case was docketed, and the Board issued a Decision on January 28, 2008, affirming the rejection of claims 46-50 under the judicially created doctrine of obviousness patenting of claims 1-19 of RE38,383 E; affirming the rejection of claims 46-50 under 35 U.S.C. § 251 based on a defective reissue oath/declaration, and reversing the Examiner on claims 46-48 and 50 under 35 U.S.C. § 112, first paragraph, for lack of enablement, and reversing the Examiner's rejection of claims 46-48 and 50 under 35 U.S.C. § 251 as improperly broadening the scope of the claims of Patent No. 5,601,997. The case was returned to the Examiner for action consistent with the Board's Decision.

The June 11, 2008 petition to withdraw the holding of abandonment under 37 CFR 1.181

Applicant filed a petition under 37 CFR 1.181 on June 11, 2008, and stated that the Examiner failed to issue an action consistent with the Board's decision, but only issued a Notice of Abandonment. Applicant's therefore petitioned to withdraw the holding of abandonment based on the failure to receive an Office action consistent with the Board's Decision.

The August 26, 2006 Decision dismissing the petition

A Decision dismissing the petition was mailed on August 26, 2008. The Decision noted that in this instance, all claims stood rejected after the Board's decision of January 28, 2008. The present application was properly held abandoned because Court proceedings were terminated on January 28, 2008.

The present petition

Applicant files the present petition and Request for Continued Examination ("RCE"), and a submission in the form of a Terminal Disclaimer ("TD"). 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 RCE and submission; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed. Accord MPEP 1214.07.

The application is being referred to Technology Center Art Unit 1794 for processing of the RCE and submission.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/472,619		WALTER E. BUJAK JR.	9682Q

CONFIRMATION NO. 9000

WITHDRAWAL NOTICE

WILLIAM F WHITE
CARRIER CORPORATION
PO BOX 4800
SYRACUSE, NY 132214800

Date Mailed: 11/17/2005

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice of Abandonment mailed on 02/20/2001 was sent in error and is hereby withdrawn. A Filing Receipt is enclosed. The Office regrets any inconvenience the error may have caused.

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

M. Young

Customer Service Center
Initial Patent Examination Division (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE 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. 7

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MAR 0 5 2003

OFFICE OF PETITIONS

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

In re Application of
Leman, Johnson, Smith, Boe, Gagne, and Hartley
Application No. 09/472,725
Filed: December 27, 1999
Attorney Docket No. 108298578US
For: METHOD AND APPARATUS FOR FASTENING CIRCUIT BOARDS TO COMPUTER CHASSIS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
: AND
: DECISION ON PETITION UNDER
: 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.47(a), filed January 13, 2003.

This is also a decision on the petition under 37 CFR 1.137(b), filed January 13, 2003, to revive the above-identified application.

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

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

Any request for reconsideration under 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 titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a) and Renewed Petition Under 37 CFR 1.137(b)."

This above-cited application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" ("Notice") mailed February 7, 2000, which indicated that a proper declaration under 37 CFR 1.63 was missing and that filing and claim fees were also due. The Notice set forth a shortened period for reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on April 8, 2000.

Consideration under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the nonsigning 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 nonsigning inventor.

Petitioner lacks item (1) as set forth above.

As to item (1), the evidence provided with the instant petition does not demonstrate that petitioner made a diligent effort to locate inventors Gagne and Smith. Although petitioner did attempt to present the inventors with a complete copy of the application papers, the returned envelopes indicate only that there was no forwarding order in place. Petitioner must establish that a diligent effort was made to locate the non-signing inventors. Under these circumstances, diligence would require more than sending the application papers to an address where the inventors have been determined to no longer reside. Petitioner must demonstrate that a thorough search of such other resources, such as regional telephone directories and

national registries produced no results. Any renewed petition filed must be accompanied by evidence of petitioner's efforts to locate the non-signing inventors.

Consideration under 37 CFR 1.137(b):

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

(1) the required reply, unless previously filed. In a 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 this issue fee or any outstanding balance thereof.

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

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

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

The present petition does not satisfy item (1).

As to item (1), petitioner has failed to submit the required reply to the "Notice to File Missing Parts of Application" of February 2, 2000. Petitioner must either file a declaration signed by all of the inventors or a grantable petition under 37 CFR 1.47(a).

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, Virginia

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 11

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JUN 17 2003

OFFICE OF PETITIONS

Perkins Coie LLP
Patent-SEA
PO Box 1247
Seattle, WA 98111-1247

In re Application of Leman, Johnson, Smith, Boe, Gagne, and Hartley Application No.: 09/472,725 Filed: December 27, 1999 Attorney Docket No: 108298578US FOR: METHOD AND APPARATUS FOR FASTENING CIRCUIT BOARDS TO COMPUTER CHASSIS	DECISION NOTING JOINDER AND DECISION ON PETITION

This is in response to the renewed petitions under 37 CFR 1.47 and 37 CFR 1.137(b) filed June 5, 2003.

TREATMENT UNDER 37 CFR 1.47(a)

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

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously nonsigning inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declarations for the named joint inventors have been entered and made of record.

TREATMENT UNDER 37 CFR 1.137(b)

The "Notice to File Missing Parts of Nonprovisional Application" mailed February 2, 2000, required petitioner to file proper declarations for all name inventors and remit the surcharge of $130.00. Petitioner has complied with the "Notice to File Missing Parts of Nonprovisional Application" and satisfied the requirements for of 37 CFR 1.137(b).

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

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
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

ROBERT M FOUS
2706 MOON MOUNTAIN DRIVE
EUGENE OR 97403

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JUL 02 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Robert M. Fous :
Application No. 09/472,743 :
Filed: December 27, 1999 :
Attorney Docket No. NA :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed by facsimile transmission on June 21, 2001, 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 March 1, 2001, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 2, 2001.

Telephone inquiries concerning this decision should be directed to Karen Creasy at (703) 305-8859.

The application file is being forwarded to Publishing Division.

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
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Paper No. None

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Yasuhiro Nakaoka et al. :
Application No. 09/472,830 :
Patent No. 6,340,454 :
Filed: December 28, 1999 :
Issue Date: January 22, 2002 :
Attorney Docket Number: 991503 :
Title: ALPHA-LITHIUM ALUMINATE :
AND METHOD OF MANUFACTURING THE :
SAME, AND ELECTROLYTE SUPPORT :
MATERIAL OF MOLTEN CARBONATE :
FUEL CELL :

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

This is a decision on the petition filed August 9, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee which needs to be added as Ishikawajima-Harima Jukogyo Kabushiki Kaisha, Tokyo (JP)."

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

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

1 See Official Gazette, June 22, 2004.

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

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on June 20, 2000 (Reel/Frame 010856/0329). This was prior to the payment of the Issue Fee on December 3, 2001.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 2 5 2005

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

Miller Johnson Snell Cummiskey, PLC
800 Calder Plaza Building
250 Monroe Avenue NW
Grand Rapids, MI 49503-2250

MAILED

MAR 2 5 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
SIVAKUMAR MUTHUSWAMY et al.
Application No. 09/472,927 : DECISION ON REQUEST
Filed: December 27, 1999 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR MEASURING : ATTORNEY
WEB PAGE ADVERTISEMENT IMPRESSIONS

This is a decision on the request filed on December 17, 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 delay in treating this request is sincerely regretted.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

The attorneys listed in the request do not correspond to those listed in the Power of Attorney filed December 17, 2004. If only the attorneys listed in the request are to have power withdrawn and those not listed is intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise those attorneys not listed would need to be added to the request. Frank Scutch cannot sign withdrawal since he was not one of the original attorneys appointed.

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

KJD/slb: 03/21/05

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

#9

Miller, Johnson, Snell, Cummiskey, PLC
800 Calder Plaza Building
250 Monroe Ave. N. W.
Grand Rapids, MI 49503-2250

MAILED

JAN 27 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Sivakumar Muthuswamy et al
Application No. 09/472,927
Filed: December 27,1999
For: SYSTEM AND METHOD FOR MEASURING WEB PAGE ADVERTISEMENT IMPRESSIONS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on October 7, 2002 and supplemented on January 14, 2003. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that an Office action was mailed on February 7, 2002 wherein a three-month shortened statutory period for response was set. Since no response has been matched with the file, the application is technically abandoned, although a Notice of Abandonment has yet to be mailed.

Applicant's petition includes a copy of an amendment and request for an extension of time bearing a Certificate of Transmission date of July 3, 2002 signed by Connie Carlson. The petition includes a statement by Connie Carlson attesting to the personal knowledge of transmitting the response and extension of time on July 3, 2002. This is acceptable evidence that a timely response was filed.

Since a timely response to the Office letter was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the Primary Examiner for prompt action on the merits of the claims.

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

Kjd: 1/17/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 05/25/06

DATE : Sep. 13, 2005

TO PETITIONS : ART UNIT 4700 (*Marianne Jenkins*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,888,618 09/472993

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.

Please see the IFW code cocin, and the continued prosecution.

Thank You For Your Assistance

sp

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

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 CPA request is in MADRAS as an "AMEND - AFTER NON FINAL" DATED 9/12/02 which is misindex. The correction is okay. The rest of the changes are okay as well

SPE

2877

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

OIPE
FEB 1 2 2010
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PATENT & TRADEMARK OFFICE

C of C

Attorney Docket No. 1405.1014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Toru KAMIWADA et al.

Application No.: 09/473,049

Confirmation No.: 9543

Filed: December 28, 1999

U.S. Patent No.: 6,877,135

Issued: April 5, 2005

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

For: DOCUMENT DISPLAY APPARATUS AND METHOD FOR DISPLAYING DOCUMENTS

PETITION FOR ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 37 CFR 1.322, 37 CFR 1.323, and 37 CFR 3.81(b)

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
MAIL STOP: PETITIONS

Sir:

In response to the U.S. Patent and Trademark Office issued undated notice received June 6, 2006 (copy enclosed), the Patentees of the above-mentioned patent submit the following:

The Patentees hereby state that the executed assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the above-mentioned patent. The Patentees enclose a copy of the Notice of Recordation of Assignment with a recordation date of December 28, 1999 and recorded at Reel 010523, Frame 0868.

Please note that the Assignment was submitted to the U.S. Patent and Trademark Office for recording on December 28, 1999, well before payment of the issue fee.

One or more of the errors shown on the attached Form PTO-1050 is or are within the responsibility of the undersigned; each thereof is of a clerical or typographical nature or of minor character and occurred in good faith, and the correction thereof is consistent with the prosecution record.

The Patentees submit herewith a Request for a Certificate of Correction under 37 CFR §1.323 in order to correctly identify the address for the Assignee. Patentees respectfully request

02/16/2010 HVUONG1 00000001 6877135
01 FC:1464 130.00 OP

that a Certificate of Correction be issued in the subject patent, pursuant to 35 USC § 254 and 37 CFR § 1.322, to correct the error shown on the attached Form PTO-1050.

The fee of $100 for Certificate of Correction was previously submitted on May 19, 2006. In addition, the Patentees hereby submit the petition fee of $130.00, the fee set forth in 37 CFR §1.17(i).

It is respectfully requested at the U.S. Patent and Trademark Office issue a Certificate of Correction correctly identifying the address for patent Assignee.

If there are any additional fees associated with this filing, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: February 12, 2010

By: David M. Pitcher
David M. Pitcher
Registration No. 25,908

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,6,877,135

DATED : April 5, 2005

INVENTOR(S) : Toru KAMIWADA et al.

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

On the front cover page, under the (73) Assignee section:
after "Fujitsu Limited", please insert **--Kawasaki, JP--.**

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

PATENT NO. 6,877,135

No. of add'l copies
@ 304 per page

⇒

DMP

Req. for COC filed 5-31-06

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 6,877,135
Inventor(s) : Kamiwada et al.
Issued : April 5, 2005
Title : **DOCUMENT DISPLAY APPARATUS AND METHOD FOR DISPLAYING DOCUMENTS**
Docket No. : 1405.1014/JD ✓

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

In this request, it is alleged that the Co-Assignee was omitted, the same principals apply for both the Assignee and/or the Co- Assignee data, a petition is required as described above and below this paragraph.

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

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

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

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

STAAS & HALSEY
RECEIVED
JUN 06 2006

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

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

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

A Certificate of Correction will issue to correct the remaining errors noted in your request.

Ernest C. White, ***LIE***
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703)
308-9390 x 122 or (703) 305-8228

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

ecw

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

APRIL 13, 2000

PTAS

101261865A

STAAS & HELSEY
JAMES D. HALSEY, JR.
700 ELEVENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20001

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/28/1999

REEL/FRAME: 010523/0868
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
KAMIWADA, TORU

DOC DATE: 12/22/1999

ASSIGNOR:
FUJITA, TAKUSHI

DOC DATE: 12/22/1999

ASSIGNEE:
FUJITSU LIMITED
1-1, KAMIKODANAKA, 4-CHOME
NAKAHARA-KU, KAWASAKI-SHI
KANAGAWA 211-8588, JAPAN

SERIAL NUMBER: 09473049
PATENT NUMBER:

FILING DATE: 12/28/1999
ISSUE DATE:

STAAS & HALSEY
RECEIVED
APR 20 2000

1405.1014/JDH

ANTIONE ROYALL, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

FORM PTO-1595 R

S&H 9/92

To the Honorable Assistant Commissioner for Pate.

02-08-2000

101261865

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

ts or copy thereof.

MRD 12-28-99

jc135 U.S. PTO 09/473049 12/28/99

1. Name of conveying parties:

(1) Toru KAMIWADA
(2) Takushi FUJITA

2. Name and address of receiving party:

FUJITSU LIMITED
1-1, Kamikodanaka, 4-chome
Nakahara-ku, Kawasaki-shi,
Kanagawa 211-8588, JAPAN

3. Nature of conveyance:

X Assignment
___ Security Agreement
___ Other: _____
___ Merger
___ Change of Name

Execution Date(s): December 22, 1999

4. Application number(s) or patent number(s):
This document is being filed together with a new application:
(a) The execution date of the application is: December 22, 1999
(b) The title is: DOCUMENT DISPLAY APPARATUS AND METHOD FOR DISPLAYING DOCUMENTS

5. Name and address of party to whom correspondence concerning document should be mailed:

STAAS & HALSEY
700 Eleventh Street, N.W.
Suite 500
Washington, D.C. 20001

Our Docket: 1405.1014/JDH

6. Total number of applications and patents involved: 1

09473049

7. Total fee (37 CFR 3.41)..... $ 40.00
___ Enclosed
X Authorized to be charged to deposit account.

8. Deposit Account No.: 19-3935 (Any underpayment is authorized to be charged to this Deposit Account)
(Attach duplicate copy of this page if paying by deposit account)

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James D. Halsey, Jr. Registration No. 22,729
Name of Person Signing

Signature

December 28, 1999
Date

Total number of pages comprising cover sheet: 2

DO NOT USE THIS SPACE

02/08/2000 TTOH11 00000051 193935 09473049
01 FC:581 40.00 CH

U.S. ASSIGNMENT

S&H 8.94

IN CONSIDERATION of the sum of One Dollar ($1.00), and of other good and valuable consideration paid to the undersigned inventor(s) (hereinafter, "ASSIGNOR") by

(Insert Name(s) & Address(es) of ASSIGNEE(S))

FUJITSU LIMITED

1-1, Kamikodanaka 4-chome, Nakahara-ku, Kawasaki-shi, Kanagawa 211-8588, Japan

(hereinafter, "ASSIGNEE"), the receipt of which is hereby acknowledged, the undersigned ASSIGNOR hereby sells, assigns and transfers to ASSIGNEE the entire and exclusive right, title and interest to the invention entitled

(Title of Invention)

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relating to International Patent Application PCT/JP___/_____ and/or for which application for Letters Patent of the United States was executed on even date herewith or, if not so executed, was:

(a) executed on _____; *(Insert date of execution of application, if not concurrent)*

(b) filed on _____,

Serial No. ___/_____;

Any registered attorney of STAAS & HALSEY, 700 Eleventh Street, N.W., Washington, D.C. 20001 (202/434-1500) is hereby authorized to insert in (b) the specified data, when known.

and to said application and all Letters Patent(s) of the United States granted on said application and any continuation, division, renewal, substitute, reissue or reexamination application based thereon, for the full term or terms for which the said Letters Patent(s) may be granted and including any extensions thereof (collectively, hereinafter, "said application(s) and Letters Patent(s)").

The ASSIGNOR agree(s), when requested by said ASSIGNEE and without charge to but at the expense of said ASSIGNEE, to do all acts which the ASSIGNEE may deem necessary, desirable or expedient, for securing, maintaining and enforcing protection for said invention, including in the preparation and prosecution of said application(s) and the issuance of said Letters Patent(s), in any interference, reissue, reexamination, or public use proceeding, and in any litigation or other legal proceeding which may arise or be declared in relation to same, such acts to include but not be limited to executing all papers, including separate assignments and declarations, taking all rightful oaths, providing sworn testimony, and obtaining and producing evidence.

IN WITNESS WHEREOF, the undersigned inventor(s) has (have) affixed his/her/their signature(s).

(Typed Name & Signature of Inventor(s))	*(Date)*	*(Typed Name & Signature of Witness(es))*
Toru Kamiwada Toru KAMIWADA	December 22, 1999	Ikuyo Kanagawa Ikuyo KANAGAWA
Takushi Fujita Takushi FUJITA	December 22, 1999	Ikuyo Kanagawa Ikuyo KANAGAWA

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Mailed:

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RPG

Paper No. 17

In re application of
Yoshihiko Higuchi et al.
Serial No. 09/473,165
Filed: December 28, 1999
For: DRY MEASURING TEST DEVICE

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed May 10, 2002 for failure to respond to the office action dated September 11, 2001. Applicants assert that a timely Notice of Appeal and extension of time were filed on March 11, 2002.

DECISION

Since the petitioner asserts that a Notice of Appeal and a petition for Extension of Time were filed on March 11, 2002, the request is accepted as 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 has merit. The evidence is sufficient to establish that applicants did indeed file the papers in a timely manner. As evidence, are photocopies of the checks and the return post card from the PTO stating that the PTO received the above information on March 11, 2002.

Therefore, the Notice of Abandonment dated April 10, 2002 is hereby withdrawn. Hence, the case is returned to pending status. The application shall be returned to the LIE for 1) entering of the Notice of Appeal, and 2) the two month extension of time. The case will then be return to Central Files, awaiting receipt of applicants' Appeal Brief.

The Petition is **GRANTED.**

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Kilpatrick Stockton LLP
Atten: Roger T. Frost
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: May 9, 2007

In re Application of
Yoshihiko HIGUCHI et al. :
U.S. Patent No.: 6,905,653 :
Issued: June 14, 2005 :
Appl. No.: 09/473,165 : DECISION ON PETITION
Filed: December 28, 1999 :
For: Dry Measuring Test Device :

This is a decision on the petition under 37 CFR § 1.82(a) filed October 11, 2006.

Petitioners request correction of an Office error. In response to a petition to delete inventor Kenji Yamamoto, the U.S. PTO deleted both inventors Kenji Yamamoto and Michio Naka. Petitioners request that inventor Naka be added back as an actual inventors of the above-identified patent to correct this error. Petitioners also request that extraneous address information be deleted from the inventorship.

A review of the record indicates that indeed inventor Naka was inadvertently deleted. The petition is granted. A Certificate of Correction will be issued naming the actual inventors of the above-identified patent, Yoshihiko Higuchi and Michio Naka. It is also noted that the corrected address information will be listed on the Certificate of Correction, but no change will be made to the face of the patent.

PETITION GRANTED

Jill A. Warden, SPE
Art Unit 1743

WENDEROTH, LIND & PONACK
Suite 800
2033 L Street. N.W.
Washington, D.C. 20006

#11
DW

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OFFICE OF THE DIRECTOR
TC 3600

Schwabe, Williamson & Wyatt
1211 S. W. 5th
Suite 1920
Portland, OR 97204

In re Application of
Wayne M. Slagle
Application No. 09/473,194
Filed: December 6, 1999
For: DUMB WAITER ELEVATING AND LOWERING PLATFORM DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO), on December 16, 2002. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Final rejection of April 2, 2002.

Applicant's petition submits a statement that the Final rejection of April 2, 2002 was not received and argues that the Office action was mailed to the inventor at an address that was an incorrect correspondence address of record.

A further review of the file reveals that the power of attorney that was submitted on January 15, 2002 was not processed prior to the mailing of the April 2, 2002 Final rejection. Consequently, the Office communication of April 2, 2002 was improperly sent to an incorrect address of record. This is clearly the reason for the non-receipt by the applicant of the Office communication. Therefore, the holding of abandonment is withdrawn.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status. Since the applicant's attorney did receive a courtesy copy of the April 2, 2002 amendment from the examiner by fax on October 30, 2002, a response to that action has been included with the petition. Therefore, the Final rejection will not be remailed. The time period for responding to the Final rejection is hereby reset to run 3 months from the mailing date of this decision.

Telephone inquiries relative to this decision should be directed to me at the number below.

Steven N. Meyers, Special Program Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SM: 2/23/03

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Paper No. 8

Robert C. Shaddox
Winstead Sechrest & Minick PC
Suite 2400
910 Travis
Houston, TX 77002-5895

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MAY 07 2002

OFFICE OF PETITIONS

In re Application of	:	
Ramesh Maini, et al.	:	
Application No. 09/473,323	:	ON PETITION
Filed: December 28, 1999	:	
Attorney Docket No. 21964-P002US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 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 of Non-Complaint Amendment mailed October 24, 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.

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 3600, Art Unit 3673.

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

Sherry Brinkley
Petitions Examiner

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Re application of MARIO GUILLEN
Serial no.: 09/473,386
Filed: December 28, 1999
Title: Trailing Interspecific Impatiens

May 16, 2002

This is a decision on Applicant's petition under 37 C.F.R. 1.84, filed March 25, 2002, to approve color drawings. Applicant has complied with all the conditions set forth in 37 CFR 1.84(a)(2).

The petition is GRANTED.

Bruce Campell
Supervisory Patent Examiner
Technology Center 1600

GARDNER, CARTON & DOUGLAS
321 N. Clark Street, Suite 3400
Chicago, IL 60601

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WASHINGTON, D.C. 20231
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Re application of MARIO GUILLEN
Serial no.: 09/473,386
Filed: December 28, 1999
Title: TRAILING INTERSPECIFIC IMPATIENS

March 7, 2002

This is a decision on Applicant's petition under 37 C.F.R. 1.84, filed February 11, 2002, to approve color drawings. Applicant has not complied with all the conditions set forth in 37 CFR 1.84(a)(2). Specifically, Applicant has not explained why color drawings are necessary, as required by the rule.

The petition is DENIED.

Bruce Campell

Bruce Campell
Supervisory Patent Examiner
Technology Center 1600

GARDNER, CARTON & DOUGLAS
321 N.CLARK STREET, S. 3300
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Paper 7

Blakeley Sokoloff Taylor & Zafman LLP
12400 Wilshire Blvd
7th floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of
Thangadurai et al.
Application No. 09/473,448
Filed: December 28, 1999
Attorney Docket No. 042390.P5761

DECISION ON PETITION

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

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on March 14, 2000. The Notice to File Missing Parts set a two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 15, 2000. A Notice of Abandonment was mailed July 24, 2001.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the declaration, power of attorney and preliminary amendment submitted with the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 19 2002

#22

Joseph E. Zahner
THOMPSON COBURN LLP
7733 Forsyth Boulevard, Suite 1400
St. Louis, Missouri 63105

In re Application	:
Milbrandt et al	:
Serial No. 09/473,551	:DECISION ON PETITION
Filed: 28 December 1999	:
Attorney Case No. 6029-9879	:

This is in response to applicants' Petition filed 26 December 2001, for review under 37 CFR 1.144 of the restriction requirement set forth on 29 May 2001 as Paper No 10. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file shows that this application was filed under 35 USC 111(a) on 28 December 1999.

In Paper No. 10, the examiner set forth under 35 USC 121 a twenty-way restriction requirement between products and methods. The restriction between the methods and products is not being petitioned and is not further discussed in this Decision. In Paper No. 10, the examiner also set forth a restriction between the growth factors SEQ ID NO: 1-28 recited within each Group, which is under traverse.

The relevant section of the restriction requirement stated that

> *The claims of Groups I-XX are drawn to a multitude of growth factors (SEQ ID NO: 1-28), polynucleotides encoding such, and methods of using the growth factor/polynucleotide encoding/cell containing the polynucleotide encoding. This constitutes recitation of an implied, mis-joined Markush group that contains multiple independent and distinct inventions. Each of the different growth factors/nucleic acids and*

methods of use are independent and distinct because no common structural or functional properties are shared. Burden is established because each growth factor has a unique sequence and therefore, requires a separate search, as it the same for the encoding polynucleotide and methods of use. Accordingly, these claims are subject to restriction under 35 USC 121.

"upon election of one of Groups I-XX, Applicants is additionally required to elect a single growth factor or polynucleotide (i.e., a single molecular embodiment which may be represented by a sequence identifier). This requirement is not to be construed as a requirement for an election of species, since each of the compounds recited in the alternative form is not a member of a single genus of invention."

In Paper No. 11, filed 2 August 2001, Applicants elected Group I, Groups 1-9, drawn to growth factor comprising human persephin (SEQ ID NO 1, with the F2c and F2a regions comprising human GDNF F2c and F2a, respectively, (SEQ ID NO: 20 and 17). The elected chimeric peptide comprises SEQ ID No 23 and consists of SEQ ID No 26. The election was made with traverse. Claims 1-36 were canceled.

The traversal was on the grounds that human, mouse and rat persephin (SEQ ID No: 1-3) are a reasonable number of species within the genus of persephin. Applicants point out that the invention is not claiming persephin and all chemical combinations thereof, but merely claim a persephin that contains specific combinations of eleven to twelve amino acid substitutions that span a very narrow portion of the molecule namely the F2a and F2c regions, wherein each set of substitutions confer GFR(alpha)1 specificity.

In Paper No. 10, mailed 13 September 2001, the examiner considered the traversal and found the argument that that SEQ ID NO: 1-3 are a number of species within the genus of persephin non-persuasive. The Examiner reasoned that because the different forms of persephin (human, rat and mouse) represent chemically, structurally and functionally different compounds, which can be made and used without each other, they represent patentably distinct inventions itself. The examiner concluded that the claimed different persephin molecular embodiments containing specific amino acid substitutions constitute independent and patentably distinct inventions, since they all have different chemical structures, different functions and can be made and used without each other (see MPEP 806.04, 808.01). The restriction requirement was made Final.

Applicants submitted this Petition, filed as Paper No. 19 on 17 December 2001. The Petition requests review of the requirement for restriction to a single molecular embodiment of a growth factor in the instant application. A declaration from Dr. Milbrandt was attached as Exhibit A and a sequence alignment of the specific growth factor molecular embodiments under dispute was attached as Exhibit B. Applicants traverse the "single molecular embodiment" restriction. Applicants consider that this restriction is most appropriately a species election and not an election restriction. The Petition presented new arguments and evidence, including the declaration and sequence alignments. Applicants argued that the human, mouse and rat sequences presented in the

instant application are obvious embodiments of the same growth factor and are thus not patentably distinct.

The Declaration of Dr. Milbrandt states that one of ordinary skill in the art would consider closely related mammalian homologs of the same growth factor to be essentially and effectively the same growth factor or at the very least, species within a genus. (Paragraph 6). The Declaration states that the persephins with SEQ ID NO: 1-3 are virtually identical in amino acid sequence and have indistinguishable growth factor properties and biological activity. The Declaration and the sequence alignments show the percentages of identity, similarity or conservative residues. The Declaration discussed the way other applications have been treated by the Office with regards to restriction requirements.

DISCUSSION

The Petition and its exhibits, Declaration of Dr. Milbrandt and sequence alignments have been considered carefully. The claims, the restriction requirement and the Petition, will be discussed each in turn.

Original Claim 1 recited:

A growth factor which activates GRF(alpha)1-RET but does not substantially activate GFR(alpha)2-Ret or GFR(alpha)3-Ret.

No structural limitations or single molecular embodiments were provided in original claim 1. Dependent claim 3 set forth some structural constraints, that 1-8 residues of the F2a region are identical to GDNF or conservative amino acid substitutions, therefore and that 1-8 residues of the F2c region are identical to GDNF or conservative amino acid substitutions, therefore. Claim 4 recites additional structural limitations for portions of the claimed persephins. The elected single molecular embodiments (SEQ ID NO: 23 and 26) are presented in dependent claims 7 and 8.

When claims link distinct inventions, MPEP 809 states that a restriction can nevertheless be required. MPEP 809.03 provides guidance for the treatment of linking claims.

Claims 1 and 6 link the inventions of claim 7 (SEQ ID No 23) and claim 8 (SEQ ID NO 26). The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s). Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C.

121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The restriction requirement between the various sequences, while essentially correct, was set forth between chimeric persephins of SEQ ID NO: 1-28. Upon further review, it is noted that SEQ ID NO: 1-22 only define portions of growth factors, which are used, in whole or in part to build the various chimeric growth factors. SEQ ID NO: 23-28 define the single molecular embodiments of full-length chimeric growth factors. The single molecular embodiments are presented in dependent claims 7 and 8 and not in Claims 1 and 6. Linking claims 1 and 6 and their treatment during examination, appear to have been overlooked in the restriction requirement. Since the original restriction requirement was directed to the single molecular embodiments, a selection between SEQ ID NO: 23-28 should have been set forth. Applicants elected human persephin (SEQ ID NO 1 comprising GDNF F2c and F2a (SEQ ID NO: 20 and SEQ ID NO 17), which correspond to a peptide that comprises SEQ ID NO 23 and consists of SEQ ID NO: 26. Thus the Office has provided an examination of two single molecular embodiments and of the linking claims.

Applicants' arguments are primarily directed to the single molecular embodiments and not to the full scope of the claims. Exhibit B shows an amino acid alignment of between human, mouse and rat persephins (SEQ ID NO: 1, 2 and 3, respectively). Exhibit B does not provide an alignment comparing the chimeric growth factor products SEQ ID NO: 23-28.

Applicants' statement that the human, mouse and rat sequences are obvious embodiments of the same growth factor and are thus not patentably distinct is noted. Again, the statement of obviousness is not directed to the claimed chimeric growth factors (SEQ ID NO: 23-28) but to the building blocks from which the chimeric proteins are produced. . These statements and sequence alignment are not commensurate in scope with the claimed subject matter. None of the claims are directed to or encompass the human, mouse or rat persephin with SEQ ID NO: 1, 2 or 3. The claims are drawn to chimeric growth factors in which the human, mouse or rat persephin is altered to include a GDNF sequences in place of persephin sequences in domains F2a and F2c.

Should applicant traverse on the ground that the chimeric persephins of SEQ ID NO: 23-28 are not patentably distinct, applicant should submit or provide such evidence or identify such evidence now of record showing the sequences 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 inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 USC 103(a) of the other invention.

In Paper No. 21, the Examiner examined amended claims 1 and 6-9 in so far as they are drawn to the elected invention, chimeric peptides of SEQ ID No 23 and SEQ ID No; 26. The rejection under 35 USC 112, first paragraph, of Claims 1 and 6-9 was maintained for lack of enablement. Should claims 1 and 6 linking the elected chimeric persephins of

SEQ ID NO: 23 and 26 become allowable, MPEP 809.04 provides direction for the treatment of claims directed to the other sequences.

DECISION

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

Applicants remain under obligation to properly respond to the Final Office Action mailed 22 January 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 made 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 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

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Paper No. 10

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

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:	:	DECISION
CHIOU, BIN CHI	:	SUA SPONTE
Application Serial No.: 09/473,558	:	WITHDRAWING
Filed: December 29, 1999	:	HOLDING OF
For: **ETHERNET SWITCH AND METHOD OF SWITCHING**	:	ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed on April 20, 2004 setting a three (3) month shortened statutory period for response. In the apparent absence of a timely filed response, the application was considered abandoned. A notice of abandonment was mailed October 13, 2004.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of abandonment is withdrawn and the application restored to pending status. A review of the record indicates that a Revocation and Power of Attorney was filed February 24, 2004, prior to the mailing of the non-final Office action on April 20, 2004. The Revocation changed the address to the address listed above.

Due to the time lapse between the mailing of the Office action of April 20, 2004 and the mailing of this decision, the application is being forwarded to the Examiner for updating the search and action as necessary. From there the file will be forwarded to the Technology Center's technical support staff for mailing a new Office action to the above address setting a new three month shortened statutory period to respond.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
BOGGS et al.	:	DECISION
Application No.: 09/473,575	:	
Filing Date: December 28, 1999	:	ON PETITION UNDER
Docket No.: 042390.P6871	:	
For: METHOD AND APPARATUS FOR MANAGING RESOURCES IN A MULTITHREADED PROCESSOR	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 26, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the corrected drawings in a timely manner, in reply to the Notice of Allowability mailed May 28, 2004, which set a period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 30, 2004 (since August 28, 2004 was a Saturday). A Notice of Abandonment was mailed on November 8, 2004.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the required reply in the form of corrected drawing figures, which have been approved by the USPTO draftsperson (see attachment), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required because this application was filed after June 8, 1995. Accordingly, the petition is granted under 37 CFR 1.137(b).

This application is being referred to the Publishing Division.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review -Form PTO 948

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OCT 20 2003

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

In re Application of	:	
Robert Siman et al	:	
Serial No.: 09/473,619	:	WITHDRAWAL OF ABANDONMENT
Filed: December 29, 1999	:	
Attorney Docket No.: CEPH-1447	:	

This is in response to the petition under 37 CFR 1.181, filed February 10, 2003, requesting revival of the above-identified application based on timely reply to an Office action.

A review of the file history shows the examiner mailed an Office action (Notice of Incomplete Reply) to applicants on March 1, 2002, setting a one month shortened statutory time period for reply, the reply required being a corrected sequence listing disk. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed to applicants on June 3, 2002. Applicants state that a reply was filed on April 2, 2002 (Certificate of Mailing dated March 28, 2002) as evidenced by an Office date stamped return postcard. The reply has been located in the file of the application and the sequence disk was forwarded for review. However the sequence disk was not acceptable as errors in the listing were detected. It appears that applicants were never informed of the error report by the Office. Further, the Notice of Abandonment which was mailed on June 3, 2002, was mailed prematurely as it was mailed only three months after the March 1, 2002, letter. In view of applicant's timely reply the Notice of Abandonment is withdrawn as having been mailed in error and the application is restored to a pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of the error report (a copy is also attached to this decision).

Should there be any questions regarding 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) 305-7230.

Jasemine C. Chambers
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Stephen T. Keohane, Esq.
Patent and Trademark Counsel, Lotus Software
IBM Corporation
One Rogers Street
CAMBRIDGE MA 02142

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OFFICE OF PETITIONS

In re Application of
Julio Estrada et al.
Application No. 09/473,640
Filed: December 28, 1999
Attorney Docket Number: L09-99-046
Title: SYSTEM AND METHOD FOR PRESENTATION OF ROOM NAVIGATION

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

This is a decision on the renewed petition filed November 4, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting formal drawings or issue fees[2]. Accordingly, the above-identified application became abandoned on June 23, 2004. A Notice of Abandonment was mailed on May 4, 2005.

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

The original petition was submitted on August 4, 2005, along with the petition fee and the proper statement of unintentional delay. The original petition was dismissed via the mailing of a decision on September 7, 2005 for failure to submit the issue fee or replacement drawings. With the present petition, Petitioner has submitted the issue fee and replacement drawings.

As such, the petition is **GRANTED**.

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 Office of Patent Publication - (703) 308-6789.

The Change of Correspondence Address has been entered and made of record.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 18, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/473659 Patent No.: 6950202 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 Director's SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

2625
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. 16

Robert L. Knechtel
1105 Moraine Drive
Woodstock, IL 60098

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JUL 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Brian Haack	:	
Application No. 09/473,791	:	ON PETITION
Filed: December 28, 1999	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed November 19, 2001, which set a period for reply of one (1) month from the mail date of the Notice. Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the above-identified application became abandoned after midnight December 19, 2001. A Notice of Abandonment was mailed May 31, 2002.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3612, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2631

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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IBM MICROELECTRONICS
INTELLECTUAL PROPERTY LAW
1000 RIVER STREET
972 E
ESSEX JUNCTION VT 05452

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OFFICE OF PETITIONS

In re Application of :
Bertin et al. :
Application No. 09/473,935 : ON PETITION
Filed: 28 December, 1999 :
Attorney Docket No. BU9-99-143 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 5 December, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 2 November, 2003, for failure to timely file the issue fee, as required by the Notice of Allowance and Issue Fee Due and corrected drawings, as

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

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

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

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

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

required by the Notice of Allowability, both mailed on 1 August, 2003, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 18 December, 2003.

Receipt of the issue fee and the corrected drawings is acknowledged.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

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

S.H. DWORETSKY
AT&T CORP.
ONE AT&T WAY, ROOM 2A-207
BEDMINSTER, NJ 07921

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Thomas S. Afferton :
Application No. 09/473,953 :
Filed: December 29, 1999 :
Attorney Docket No. IDS-113523 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 2, 2003.

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 is being forwarded to Technology Center AU 2663 for further processing.

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

cc:

Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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S. H. DWORETSKY
AT&T CORP.
ONE AT&T WAY, ROOM 2A-207
BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Afferton, Thomas S.	:	
Application No. 09/473,953	:	ON PETITION
Filed: December 29, 1999	:	
Attorney Docket No. 113523 (1014-086)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 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 Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The Issue Fee was previously submitted on May 25, 2005.

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

This 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

MICHAEL N. HAYNES PLC
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 14

AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Lu et al.	:	
Application No. 09/474,032	:	ON PETITION
Filed: December 28, 1999	:	
Attorney Docket No. 113314	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 24, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed January 16, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 17, 2004. A Notice of Abandonment was mailed January 24, 2005.

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions
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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAIL

JUL 2 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Amit A. Merchant, et al.	)	
Application No. 09/474,096	)	
Filed: December 29, 1999	)	**DECISION ON REQUEST FOR**
For: PROCESSOR WITH A REPLAY	)	**WITHDRAWAL AS ATTORNEY**
SYSTEM THAT INCLUDES A	)	
REPLAY QUEUE FOR IMPROVED	)	
THROUGHPUT	)	

This is a decision on the Request To Withdraw from Representation filed July 16, 2003.

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

The request is **GRANTED**.

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

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

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

James Eller
BIRCH, STEWART, KOLASCH & BIRCH, LLP
PO Box 747
Falls Church, VA 22040-0747

Paper No. 081304

In re Application of Sun H. Yang Application Number 09/474,121 Filed: December 29, 1999 For: ELEVATOR SYSTEM WITHOUT MACHINE ROOM	PETITION FOR SUPERVISORY REVIEW OF THE WITHDRAWAL OF CLAIMS

This is in response to applicant's Petition under 37 CFR 1.181 and 1.144 filed on July 2, 2004 to have the Office action of June 6, 2004 withdrawn and have withdrawn claim 41 treated on it's merits.

The petition is **GRANTED**.

A review of the record shows that the withdrawal of claim 41 in the Final rejection of January 6, 2004 was improper.

The finality of the action mailed January 6, 2004 will be withdrawn and thus the amendment mailed May 3, 2004 will be entered. Claim 43 remains withdrawn from consideration. The application will be forwarded to the examiner so that a new Office action treating claims 32-37, 39-41, 46, 48 and 52-57 and arguments presented in the May 3, 2004 amendment will be made.

SUMMARY: The petition is **GRANTED**.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen D. Lillis at (703) 308-3248.

Robert Oberleitner
Director
Patent Technology Center 3600
(703) 308-1134

EDL August 23, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STERNE KESSLER GOLDSTEIN & FOX PLLC
ATTORNEYS AT LAW
1100 NEW YORK AVENUE N W SUITE 600
WASHINGTON DC 20005-3934

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OFFICE OF PETITIONS

In re Application of :
Okada et al. :
US Patent No. 6,938,718 B1 :
Issued: September 6, 2005 : DECISION
Application No. 09/474,127 :
Filed: December 29, 1999 :
Attorney Docket No. 0666.023000E :

The above-identified application has been forwarded to the undersigned for review of the patent term extension information printed on the face of the patent due to the suspensions in prosecution by the Office to await the outcome of an interference due to Applicant's request for a refund of a maintenance fee payment received on June 19, 2009, due to expiration of the patent prior to payment of the maintenance fee.

On April 5, 2001, a first Letter of Suspension to await the outcome of an Interference was mailed by the Office.

On November 11, 2001, a second Letter of Suspension to await the outcome of an Interference was mailed by the Office.

On September 6, 2002, a third Letter of Suspension to await the outcome of an Interference was mailed by the Office.

On April 2, 2003, a first Office Action on the merits was mailed by the Office.

35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on December 29, 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.

According to 37 CFR 1.701 (c)(1)(ii), the application is entitled to patent term extension for the number of days, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

The period of delay in the above-identified patent is the period beginning on April 4, 2001, the date that the first Letter of Suspension was mailed, and ending on April 2, 2003, the date of the first Office Action on the merits. Three years after the earliest effective filing date of the application is February 1, 1992. Accordingly, the period of extension is not 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 728 days, which is the period from April 5, 2001 to April 2, 2003, including the beginning and end dates.

The Office proposes to issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. Applicant is given THIRTY (30) DAYS to respond to this letter. If no objection is received from applicant, the Office will issue a certificate of correction indicating that the patent term is extended for 728 days under 35 U.S.C. 154(b). This time limit is NOT extendible under 37 CFR 1.136

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

BRIAN ROFFE, ESQ.
366 LONGACRE AVENUE
WOODMERE, NY 11598

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FEB 0 5 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Breed, Johnson, Duvall, Morin, Xu, and Varga
Application No. 09/474,147
Filed: 29 December, 1999
Attorney Docket No. ATI-214

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 29 December, 1999. The Office apologizes for the delay in responding to this petition.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, petitioner has established that a copy of the application was mailed to the last known address for non-signing joint inventor Andrew J. Varga (Varga) by joint inventor David S. Breed. By return letter dated 23 December, 1999, Varga subsequently refused to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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[1] 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.

After this decision is mailed, the application will be forwarded to Technology Center 3611 for further processing.

The $130.00 petition fee will be charged to counsel's deposit account, No. 50-0266, as authorized in the present petition.

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

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

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)
6397136	2002-05-28	09474147	1999-12-29	ATI-214

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	/Brian Roffe/	Date (YYYY-MM-DD)	2010-06-10
Name	Brian Roffe	Registration Number	35336

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. 6397136
Issue Date: May 28,2002
Application No. 09474147
Filed: December 29,1999
Attorney Docket No. ATI-214

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

This is a decision on the electronic petition, filed June 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 10,2010 .
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.

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Alexandria, VA 22313-1450
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MALVERN U. GRIFFIN III
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3996

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OFFICE OF PETITIONS

In re Application of	:	
Mollett et al.	:	
Application No. 09/474,576	:	ON PETITION
Filed: December 29, 1999	:	
Attorney Docket No. 34250-0877	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 28, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 29, 2008. See MPEP 1214.06.

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 3687 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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CHRISTOPHER J. LEONARD
MERCHANT & GOULD
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 1 7 2006

OFFICE OF PETITIONS

In re Application of :
Haynes et al. :
Application No. 09/474,643 :
Filed: December 29, 1999 :
Title: System and Method For Eliminating and :
Unnecessary Dispatch of Service Technician

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 10; 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fees Due, which was mailed December 16, 2005 and set a 3 month statutory period for reply. Extensions of time were not available under 37 CFR 1.136 (a). Accordingly, this application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on April 24, 2006.

Petitioner argues the Notice of Allowance and Fees Due and the Notice of Allowability mailed on December 16, 2005 were not received. Petitioner contends the Notice of Allowance and Fees Due was mailed to the incorrect address. Petitioner states a Revocation and Power of Attorney and Change of Address was filed on May 7, 2003. In support of the petition, petitioner has provided a post card receipt stamped May 9, 2003 and a copy Revocation and Power of Attorney and Change of Address.

A review of the record shows that an Office Communication regarding the Revocation of Power of Attorney and Change of Correspondence Address was mailed on May 20, 2003 indicating the changes would not entered due to a failure to submit a statement pursuant to 37 CFR 3.73(b). Further review of the record shows that a 3.73 (b) statement was submitted on August 11, 2003. However, the Revocation of Power of Attorney and Change of Correspondence Address were not entered.

Accordingly the Office Action was mailed to the incorrect address. The Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being forwarded to Art Unit 3623 for re-mailing of the Notice of Allowance and the Notice of Allowability to the current correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Action.

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, D.C. 20231
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Paper No. 17

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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DEC 1 9 2002

OFFICE OF PETITIONS

In re Application of
William James Imoehl
Application No. 09/474,766
Filed: December 30, 1999
Attorney Docket No. 051252-5028
Title: FUEL INJECTOR WITH THERMALLY ISOLATED SEAT

DECISION ON PETITION

This is a decision on the petition filed on March 22, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed November 20, 2000, which set a shortened statutory period for reply of three (3) months. On April 20, 2001, a Request for Reconsideration was received, along with a two-month extension of time. Applicant's arguments were not considered to be persuasive, and on May 3, 2001, an advisory action was mailed. On May 21, 2001, a Request for Continued Examination (RCE) was received. However, the RCE was not accompanied by a submission[2], and consequently a Notice of Improper Request for Continued Examination (Notice) was mailed on June 4, 2001. The Notice

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;o
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 If prosecution in an application is closed, an applicant may request continued examination of the application by filing both the requisite fee and a submission. See 37 C.F.R. §1.114 . Examples of acceptable submissions are set forth in section (c) of this title.

did not extend the period for reply set forth in the final Office action. Accordingly, the above-identified application became abandoned on April 21, 2001.

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

With the instant petition, petitioner has filed the petition fee, a Request for Reconsideration, and has made a statement which is being construed as the proper statement of unintentional delay. Hence, petitioner has met all other requirements for a grantable petition under 37 C.F.R. §1.137(b).

As the RCE was filed last fiscal year, last fiscal year's fee was charged. The submission was submitted with the instant petition. As such, the difference in price of $30.00 has been charged to petitioner's deposit account, as authorized in the petition.

The application file is being forwarded to Technology Center 3700 for consideration of the submission under 37 C.F.R. §1.114, the request for reconsideration filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

STEPHEN A BENT
FOLEY & LARDNER
WASHINGTON HARBOUR
3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007-5109

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MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of	:
Alain Cadieux	:
Application No. 09/475,072	: DECISION ON PETITION
Filed: December 30, 1999	:
Attorney Docket No. 031931/0218	:

This is a decision on the petition filed February 16, 2004 to correct assignment data on Form PTOL-85(b).

The petition is **granted**.

In view of the expedited issuance of patents, the printing process of this application may have progressed to the point where the corrected assignee data cannot be included on the printed patent. If the corrected assignee data does not appear on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the $100 fee therefor.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8680. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

The matter is being referred to Publishing Division.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

Oppenheimer, Wolff & Donnelly, LLP
P.O. Box 10356
Palo Alto, CA 94304

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MAY 0 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Luc Julia, et. al.	:	
Application No. 09/475,092	:	
Filed: December 30, 1999	:	
Attorney Docket No. 60501-302302	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 to the Notice to File Missing Parts of Application (Notice) mailed February 9, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight August 9, 2000.

The application is being forwarded to the Office of Initial Patent Examination 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
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Paper No. 10

Beyer Weaver & Thomas
PO Box 778
Berkeley, CA 94704-0778

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OCT 22 2003
OFFICE OF PETITIONS

In re Application of :
Matthew D. Halfant :
Application No. 09/475,093 :
Filed: December 30, 1999 :
Attorney Docket No. GENSP034 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed August 28, 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 5, 2001, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 6, 2002.

The application file is being forwarded to Technology Center AU 2176 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

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

Paper No. 7

BEN J YORKS
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES, CA 90025

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JAN 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Nagesh Vodrahalli et al.
Application No. 09/475,104
Filed: December 30, 1999
Attorney Docket No. 042390.P6785

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 9, 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 April 10, 2000.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:
Fen-Chung Kung et al	: DECISION ON PETITION
Application No. 09/475,165	: UNDER 37 CFR 1.137(b)
Filed: December 30, 1999	:
Attorney Docket No. 1999-0300	:

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, 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 February 22, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed November 22, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee; the petition fee of $1,500; 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 1, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No 09/475190patent no7103124

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2611

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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BOX 11560 VANCOUVER CENTRE
2200 – 650 WEST GEORGIA STREET
VANCOUVER, BRITISH COLUMBIA
CANADA V6B 4N8

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Delfin Y. Montuno et al :
Application No. 09/475,308 :
Filed: December 30, 1999 :
Attorney Docket No. 81395-137

ON PETITION

This is a decision on the petition, filed January 24, 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 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2666 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6318014
Issue Date: November 20,2001
Application No. 09475314
Filed: December 30,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 14,2010 ,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 14,2010 .
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)
6318014	2001-11-20	09475314	1999-12-30	4549-001

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Richard R. Porter/	Date (YYYY-MM-DD)	2010-01-11
Name	Richard R. Porter		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 13

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

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JUN 22 2004
OFFICE OF PETITIONS

In re Application of	:	
David J. Lynch	:	
Application No. 09/475,449	:	ON PETITION
Filed: December 30, 1999	:	
Attorney Docket No. RCA-89-893	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The instant petition is unsigned. However, the petition contains a certificate of mailing, which is signed by the registered practitioner. Therefore, the petition is considered ratified by the signature on the certificate of mailing.

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

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

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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 J. LAKS, VICE PRESIDENT
THOMSON LICENSING LLC
PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
David Johston Lynch	:	
Application No. 09/475,449	:	ON PETITION
Filed: December 30, 1999	:	
Attorney Docket No. RCA-89-8931	:	

This is a decision on the petition filed July 2, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed March 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 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 the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 16 2006

OFFICE OF PETITIONS

Paper No.7

THOMAS D. MERRITT
2027 Thomas Street
Hollywood FL 33020

In re Application of	:	
Thomas D. Merritt	:	
Application No. 09/475,499	:	ON PETITION
Filed: December 30, 1999	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 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 Restriction Requirement mailed May 2, 2002, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 3, 2002.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply to the Restriction Requirement of May 2, 2002; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of May 2, 2002 is accepted as having been unintentionally delayed.

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

Application No. 09/475,499

Telephone inquiries concerning this decision should be directed to Thu Nguyen at (571) 272-6967 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1764 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. BOX 8097
Emeryville CA 94662-8097

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MAR 02 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,602,705	:	
Issue Date: August 5, 2003	:	
Application No. 09/475,515	:	
Filed: December 30, 1999	:	
Attorney Docket No. 1621.002-230	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 15, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 6, 2007 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

It is 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.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

The patent file is being forwarded to Files Repository.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Regina Bautista
4560 Horton Street
Emeryville, CA 94608

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FEB 3 2004

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Paper No. 20

Cameron Kerrigan
Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza
Suite300
San Francisco, CA 94111-3492

In re Application of Jeffrey A. Steward et al Serial No. : 09/475,548 Filed : December 30, 1999 For : Medical Assembly With Transducer For Local Delivery Of A Therapeutic Substance And Method Of Using Same	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed December 29, 2003, to review the holding of abandonment mailed October 21, 2003, for failure to respond to the Office action mailed February 20, 2002. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, and a copy of a PTO stamped receipt dated March 13, 2002. It is noted that on August 4, 2003, a copy of the March 13, 2002 response was transmitted to the Office via facsimile transmission. However, the transmission did not include at that time, a showing that the Office had timely received the March 13, 2002 response.

In view of the above, the Notice of Abandonment mailed October 21, 2003, 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 March 13, 2002.

Summary: Holding of Abandonment Withdrawn.

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

ak/1/20/04

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UNISYS CORPORATION
MS 4773
P O BOX 64942
ST. PAUL, MN 55164-0942

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
David P. Williams	: DECISION ON PETITION
Application No. 09/475,563	: UNDER 37 CFR 1.137(b)
Filed: December 30, 1999	:
Attorney Docket No. RA-5281	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to file a proper and timely reply to the final Office action mailed March 9, 2004, which set a three month shortened statutory period for reply. A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 10, 2004. A Notice of Abandonment was mailed on November 18, 2004

The petition satisfies the requirements for a grantable petition in that the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; the petition fee of $1,370; and an adequate statement of unintentional delay have been submitted. Accordingly, the reply to the final Office action of March 9, 2004 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 Technology Center AU 2124 for processing the concurrently filed RCE and for appropriate action as the nature of the case requires.

Frances Hicks

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6213631	2001-04-10	09475564	1999-12-30	4193-00003

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William L. Falk/	Date (YYYY-MM-DD)	2009-09-18
Name	William L. Falk	Registration Number	27709

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

In re Patent No. 6213631
Issue Date: April 10,2001
Application No. 09475564
Filed: December 30,1999
Attorney Docket No. 4193-00003

:

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

:

This is a decision on the electronic petition, filed September 18,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 18,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JOHN S BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST LOUIS MO 63102

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SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of
Diane M. Dehli
Application No. 09/475,594
Filed: December 30, 1999
Attorney Docket No. 9D-HR-19230

DECISION ON PETITION

This is a decision on the petition filed July 2, 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 reply to the Notice to File Missing Parts of Nonprovisional Application, mailed February 9, 2000. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and surcharge for its late filing). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No oath or declaration having been received, the above-identified application became abandoned on April 10, 2000. A Notice of Abandonment was mailed on February 21, 2001.

With the instant petition, petitioner submitted an executed declaration (together with the surcharge for its late filing), paid the petition fee, and made the proper statement of unintentional delay.

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

Telephone inquiries related to this decision should be directed to 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
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Paper No. 15

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

COPY MAILED

MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Sandell et al.
Application No. 09/475,630
Filed: December 30, 1999
Attorney Docket No. 9D-EC-19310

ON PETITION

This decision concerns the March 12, 2003 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED.**

The application was filed along with an unexecuted declaration. A Notice of Missing Parts of Nonprovisional Application was mailed on February 8, 2000, giving Applicant an extendable 2-month period to file an executed oath/declaration. No response was filed on or before April 8, 2000 and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned as of April 9, 2000.

The petition encloses an executed declaration, and states that the entire delay in filing a proper declaration was unintentional. The petition is thus granted.

The application is now complete.

As authorized, the $1,300 petition fee and the $130 surcharge for late filing of a proper oath/declaration have been charged to Deposit Account No. 01-2384.

The file is being returned to the Office of Initial Patent Examination for further processing. Thereafter, the file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Gupta et al.	:	ON PETITION
Application No. 09/475,686	:	
Filed: December 30, 1999	:	
Title of Invention:	:	
COMMAND INTERFACE USING	:	
FINGERPRINT SENSOR INPUT SYSTEM	:	

This is a decision on the Petition for Revival of the Application Under 37 CFR 1.137(a), filed June 9, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 4, 2002. The Notice set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned September 5, 2002. A Notice of Abandonment was mailed December 2, 2002[1].

With the instant petition, Applicant has demonstrated that the abandonment of the application was unavoidable, thus satisfying the requirements of a grantable petition under 37 CFR 1.137(a). Accordingly, the petition is granted. The reply to the Office action was timely filed on December 4, 2006.

This application is being referred to Technology Art Unit 2632 for processing of the Amendment, filed December 4, 2002, and for continued processing in due course.

[1] It is noted that at the mailing of the Notice of Abandonment, two (2) days remained in the extendable period for reply, and was thus mailed prematurely.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#18

In re Application of
Marco Zuniga et al.
Serial No. **09/475,713**
Filed: **December 30, 1999**
For: **Switching Regulator With Multiple Power Transistor Driving Voltages**

DECISION ON PETITION
UNDER 37 CFR 1.144

JAN 15 2002

This is a decision on the petition filed July 26, 2001, under the provisions of 37 CFR 1.144. Petitioner requests review and withdrawal of the restriction requirement, as made final, in the Office action mailed September 11, 2000.

The petition is **granted**.

Restriction in accordance with the provisions of 37 CFR 1.142(a) may be required if two or more independent and distinct inventions are claimed in a single application. MPEP Section 806.04 sets forth the criteria for such a restriction requirement and states, in pertinent part:

> 1. Two different combinations, not disclosed as capable of use together, having different modes of operation, different functions or different effects are independent. An article of apparel such as a shoe, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example.

A review of the restriction requirement as proposed by the Examiner establishes that the requirement cannot be sustained. Claims 1-10 and 15-18 in Group I, and claims 11-14 in Group II are not independent and distinct inventions. They are, in fact, the same invention but of different scope. Independent claims 1 and 11 are both readable on the Fig. 1 embodiment of the present application. Claim 1 claims both transistors 40 and 42 while claim 11 only claims the transistor 40. Since both independent claims 1 and 11 are "open-ended", using the terminology "comprising", they are directing to the same invention but with different scope instead. Accordingly, notwithstanding the detailed reasoning advanced by the Examiner, the restriction requirement must be withdrawn.

This application is being forwarded to the Examiner for appropriate action, including an action on the merits on claims 11-15 in due course.

Richard Seidel, Group Director
Examining Group 2830/40

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 06/12/03 Paper No.: 24

TO : Supervisor, Art ~~Unit 2800~~

SUBJECT : Certificate of Correction Request in Patent No.: 6400126

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

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should tl scope or meaning of the claims be changed.

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

THANK YOU FOR YOUR ASSISTANCE!

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

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:**

Michael Sherry

MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2838

Supervisor **Art Unit**

US006400126B1

(12) **United States Patent**
Zuniga et al.

(10) **Patent No.: US 6,400,126 B1**
(45) **Date of Patent: Jun. 4, 2002**

(54) **SWITCHING REGULATOR WITH MULTIPLE POWER TRANSISTOR DRIVING VOLTAGES**

(75) Inventors: **Marco A. Zuniga**, Dublin; **Charles Nickel**, San Jose, both of CA (US)

(73) Assignee: **Volterra Semiconductor Corporation**, Fremont, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/475,713**

(22) Filed: **Dec. 30, 1999**

(51) **Int. Cl.**[7] **G05F 1/40**
(52) **U.S. Cl.** **323/282**; 323/224; 327/437
(58) **Field of Search** 327/437; 323/224, 323/282, 284, 271

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,906,914 A * 3/1990 Ohsawa 323/314
5,554,561 A * 9/1996 Plumton 437/193
5,929,680 A * 7/1999 Lim 327/264
5,959,442 A * 9/1999 Hallberg et al. 323/282

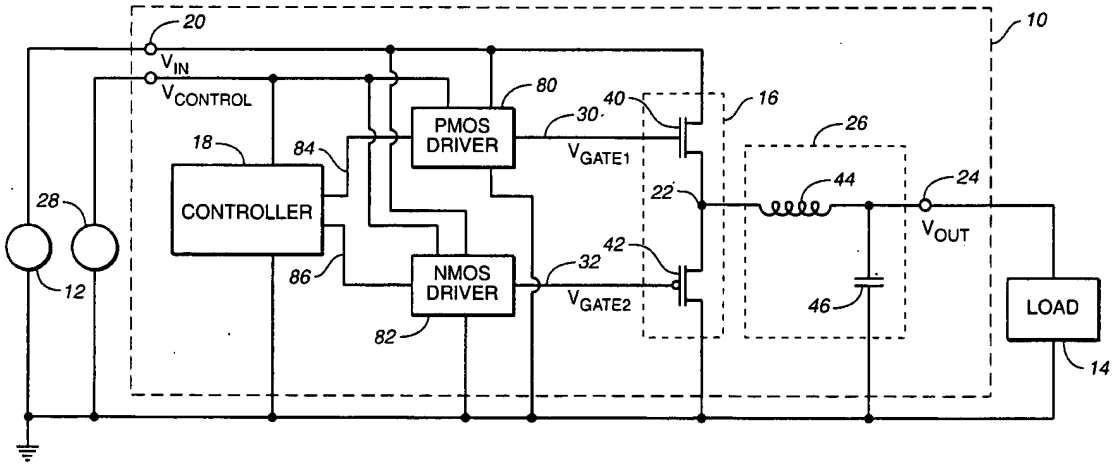
* cited by examiner

Primary Examiner—Shawn Riley
(74) *Attorney, Agent, or Firm*—Fish & Richardson P.C.

(57) **ABSTRACT**

A voltage regulator has an input terminal, an output terminal, a first transistor connecting the input terminal to an intermediate terminal, a second transistor connecting the intermediate terminal to ground, a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, and a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal. The controller drives the two transistors with different gate voltage, and the two transistors can have different gate oxide layer thicknesses.

20 Claims, 3 Drawing Sheets



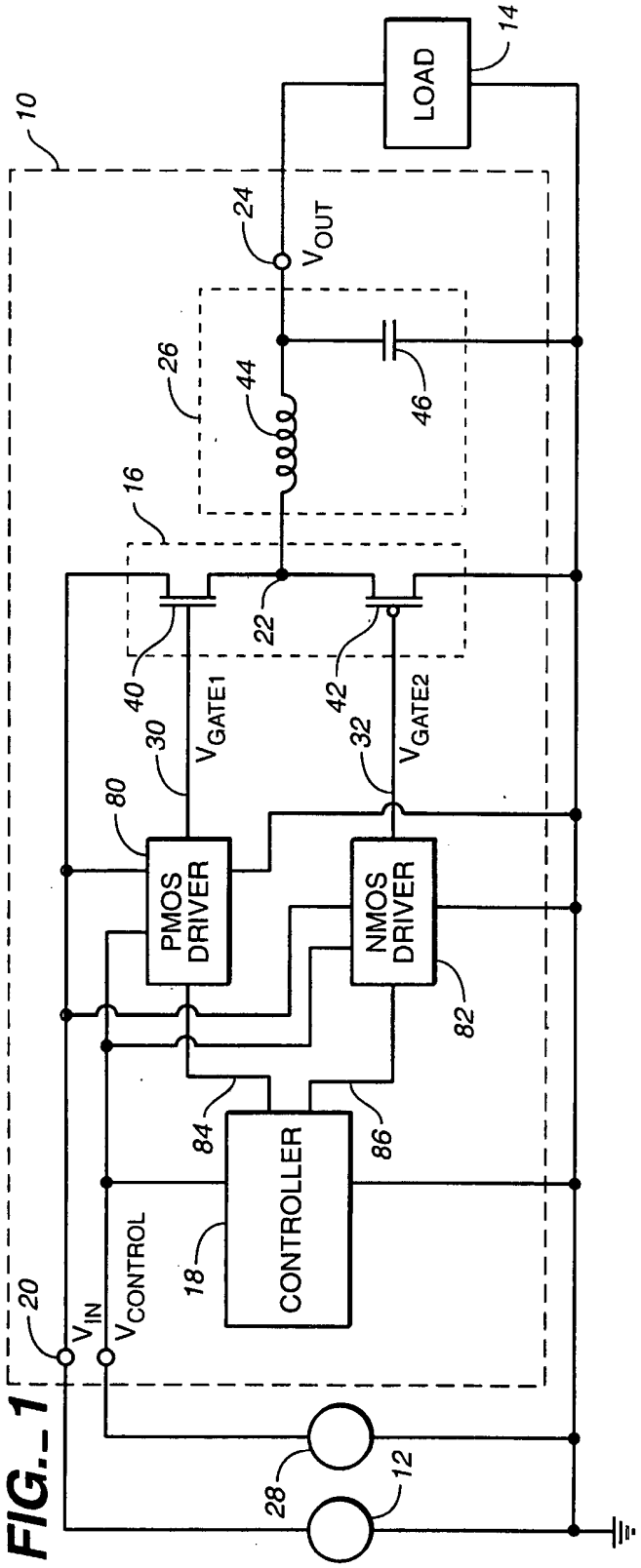

LOAD
14
10
24
V_{OUT}
26
44
46
16
22
40
42
30
V_{GATE1}
32
V_{GATE2}
80
PMOS DRIVER
NMOS DRIVER
82
84
86
CONTROLLER
18
20
V_{IN}
$V_{CONTROL}$
28
12

FIG._1

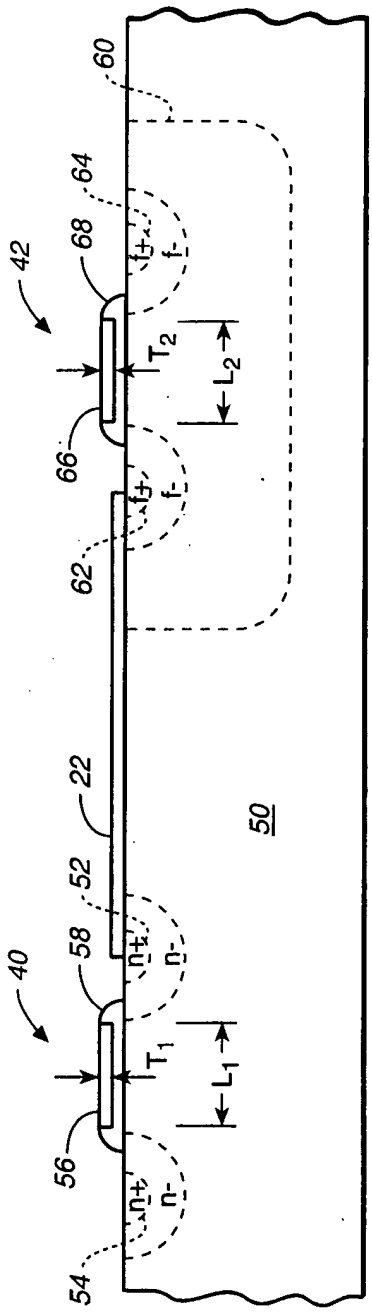

60
64
68
42
f+
f-
T_2
L_2
66
62
22
50
52
58
40
n+
n-
T_1
L_1
56
54

FIG._4

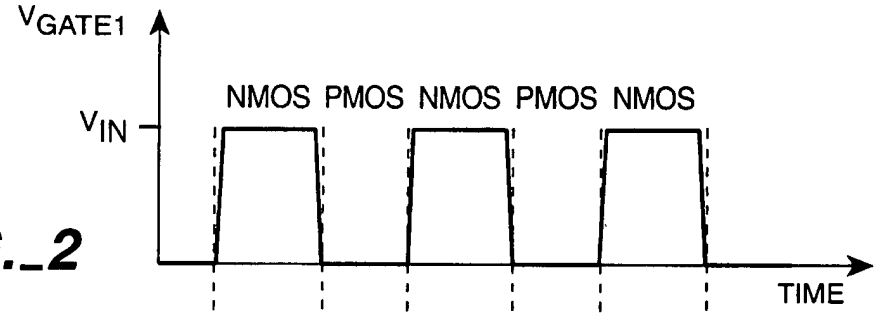


FIG._2

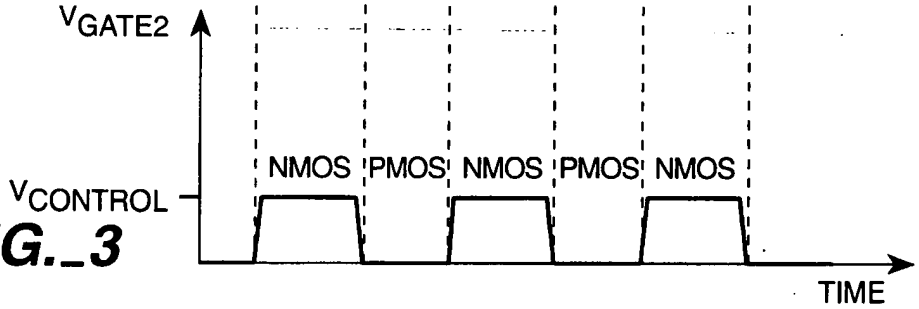


FIG._3

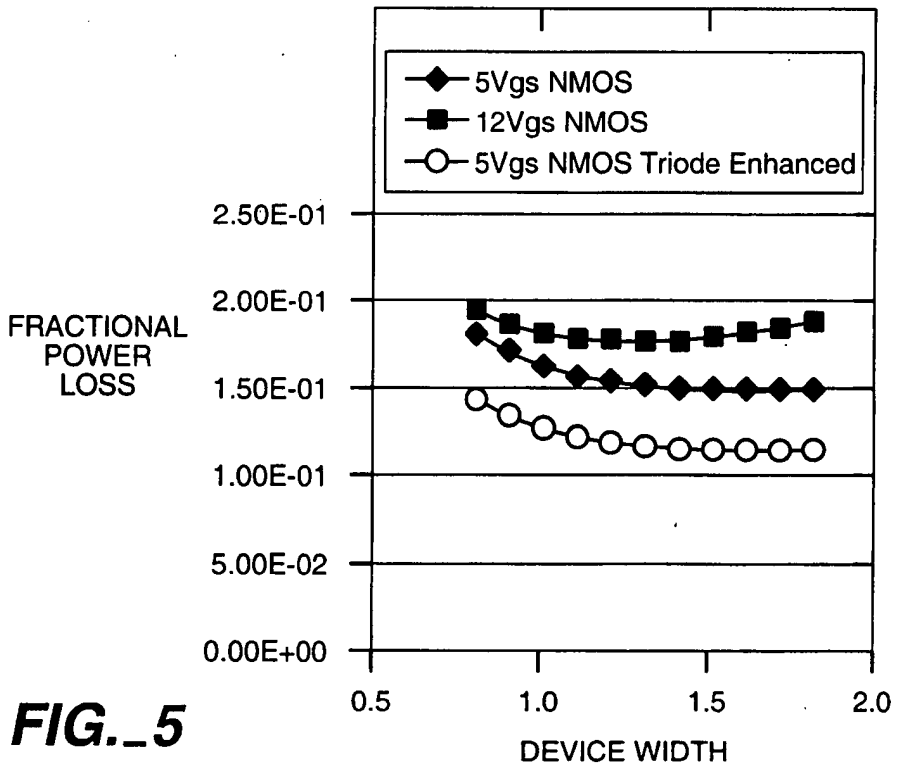
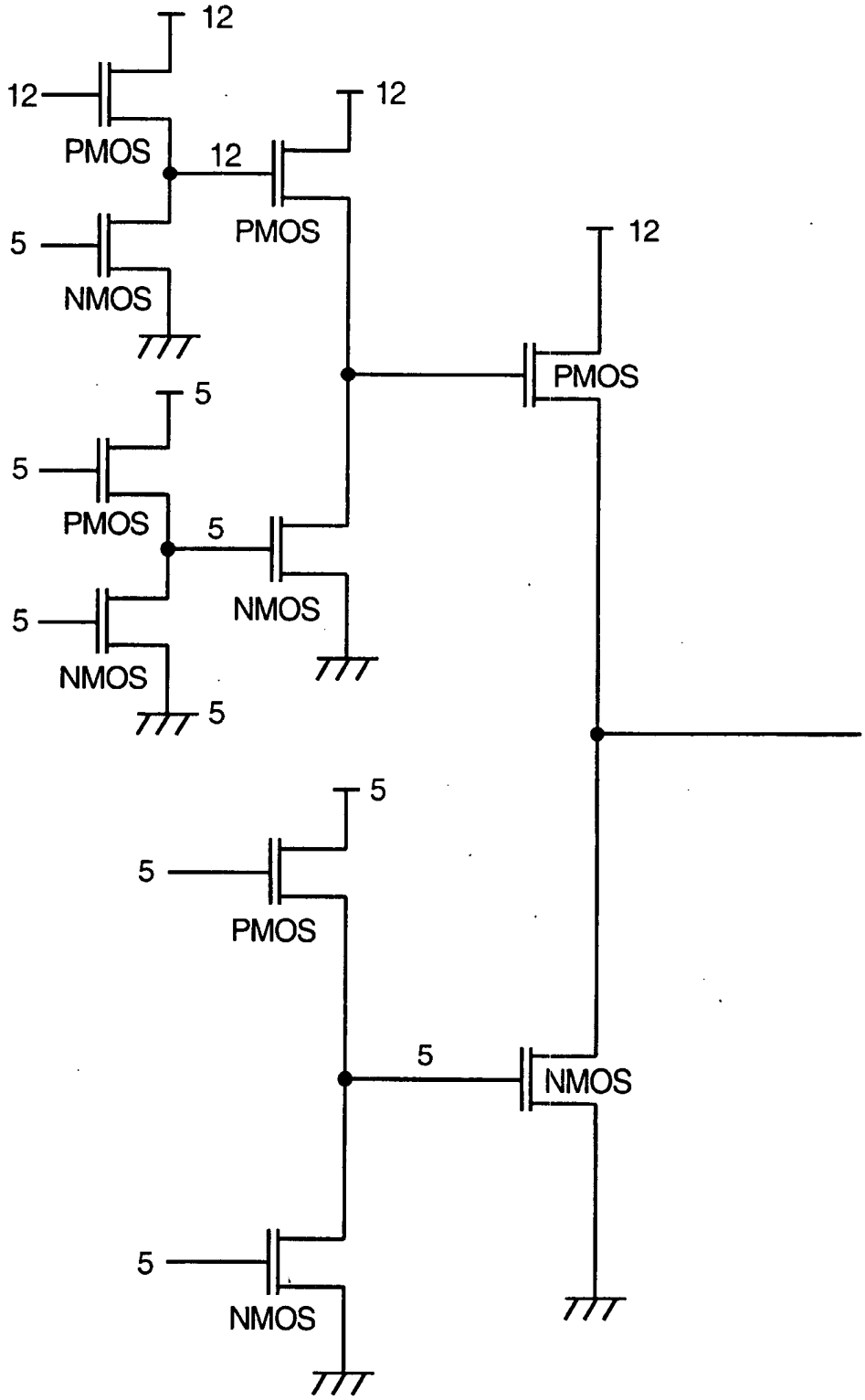


FIG._5


12
12
PMOS
12
12
PMOS
5
NMOS
12
PMOS
5
5
PMOS
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NMOS
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NMOS
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5
5
PMOS
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NMOS
5
NMOS

FIG._6

SWITCHING REGULATOR WITH MULTIPLE POWER TRANSISTOR DRIVING VOLTAGES

BACKGROUND

The present invention relates generally to voltage regulators, and more particularly to a switching regulator that includes multiple power transistors.

Voltage regulators, such as DC to DC converters, are used to provide stable voltage sources for electronic systems. Efficient DC to DC converters are particularly needed for battery management in low power devices, such as laptop notebooks and cellular phones. Switching voltage regulators (or simply "switching regulators") are known to be an efficient type of DC to DC converter. A switching regulator generates an output voltage by converting an input DC voltage into a high frequency voltage, and filtering the high frequency input voltage to generate the output DC voltage. Specifically, the switching regulator includes a switch for alternately coupling and decoupling an input DC voltage source, such as a battery, to a load, such as an integrated circuit. An output filter, typically including an inductor and a capacitor, is coupled between the input voltage source and the load to filter the output of the switch and thus provide the output DC voltage. A controller, such as a pulse width modulator or a pulse frequency modulator, controls the switch to maintain a substantially constant output DC voltage.

In a conventional integrated switching regulator, the power switches are driven with on and off signals that have the same voltage as the voltage supply and ground, respectively. In addition, the transistors in conventional switching regulators are designed for reliable behavior under steady-state saturation conditions. Unfortunately, the long gate lengths required for reliable behavior result in large gate capacitance and resistance, resulting in large power losses and low efficiency. Moreover, driving the gates of transistors between the voltage supply voltage and ground may not be the most efficient solution.

As the complexity of integrated circuits and the power requirements for portable devices grow, there will be increasing pressure for switching regulators with extremely high efficiency. Therefore it would be advantageous to develop a switching regulator that operates with increased efficiency.

SUMMARY

In one aspect, the invention is directed to a voltage regulator. The voltage regulator has an input terminal, an output terminal, a first transistor connecting the input terminal to an intermediate terminal, a second transistor connecting the intermediate terminal to ground, a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, and a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal. The controller drives the first transistor with a first gate voltage and drives the second transistor with a second, different gate voltage.

Implementations of the invention may include the following features. The first transistor may be a PMOS transistor, and the second transistor may be an NMOS transistor. The first voltage may be larger than the second voltage. The first voltage may be substantially equal to an input voltage at the input terminal. The second gate voltage may be compatible with a logic voltage, and the first gate voltage may be greater than the logic voltage. The first transistor may include a first gate oxide layer, the second transistor may include a second gate oxide layer, and the first gate oxide layer may be thicker than the second gate oxide layer. The controller may include a first plurality of transistors in a drive train of the first transistor and a second plurality of transistors in a drive train of the second transistor. The second plurality of transistors maybe driven with the second gate voltage. The first plurality of transistors may include a third transistor driven with the first gate voltage and a fourth transistor driven with the second gate voltage.

In another aspect, the invention is directed to a voltage regulator that has an input terminal, an output terminal, a transistor to intermittently couple the input terminal to the output termninal, and a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal. The transistor includes a source, a drain, and a gate, and the transistor has a channel length between the source and the drain which is less than a channel length required for reliable behavior under steady state saturation conditions.

Implementations of the invention may include the following features. The channel length may be about 1 micron. The channel length may be shorter than a channel length specified for standard hot electron specification of 10% degradation in a one year period of operation. The transistor may be fabricated using one or more of process proximity correction and phase shift mask technology.

In another aspect, the invention is directed to a voltage regulator that has an input terminal, an output terminal, a first transistor connecting the input terminal to an intermediate terminal, a second transistor connecting the intermediate terminal to ground, a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, and a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal. The first transistor includes a first gate oxide layer, and the second transistor includes a second gate oxide layer that is thinner than the first gate oxide layer.

Implementations of the invention may include the following features. The first transistor may be a PMOS transistor and the second transistor may be an NMOS transistor. The controller may drive the first transistor with a first gate voltage and drive the second transistor with a second, different gate voltage. The first voltage may be larger than the second voltage.

Advantages of the invention may include the following. The switching regulator may have a high power conversion efficiency. The power transistors of the switching regulator may be located on an integrated circuit (IC) chip, thereby reducing parasitic inductance and capacitance. The switching regulator may use fewer components, thus using less surface area of the IC chip, while maintaining a fast response and a low cost. In addition, the regulator may exhibit a smaller form factor and size, and may accept an input voltage that is compatible with external integrated circuits.

Other features and advantages of the invention will become apparent from the following description, including the drawings and the claims.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a block diagram of a buck switching regulator.

FIG. 2 is a timing diagram for the gate voltage at the first transistor in the switching circuit of the switching regulator of FIG. 1.

FIG. 3 is a timing diagram for the gate voltage at the second transistor in the switching circuit of the switching regulator of FIG. 1.

FIG. 4 is a schematic cross-sectional view of a switching circuit from the switching regulator of FIG. 1.

FIG. 5 is a graph showing the power loss of a switching circuit as a function of gate length and input voltage scheme.

FIG. 6 is a schematic diagram of some of the components of the drivers for the switching circuit in the switching regulator.

DETAILED DESCRIPTION

Although the switching regulator illustrated and discussed has a buck converter topology, the invention is also applicable to other voltage regulator topologies, such as a boost converter or a buck-boost converter, and to rf output amplifiers.

Referring to FIG. 1, a switching regulator **10** is coupled to a first high DC input voltage source **12**, such as a battery, by an input terminal **20**. The switching regulator **10** is also coupled to a load **14**, such as an integrated circuit, by an output terminal **24**. The switching regulator **10** serves as a DC-to-DC converter between the input terminal **20** and the output terminal **24**. The switching regulator **10** includes a switching circuit **16** which serves as a power switch for alternately coupling and decoupling the input terminal **20** to an intermediate terminal **22**. The switching circuit **16** includes a rectifier, such as a switch or diode, coupling the intermediate terminal **22** to ground. Specifically, the switching circuit **16** may include a first transistor **40** having a source connected to the input terminal **20** and a drain connected to the intermediate terminal **22** and a second transistor **42** having a source connected to ground and a drain connected to the intermediate terminal **22**. The first transistor **40** may be a P-type MOS (PMOS) device, whereas the second transistor **42** may be an N-type MOS (NMOS) device.

The intermediate terminal **22** is coupled to the output terminal **24** by an output filter **26**. The output filter **26** converts the rectangular waveform of the intermediate voltage at the intermediate terminal **22** into a substantially DC output voltage at the output terminal **24**. Specifically, in a buck-converter topology, the output filter **26** includes an inductor **44** connected between the intermediate terminal **22** and the output terminal **24** and a capacitor **46** connected in parallel with the load **14**. During a PMOS conduction period, the first transistor is closed, and the source **12** supplies energy to the load **14** and the inductor **44** via the first transistor **40**. On the other hand, during an NMOS conduction period, the second transistor **42** is closed, and current flows through the second transistor **42** as energy is supplied by the inductor **44**. The resulting output voltage V_{out} is a substantially DC voltage.

The switching regulator also includes a controller **18**, a PMOS driver **80** and an NMOS driver **82** for controlling the operation of the switching circuit **16**. A first control line **30** connects the PMOS transistor **40** to the PMOS driver **80**, and a second control line **32** connects the NMOS transistor **42** to the NMOS driver **82**. The PMOS and NMOS drivers are connected to the controller **18** by control lines **84** and **86**, respectively. The controller **18** causes the switching circuit **16** to alternate between PMOS and NMOS conduction periods so as to generate an intermediate voltage V_{int} at the intermediate terminal **22** that has a rectangular waveform. The controller **16** can also include a feedback circuit (not shown) which measures the output voltage and the current passing through the output terminal. Although the controller **18** is typically a pulse width modulator, the invention is also applicable to other modulation schemes, such as pulse frequency modulation.

The power transistor drivers **80** and **82** are connected to both the high DC input voltage source **12**, and to a low DC input voltage source **28**. The low DC input voltage source **28** may be a separate power source, or it may be generated from the high DC voltage source **12**. The low voltage source **28** generates a control supply voltage, $V_{control}$, that is compatible with conventional input voltages, e.g., 3.3 or 5 volts, that can be used to drive other circuits in the voltage regulator, such as the controller **18**, and other integrated circuits in the electronic device. On the other hand, the high voltage source **12** generates a significantly higher input voltage V_{in}, that is often preferred for distributing high power levels, e.g., 12 to 48 volts. Alternatively, the input voltage values can be chosen to be optimized for low power.

The PMOS driver **80** drives the gate voltage V_{gate1} on the control line **30** between a low voltage V_{low} to close the PMOS transistor **40** and a high voltage V_{high1} to open the PMOS transistor **40**. Conversely, the NMOS driver **82** drives the gate voltage V_{gate2} on the control line **32** between a high voltage V_{high2} to close the NMOS transistor **42** and a low voltage V_{low2} to open NMOS transistor **42**.

Traditionally, the PMOS driver **80** and NMOS driver **82** simply drive the control lines **30** and **32** through the full swing of the input voltage, i.e., from zero to V_{in}, in order to switch the PMOS transistor **40** and NMOS transistor **42**. Thus, in a conventional switching regulator, the voltage used to close the PMOS transistor **40** is the same as the voltage used to open the NMOS transistor, i.e., $V_{low1}=V_{low2}$, and the voltage used to open the PMOS transistor **40** is the same as the voltage used to close the NMOS transistor, i.e., $V_{high1}=V_{high2}$.

However, as will be explained in greater detail below, the drivers **80** and **82** use both the high and low voltage sources **12** and **28** in order to drive the PMOS and NMOS transistors **40** and **42** with asymmetric gate voltages, i.e., the gate voltages V_{gate1} and V_{gate2} on the first and second control lines **30** and **32** can swing through different ranges to control the transistors **40** and **42**. Thus, the voltage V_{low1} to close the PMOS transistor **40** need not equal the voltage V_{low2} to open the NMOS transistor, and the voltage V_{high1} to open the PMOS transistor **40** need not equal the voltage V_{high2} to close the NMOS transistor.

Referring to FIGS. 2 and 3, in one implementation, the gate voltage V_{high2} applied on the second control line **32** to close the NMOS transistor **42** can be less than the gate voltage V_{high1} applied on the first control line **30** to open the PMOS transistor **40**. Specifically, the first gate voltage V_{high1} can be about the same as the input voltage V_{in}, and the second gate voltage V_{high2} can be about the same as the control supply voltage $V_{control}$. On the other hand, the control lines **30** and **32** can both be driven to ground to close the PMOS transistor **40** and open the NMOS transistor **42**.

The power loss due to switching of the transistors during the PMOS and NMOS cycles is given by the following equations, respectively:

$$P_{loss}(PMOS) \approx C_{gate} \cdot \left[\frac{D \cdot I_{out}^2}{C_{gate}^2 \cdot \mu_P \cdot W_P / L_P \cdot (V_{gate} - V_{tp})} + \right.$$

-continued

$$(W_p \cdot L_p) \cdot f_{switch} \cdot V_{gate}^2 \Big] + C_{drain} \cdot f_{switch} \cdot V_{in}^2$$

$$P_{loss}(NMOS) \approx C_{gate} \cdot \Big[\frac{(1-D) \cdot I_{out}^2}{C_{gate}^2 \cdot \mu_n \cdot W_n / L_n \cdot (V_{gate} - V_{tn})} + (W_n \cdot L_n) \cdot f_{switch} \cdot V_{gate}^2 \Big] + C_{drain} \cdot f_{switch} \cdot V_{in}^2$$

where C_{gate} is the capacitance of the gate oxide layer, D is the duty cycle of the switching circuit, I_{out} is the output current, μ_p and μ_d are carrier mobilities for the PMOS and NMOS transistors, respectively, W_p, W_p, L_p and L_n are the width and length of the channel between the source and drain in the PMOS and NMOS transistors, respectively, V_{gate} is the gate voltage, V_{tn} and V_{tp} are the threshold voltages for the PMOS and NMOS transistors, respectively, f_{switch} is the switching frequency, C_{drain} is the parasitic capacitance of the drain (assumed to be equal for both the PMOS and NMOS transistors), and V_{in} is the input voltage. The duty cycle D is equal to V_{out}/V_{in}. The first term in the brackets represents the transistor resistive losses, the second term in the brackets represents the gate capacitive losses, and the third term (outside the brackets) represents the switching losses due to capacitance on intermediate node **22**, which will include the junction capacitance of the switches.

As can be seen from the above equations, the overall power dissipation in the device depends on the gate capacitance C_{gate} and the gate voltage V_{gate}. By reducing the maximum gate voltage V_{gate} on the transistor, power efficiency can be improved. In addition, by reducing the voltage swing across the transistor, the gate oxide thickness can be decreased while maintaining reliable operation. It should be noted that the optimum gate voltage value and corresponding capacitance need not equal the voltages from the voltage sources **12** and **28** to minimize power losses in the device.

In general, for the NMOS power device, the lowest power losses can be achieved by using the thinnest gate oxide achievable that can reliably withstand voltage transients that occur between the drain and gate of the device. The junction voltage breakdown threshold, however, should exceed the highest voltage level the device will experience during normal operations. In short, a thinner gate oxide NMOS device can be driven with a lower voltage than the input voltage V_{in} from the voltage source **12** to achieve a low channel resistance while minimizing capacitive gate switching losses. This improves the power efficiency as long as the device is constructed so as to not suffer junction damage at the drain. For example, the NMOS transistor **42** can be driven with a conventional logic control voltage, e.g., $V_{control}$=5V.

In principle, a similar implementation can be employed for a PMOS device. However, for the PMOS transistor **40**, the gate voltage should be equal to the input voltage V_{in} during the NMOS conduction period to ensure no shoot-through current, whereas the gate voltage need not be, zero or ground during the PMOS conduction period. For example, given a power regulator targeted for load applications with V_{in}=12V, providing a V_{out}=1.5V with efficient voltage conversion would entail driving the PMOS transistor **40** between 12 and 7 volts. However, the driving circuitry required to generate the additional bias levels (7 volts in the above example) at the speeds required by the application might obviate any power savings with the mixed voltage device scheme. Thus, thus it may be more efficient to have the PMOS transistor **40** operate with the gate voltage varying between the input voltage V_{in} and ground. In addition, the driving circuitry will incur costs in silicon area and design time. Consequently, the choice of gate oxide thickness in the PMOS transistor will be dictated both by the ratio of the output voltage V_{out} to the input voltage V_{in} and by the power dissipated in the drivers required to drive the PMOS gate through the appropriate voltage levels. The closer the output voltage is to the input voltage, the larger the resistive losses through the PMOS device, making it more amenable to incurring an increased power loss in a reduced swing driver for its low voltage gate. This overall system optimization is applicable to all power conversion topologies, and the exact trade-off when to use a thin-oxide PMOS device is a function of the duty cycle of the system as determined by the ratio of the output voltage to the input voltage.

Referring to FIG. **4**, the switching circuit **16** can be fabricated on a p-type substrate **50**. The PMOS transistor **40** includes an n-doped drain region **52**, an n-doped source region **54**, and a gate **56** with a gate oxide layer **58**. The NMOS transistor **40** includes an n-type well **60**, a p-doped drain region **62**, a p-doped source region **64**, and a gate **66** with a gate oxide layer **68**. Of course, the switching circuit could be fabricated on an n-type substrate, in which case the PMOS transistor would include a p-doped well. In the symmetric transistor shown in FIG. **4**, resistive implants are formed on both the drain and source of the transistors. In an asymmetric transistor (not illustrated), a resistive implant is formed only on the drain of the device. The thickness T_2 of the gate oxide layer **68** of the NMOS transistor can be less than the thickness T_1 of the gate oxide layer **58** of the PMOS transistor **40** without shorting through the gate oxide layer due to the lower gate voltage at the NMOS transistor. The modified drain structure also helps distribute the electric field between the drain and gate when the device is off, allowing the use of a thinner gate oxide than that required to withstand the full voltage of the unregulated supply. This permits the reduction of the gate capacitance of the NMOS transistor, resulting in a higher power efficiency.

A separate power optimization strategy is to tailor the gate length to minimize both the resistive and capacitive loss components while maintaining a high device reliability. As noted in the power loss equations, both the resistive and gate capacitive losses are directly proportional to gate length. In conventional devices, the minimum gate lengths for both high voltage and conventional CMOS devices are chosen to ensure "stable and reliable" behavior under steady state saturation conditions, e.g., a 10% degradation due to hot electron threshold voltage and saturation current shifts in one year of operation. However, the transistors **40**, **42** in the switching circuit **16** operate heavily in the triode region and are only saturated during short switching transitions (the nearly vertical regions on FIGS. **2** and **3**). In addition, such power devices drive inductive rather than capacitive loads. The sizing required to attain efficient devices results in current densities well below those present when driving purely capacitive loads, where the current densities are a function of the device on resistance rather than the inductor current. Consequently, the gate channel lengths L_1 and L_2 can be further reduced, as compared to the gate length of conventional devices specified for "stable and reliable" behavior.

The limit for gate length optimization is set as a function of the amount of margin required when comparing the highest drain to source voltage (Vds) value attainable in the system to the punch-through voltage of the device at a given

gate length. Active clamp circuitry can be employed in order to suppress voltage transients in order to minimize punch-through susceptibility.

In a CMOS process with embedded high-voltage capability, the optimal gate length value is likely not to push the lithographic capabilities of the process due to the high VDS values the high voltage power MOSFETs can experience. The optimum gate length for power MOSFETs in a standard CMOS process might push its lithographic limits. Advanced imaging techniques, such as process proximity correction (PPC) and phase shift mask technology can be used to extend the resolution of the system. This capability is further enhanced by the fact that the power MOSFETs essentially act as switches in the system. The shorter the gate length, the more efficient the switch. Thus, linewidth variability from wafer to wafer is not as critical, since a reduced gate length device with larger variability than the standard minimum dimension always results in a better implementation of the device.

FIG. **5** shows a graph of fractional power loss, in percentage, as a function of device width. As shown, with the NMOS transistor **42** operating with a gate voltage V_{gate} of 5 volts exhibits better power efficiency than an NMOS transistor operating with a gate voltage V_{gate} of 12 volts. Furthermore, an NMOS transistor with a reduced gate length exhibits even better power efficiency.

Any controller transistor located in the drive train of an NMOS transistor may use the lower voltage input. For example, referring to FIG. **6**, all the transistors that are used to control the second transistor **42** may be driven by the lower gate voltage and be fabricated with thin gate oxide layers. In addition, in the drive train of the first transistor **40**, any transistor that drives an NMOS transistor may itself be driven by the lower gate voltage. Thus, most of the controller **18** operates at a lower voltage, significantly reducing power consumption of the controller **18** and improving the power efficiency of the switching regulator.

The invention has been described in terms of particular embodiments. Other embodiments are within the scope of the following claims.

What is claimed is:

1. A voltage regulator having an input terminal and an output terminal, comprising:

a first transistor connecting the input terminal to an intermediate terminal, the first transistor including a first gate oxide layer;

a second transistor connecting the intermediate terminal to ground, the second transistor including a second gate oxide layer;

a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, wherein the controller drives the first transistor with a first gate voltage and drives the second transistor with a second, different gate voltage; and

a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal, the filter including at least one element connecting the intermediate terminal to the output terminal.

2. The voltage regulator of claim **1**, wherein the first transistor is a PMOS transistor and the second transistor is an NMOS transistor.

3. The voltage regulator of claim **2**, wherein the first gate voltage is larger than the second gate voltage.

4. The voltage regulator of claim **3**, wherein the first gate voltage is substantially equal to an input voltage at the input terminal.

5. The voltage regulator of claim **3**, wherein the second gate voltage is compatible with a logic voltage.

6. The voltage regulator of claim **5**, wherein the first gate voltage is greater than the logic voltage.

7. The voltage regulator of claim **3**, wherein the first gate oxide layer is thicker than the second gate oxide layer.

8. The voltage regulator of claim **1**, wherein the controller includes a first plurality of transistors in a drive train of the first transistor and a second plurality of transistors in a drive train of the second transistor.

9. The voltage regulator of claim **8**, wherein the second plurality of transistors are driven with the second gate voltage.

10. The voltage regulator of claim **8**, wherein the first plurality of transistors includes a third transistor driven with the first gate voltage and a fourth transistor driven with the second gate voltage.

11. A voltage regulator having an input terminal and an output terminal, comprising:

a first transistor connecting the input terminal to an intermediate terminal, the first transistor including a first gate oxide layer;

a second transistor connecting the intermediate terminal to ground, the second transistor including a second gate oxide layer that is thinner than the first gate oxide layer;

a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground; and

a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal, the filter including at least one element connecting the intermediate terminal to the output terminal.

12. The voltage regulator of claim **11**, wherein the first transistor is a PMOS transistor and the second transistor is an NMOS transistor.

13. The voltage regulator of claim **12**, wherein the controller drives the first transistor with a first gate voltage and drives the second transistor with a second, different gate voltage.

14. The voltage regulator of claim **13**, wherein the first voltage is larger than the second voltage.

15. A voltage regulator having an input terminal and an output terminal, comprising:

a first transistor connecting the input terminal to an intermediate terminal;

a second transistor connecting the intermediate terminal to ground;

a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, wherein the controller drives the first transistor with a first gate voltage and drives the second transistor with a second, different gate voltage; and

a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal, the filter including at least one element connecting the intermediate terminal to the output terminal;

wherein the first transistor includes a source, a drain and a gate, and the first transistor has a channel length between the source and the drain which is less than a channel length required for reliable behavior under steady state saturation conditions.

16. A voltage regulator having an input terminal and an output terminal, comprising:

a first transistor connecting the input terminal to an intermediate terminal;

a second transistor connecting the intermediate terminal to ground;

a controller that drives the first and second transistors to alternately couple the intermediate terminal between the input terminal and ground, wherein the controller drives the first transistor with a first gate voltage and drives the second transistor with a second, different gate voltage; and

a filter disposed between the input terminal and the output terminal to provide a substantially DC voltage at the output terminal, the filter including at least one element connecting the intermediate terminal to the output terminal;

wherein the second transistor includes a source, a drain and a gate, and the second transistor has a channel length between the source and the drain which is less than a channel length required for reliable behavior under steady state saturation conditions.

17. The voltage regulator of claim 1, wherein the first and second transistors have a double diffused drain structure.

18. The voltage regulator of claim 1, wherein the first and second oxide layers are formed on a surface of a semiconductor.

19. The voltage regulator of claim 1, wherein application of the first gate voltage turns the first transistor on.

20. The voltage regulator of claim 1, wherein application of the second gate voltage turns the second transistor on.

* * * * *

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OFFICE OF PETITIONS

In re Application of
Matthew S. Reimink, et al.
Application No. 09/475,721
Filed: December 30, 1999
Attorney Docket No. 1610.1US01

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 14, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 15, 2002.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1772 for further processing.

Retta Williams

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

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Paper No. 13

MICROSOFT CORPORATION
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BELLEVUE, WA 98004

In re Application of
Ranta et al.
Application No. 09/475,832
Filed: December 30, 1999
Attorney Docket Number: MCIR0221
Title of Invention: METHOD AND SYSTEM FOR DOWNLOADING AND STORING INTERACTIVE DEVICE CONTENT USING THE HORIZONTAL OVERSCAN PORTION OF A VIDEO SIGNAL

ON PETITION

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JUN 16 2003

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed May 9, 2003.

The petition under 37 CFR 1.47 (a) is **Dismissed as Moot**.

A review of the declaration submitted on April 13, 2000 shows all of the inventors executed the declaration. However, the Office Action of January 16, 2003 informed petitioner a new oath or declaration was required because the inventors failed to date the declaration. However, the Manual of Patent Examining Procedure (MPEP) 602.05 indicates a dated declaration is no longer required.

> "The Office no longer checks the date of execution of the oath or declaration and the Office will no longer require a newly executed oath or declaration based on an oath or declaration being stale (that is when the date of execution is more than 3 months prior to the filing date of the application) *or where the date of execution has been omitted*." However, applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56." [emphasis added]

In view of the fully executed declaration, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

Deposit account 01-1940 will be credited with the $130.00 petition fee.

This application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

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SEP 17 2002

OFFICE OF PETITIONS

In re Application of
Head
Application No. 09/475,856
Filed: December 30, 1999
Attorney Docket No. 9D-RG-19294

ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment or, in the Alternative, for Revival of an Unintentionally Abandoned Patent Application," filed on May 24, 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application and, alternatively, a petition under 37 CFR 1.137(b) to revive this application.

The petition under 37 CFR 1.181 is **DISMISSED.**
The alternative petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned on April 15, 2000 for failure to timely respond to the February 14, 2000 Notice to File Missing Parts of Application ("2/14/00 Notice"), which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

§1.181 petition

The petition requests withdrawal of the holding of abandonment on the basis that the 2/14/00 Notice was not received by General Electric Company ("GE").

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1]

The showing required to overcome this presumption consists of:[2]

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1 1156 OG 53 (Oct. 25, 1993).

2 *Id.*

(1) a statement from the practitioner:

-stating that the Office action was not received by the practitioner;
-attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been entered had it been received and docketed.

The 2/14/00 Notice was addressed to GE at the correspondence-address-of-record at that time: Appliance Park, 2-225, Louisville, KY 40225, and according to the PTO record was mailed to that address. If the file was subsequently transferred to GE's outside counsel, the fact that the 2/14/00 Notice is not presently in the transferred file does not establish that GE never received the 2/14/00 Notice; neither does it rule out the possibility that the 2/14/00 Notice had been received by GE but was never docketed.[3] The §1.181 petition is thus dismissed and the holding of abandonment in this application will not be withdrawn. No petition fee is owed.

§1.137(b) petition

In reply to the 2/14/00 Notice, the petition encloses a signed "Declaration and Power of Attorney." Also included are: the $1,280 petition fee, the $130 surcharge for late filing of an acceptable declaration, and a statement that the entire delay in filing the missing items from the due date until the filing of a grantable §1.137(b) petition was unintentional. The §1.137(b) petition is thus granted.

The application is being returned to the Office of Initial Patent Examination for further processing, including issuance of a filing receipt if one has not yet been mailed. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[3] See MPEP section 711.03(c)(II) (Aug. 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

COLIN P ABRAHAMS
5850 CANOGA AVENUE
SUITE 400
WOODLAND HILLS , CA 91367

MAILED
AUG 0 8 2001
Technology Center 2100

In re Application of : Patrick H. Potega
Application No. 09/475,945
Filed: December 31, 1999
For: SYSTEM AND METHOD FOR MAKING ONLINE RESTAURANT RESERVATIONS

DECISION ON REQUEST TO WITHRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed July 13, 2001 under 37 C.F.R. § 1.36.

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

The request is deficient in that there is no indication that the applicant has been notified of the withdrawal of the attorney or agent. While requestor has indicated he has been in contact with the applicant there is no indication that applicant was notified of the withdrawal.

Therefore, the request is **DENIED**. All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Note that the submitted request for withdrawal does not list all the representatives of record and would only be effective to withdraw Mr. Hollingsworth if granted.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

PATRICK H. POTEGA
7021 VICKY AVENUE
WEST HILLS, CA 91307-2314

In re Application of :
Patrick H. Potega :
Application No. 09/475,946 :
Filed: December 31, 1999 :
Title of Invention: :
Hardware for Configuring and :
Delivering Power :

COPY MAILED
JUL 3 1 2003
OFFICE OF PETITIONS

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

The petition 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(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of 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 for failure to timely and properly reply to the Office communication, mailed September 9, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2002. A Notice of Abandonment was mailed on May 19, 2003.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June

8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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 items (1) and (3).

Applicant's Assertion

Applicant asserts that the delay in responding to the September 9, 2002, Office communication was unavoidable because of the actions or inactions of his Attorneys. Applicant has not submitted a reply to the Office Communication.

Applicant has not provided the required reply

As to item (1), Applicant has not submitted a reply to the Office communication, mailed September 9, 2002. Applicant must submit a reply to the Office communication as part of the requirement for granting a petition under 37 CFR 1.137. A copy of the Office communication, mailed September 9, 2002, is enclosed.

Applicant is advised that the required reply, in this instance the response to the September 9, 2002 Office communication, must be filed before a petition under 37 CFR 1.137(a), unavoidable abandonment, or under 37 CFR 1.137(b), unintentional abandonment, can be granted.

Applicant has not provided an adequate showing of unavoidable delay

As to item (3), Applicant has not demonstrated unavoidable delay. Applicant is advised that 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).

Here, Applicant avers that it was the actions or inactions of his voluntarily chosen representatives which caused the abandonment, and that this was unavoidable; however, as the case law makes clear, a delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay. Applicants petition is therefore without merit.

Alternate Venue

Applicant is strongly urged to 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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee.

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 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 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 Applicant intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Petition under 37 CFR 1.137(b) for unintentional abandonment

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

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

By mail: Commissioner for Patents
Box DAC
Arlington, VA 22310

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

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[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.

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 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: September 9, 2002, Office communication

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

PATRICK H. POTEGA
7021 VICKY AVENUE
WEST HILLS, CA 91307-2314

In re Application of :
Patrick H. Potega :
Application No. 09/475,946 :
Filed: December 31, 1999 :
Title of Invention: :
Hardware for Configuring and :
Delivering Power :

COPY MAILED
OCT 21 2003
OFFICE OF PETITIONS

This is a decision on the Request for Reconsideration of Petition Under 37 CFR 1.137 To Revive For Patent Abandoned Unavoidably, filed on August 27, 2003, to revive the above-identified application.

The petition 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(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed September 9, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2002. A Notice of Abandonment was mailed on May 19, 2003.

A petition under 37 CFR 1.137(a), filed July 11, 2003, was dismissed in a Decision mailed July 31, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). In the July 11, 2003 petition, Applicant asserted, in relevant part, that the delay in responding to the September 9, 2002, Office communication was unavoidable because of the actions or inactions of his Attorneys. Applicant also failed to file a reply to the Office Communication.

Applicable Law

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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).

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).

Applicant is further advised that 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 U.S.C. 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 MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Applicant's Assertion

Applicant asserts that his delay in responding to the Office communication, mailed September 9, 2002, was because the Office failed to receive and/or act upon his change of correspondence address and subsequently re-mail the September 9, 2002, Office Communication.

Applicant avers that he was contacted by the Examiner On October 3, 2002, with a request to file by "telefax", a Change of Correspondence Address, so that Applicant could receive a copy of the September 9, 2002, office Communication. Applicant further asserts that he did in fact send, via facsimile, a Change of Correspondence Address on October 3, 2002, with six days remaining in the one-month period for reply to the September 9, 2002 Office communication. Moreover, Applicant asserts that he sent via facsimile two other Change of Correspondence Addresses on April 29-30, 2003, and it was not until a fourth Change of Correspondence Address, sent via facsimile on May 9, 2003, that Applicant received the Office communication of September 9, 2002. Because of these putative *bona fide* efforts to advance the application, Applicant contends that the abandonment was unavoidable on his part.

Applicant also notes that the Examiner was aware that Applicant's then attorney of record would withdraw, and it was "proper" for the Examiner to contact the Applicant and request the Correspondence Address Change. Applicant supports this assertion with 37 CFR 1.33(a), where it states that, if more than one correspondence address is specified, the Office will establish one as the correspondence address. Reconsideration at p.3. However, at no time in either this or the original petition has petitioner asserted that more than one correspondence was specified. At all times, Applicant has asserted that the Office failed to timely receive and reply to his Correspondence Address Change. Applicant notes that it was this Office - the Examiner - who contacted Applicant. Applicant did not contact this Office with a change in correspondence address until after. Accordingly, 37 CFR 1.33(a) is inapposite.

Applicant has not provided an adequate showing of unavoidable delay

As to item (3), Applicant has not demonstrated unavoidable delay.

Applicant's focus is on the period of time after the September 9, 2002 Office communication was mailed. However, it is the period of time prior to the mailing of the September 9, 2002 Office communication that has led to the Office communication not being received by the Applicant. In this regard, the Office properly mailed the September 9, 2002 communication to the correspondence address of record. Thereafter, it was Applicant' responsibility to reply to the Office communication. It was not the responsibility of this Office to re-mail the Office communication once a new correspondence address had been filed.

Moreover, applicant was aware that his then Attorney of Record was going to withdraw as attorney of record. Applicant states that he received a collection letter from his then Attorney of Record to the effect that, if the attorney did not receive the full balance of Applicant's account, then Applicant was to consider the April 2, 2001 letter as advance notice of the Attorney's withdrawal of his power of attorney. *July 11 Petition at p.2* Applicant further admits that this was the third such letter; however, Applicant did not consider this as "advance notice" as a proper notice of withdrawal under 37 CFR 1.36. *Id.* Applicant was also aware that the withdrawal was to take effect on April 20, 2001. *Id.* However, Applicant failed to notify this Office and failed to timely file a Change of Correspondence Address.

Applicant also asserted that it was the responsibility of his then Attorney of Record to notify this Office of the change of correspondence address[1]. Applicant is again advised that Applicant is bound by the actions or inactions of duly authorized and voluntarily chosen representatives.

In this Reconsideration Request, Applicant emphasizes that neither of his former attorneys of record were duly authorized by Applicant to act on Applicant's behalf, nor could they in any way be considered Applicant's representative. *Reconsideration Request at p.5.* Applicant admits that "these attorneys had disassociated themselves from applicant over a year prior to September 2002, they were not under applicant's control or even influence, therefore, Applicant should not be bound by their actions or inactions". *Id.*

In this Reconsideration Request, Applicant appears to recognize that control of the prosecution of the application rested with Applicant for "over a year prior to September, 2002"; however, Applicant failed to file a Change of Correspondence Address until April 29, 2003[2], and then only after having been contacted by this Office.

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[1] Applicant asserts in the original petition of July 11, 2003, that his then attorney of record "should have notified any and all Examiners that may have contacted him of [Applicant's] correspondence address". *Petition to Revive, July 11, 2003 at p.4.*

[2] Applicant asserts that he filed a Change of Correspondence Address on October 22, 2003. Applicant is advised that there are three methods of filing correspondence with this Office wherein the correspondence will be considered timely filed in the event that the correspondence is not received by this Office. The first method is where correspondence has been filed using Express Mail Service of the United States Postal Service. That method is inapplicable here.

The second method, applicable here, is correspondence filed with this Office that includes a Certificate of Mailing (if mailed) or Transmission (if sent via facsimile) under 37 CFR 1.8. A review of the Office file reveals that Applicant did not include a Certificate of Facsimile Transmission on the Change of Correspondence Address, filed April 29, 2003. A further review of the file reveals that Applicant received an Auto-Reply Facsimile Transmission from this Office on October 22, 2003, indicating receipt of the Change of Address; however, the Change of Address does not include a Certificate of Transmission. A further review of the Auto-Reply Facsimile Transmission reveals that Applicant was advised therein to use the Certificate of Facsimile Transmission procedures set forth in 37 CFR 1.8(a) and (b), and 37 CFR 1.6(f). Having failed to include a certificate of Facsimile Transmission, the correspondence may not be considered filed on the date of the transmission, but must be considered filed on the date it was received in the Office, April 29, 2003.

While Applicant may have been unaware of the rules of practice regarding the timely filing of correspondence, this does not form the basis for an unavoidable delay. Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3]

Applicant argues that "[n]o reasonable or prudent foresight on [his] part could have prevented the attorney's not under [his control] from failing to perform their normally anticipated action of properly withdrawing . . . ." *Id.* Applicant is again apparently asserting - when he asserts that the attorney's "fail[ed] to perform their normally anticipated action of properly withdrawing" - that the former attorneys of record bear some responsibility for filing a correspondence address change. However, Applicant takes issue with the reason for dismissal in the Decision mailed July 31, 2003. Applicant states that a finding that the delay was not unavoidable because of the actions or inactions of his attorneys is not supported by the facts as put forth in Applicant's original petition, "wherein distinctly and repeatedly applicant asserts the [then attorney's of record] were not in any capacity acting as applicant's attorneys". *Reconsideration Request* at p.6.

This Office apologizes for any misinterpretation of the original, July 11, 2003 petition. To clarify, in view of the fact, asserted repeatedly herein and in Applicant's original, July 11, 2003 petition, that Applicant was not represented by attorneys Hollingsworth or Abrahams for over a year prior to the mailing of the September 9, 2002 Office communication, then it

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The third method of corresponding with this Office wherein the Office will consider the correspondence as having been timely filed, is where correspondence that is filed using the U.S.P.S. includes a return-receipt postcard that has been properly itemized by Applicant. This Office will date-stamp the return-receipt postcard evincing receipt of the items listed on the reverse side of the postcard, and mail it back to an Applicant. That method is also not applicable here.

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

was Applicant's responsibility to ensure that the correspondence address of record was an accurate correspondence address.

Thirty seven CFR 1.33 provides that "[t]he applicant, the assignee(s) of the entire interest (see 37 CFR §§ 3.71 and 3.73) or an attorney or agent of record (see § 1.34(b)) may *specify* a correspondence address to which communications about the application may be directed." (Emphasis supplied).

A review of the record indicates no irregularity in the mailing of the September 9, 2002 office communication, and in the absence of any irregularity there is a strong presumption that the communications were properly mailed to the applicant at the *correspondence address of record*. (Emphasis supplied).

In conclusion, this Office finds that a reasonable and prudent person, in relation to their most important business, would have timely and properly filed a Change of Correspondence Address with this Office.

Alternate Venue

Applicant is again strongly urged to 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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee.

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 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 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 Applicant intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Petition under 37 CFR 1.137(b) for unintentional abandonment

A grantable petition under 37 CFR 1.137(b)[4] must be accompanied by: (1) the required reply,[5] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By 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 the undersigned at 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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[4] 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).

[5] 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.

UNITED 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. 12

PATRICK H. POTEGA
7021 VICKY AVENUE
WEST HILLS, CA 91307-2314

COPY MAILED

MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Patrick H. Potega :
Application No. 09/475,946
Filed: December 31, 1999 : ON PETITION
Title of Invention: :
Hardware for Configuring and :
Delivering Power :

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 **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(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed September 9, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2002. A Notice of Abandonment was mailed on May 19, 2003.

A petition filed under 37 CFR 1.137(a) was dismissed in a Decision mailed July 11, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

A Request for Reconsideration of Petition Under 37 CFR 1.137(a) was dismissed in a decision mailed August 27, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

The instant petition

Applicant files the instant petition under 37 CFR 1.137(b), to revive the application based upon unintentional delay.

Applicable Law

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

As to item (2), effective October 1, 2003, the fee for a petition to revive an application abandoned unintentionally is $665.00. A decision on the merits of the petition will be withheld until the appropriate fee has been submitted.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[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.

UNITED 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. 14

PATRICK H. POTEGA
7021 VICKY AVENUE
WEST HILLS, CA 91307-2314

COPY MAILED
MAY 0 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Patrick H. Potega	:	
Application No. 09/475,946		
Filed: December 31, 1999	:	ON PETITION
Title of Invention:	:	
Hardware for Configuring and	:	
Delivering Power	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 13, 2004, to revive the above-identified application.

The petition is **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed September 9, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2002. A Notice of Abandonment was mailed on May 19, 2003.

A petition filed under 37 CFR 1.137(a) on July 11, 2003, was dismissed in a Decision mailed July 31, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

A Request for Reconsideration of Petition Under 37 CFR 1.137(a), filed August 27, 2003, was dismissed in a decision mailed October 21, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

A petition filed under 37 CFR 1.137(b), filed November 10, 2003, was dismissed in a Decision mailed March 25, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Election in response to the September 9, 2002 Office action was filed on August 27, 2003. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2185 for processing of the Election, filed August 27, 2003, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

#3

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
09/475,958	12/30/99	BITNER	R 16026-9038

OIPE JC91
MAR 13 2000
PATENT & TRADEMARK OFFICE

0242/0209

KAREN B KING
MICHAEL BEST & FRIEDRICH LLP
ONE SOUTH PINCKNEY STREET SUITE 700
P O BOX 1806
MADISON WI 53701-1806

1643

DATE MAILED: 02/09/00

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.

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

03/16/2000 CVORACHA 00000011 09475958
02 FC:105 130.00 OP

U.S. GPO 1999 460-5875

FORM **PTO-1533** (REV. 9/98)

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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

Karen B. King
Michael Best and Friedrich LLP
One South Picnkney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806

COPY MAILED

JAN 18 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Rex M. Bitner, et al. :
Application No. 09/475,958 : ON PETITION
Filed: December 30, 1999 :
Attorney Docket No. 16026-9038 :

This is a decision on the petition, filed November 13, 2000, 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 5, 2000 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 1643 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

COPY MAILED

SEP 1 6 2002

OFFICE OF PETITIONS

In re Application of
Smith et al.
Application No. 09/475,961
Filed: December 30, 1999
Attorney Docket No. 9D-EC-19335

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile on March 29, 2002, requesting that the above-identified application be revived.

The petition is **GRANTED.**

This application became abandoned on April 11, 2000 for failure to timely respond to the February 10, 2000 Notice to File Missing Parts of Application ("2/10/00 Notice"), which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

In reply to the 2/10/00 Notice, the petition encloses a signed "Combined Declaration and Power of Attorney for Patent Application." Also included are: an authorization to charge Deposit Account No. 01-2384 for the $1,280 petition fee and the $130 surcharge for late filing of an acceptable declaration; and a statement that the entire delay in filing the signed declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

Also, the Office acknowledges receipt with the petition of a preliminary amendment first submitted on November 14, 2000.

The application is being returned to the Office of Initial Patent Examination for further processing, including issuance of a filing receipt if one has not yet been mailed. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis MO 63102

COPY MAILED

FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Smith et al. :
Application No. 09/475,961 :
Filed: December 30, 1999 :
Attorney Docket No. 9D-EC-19335 :

ON PETITION

This is a decision on the petition on September 29, 2005, requesting that the above-identified application be accorded a filing date of December 30, 1999, instead of the present filing date of September 16, 2002.

On February 10, 2000, the Office mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, stating that the above-identified application had been accorded a filing date of December 30, 1999. On March 29, 2002, petitioner filed a petition under 37 CFR 1.137(b), which was granted by the decision of September 16, 2002. The record reveals that the USPTO erroneously changed the application filing date to September 16, 2002, the date of the decision granting the petition. The Office sincerely apologizes for the error.

Accordingly, the petition is granted. The $400.00 petition fee is unnecessary and will be refunded to petitioner's Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to December 30, 1999, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, MO 63102

COPY MAILED

SEP 04 2002

OFFICE OF PETITIONS

In re Application of :
Frank Joseph Pennisi, Jr. :
Application No. 09/475,962 : ON PETITION
Filed: December 30, 1999 :
Attorney Docket No. 9D-EC-19319 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2002 and supplemented on July 31, 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 February 10, 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 April 11, 2000.

The Change of Correspondence Address and Associate Power of Attorney has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

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

Retta Williams

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

Sherry Brinkley

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **AUGUST 14, 2007**

TO SPE OF : ART UNIT **2617**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/476,092** Patent No.: **7209725 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

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

Thank You For Your Assistance

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

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

Comments: _____

CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

SPE — 2617 **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

PAUL D. BIANCO
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
601 BRICKELL KEY DRIVE, SUITE 404
MIAMI, FL 33131

COPY MAILED

NOV 18 2004

OFFICE OF PETITIONS

In re Application of	:	
Peter M. Bonutti	:	
Application No. 09/476,156	:	ON PETITION
Filed: December 30, 1999	:	
Attorney Docket No. 780-A02-034	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed May 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 13, 2004.

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

This matter is being forwarded to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

JUL 17 2003

In re Application of	:	
Robert J. Fite	:	DECISION ON PETITION
Application No. 09/476,219	:	
Filed: December 30, 1999	:	
Attorney Docket No. 884.182US1	:	

This is a decision on the petition filed December 9, 2002, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final action was mailed on August 27, 2001, setting forth a three-month period of response. Applicant responded with an Amendment filed on January 24, 2002 (certificate of mailing dated November 30, 2001) along with payment of a one-month extension of time. The examiner considered the amendment to be non-compliant because it failed to meet the requirements of 37 C.F.R. 1.121, mailed a Notice of Non-Compliant Amendment on March 7, 2003 and set forth a one-month period of response. Applicant filed a Response to the Notice of Non-Compliant Amendment on June 17, 2002 (certificate of mailing dated June 6, 2002) along with a one-month extension of time.

Petitioner asserts that the responses were timely filed as evidenced by copies of the papers filed and copies of the postcard receipts indicating receipt in the Patent and Trademark Office.

The review of the application file reveals that the Amendment filed January 24, 2002, along with payment of a one-month extension of time was timely filed and placed in the file. The Response to the Notice of Non-Compliant Amendment and the extension of time fee were also received and matched with the file. However, the Response to the Notice of Non-Compliant Amendment was overlooked by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

Further review of the file indicates that the one-month extension of time fee does not cover the time period needed for a proper response. A two-month extension of time was needed and in accordance with the instructions for payment of fees, a two-month extension of time will charged to Deposit Account No. 19-0743.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Response to the Notice of Non-Compliant Amendment and for charging the two-month extension of time fee. From there, it will be returned to the examiner for further prosecution.

Jose' G. Dees, 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

BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON OR 97006

COPY MAILED

JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Makoto Saito	:	
Application No. 09/476,334	:	ON PETITION
Filed: January 3, 2000	:	
Attorney Docket No. 012.P11004C	:	

This is a decision on the petition, filed June 11, 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 21, 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 3621 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

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

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/23/2010

Applicant	: HENRY T. TSUEI	: DECISION ON REQUEST FOR
Patent Number	: 7593898	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/476,385	: OF WYETH
Filed	: 12/30/1999	:
		:

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

EDWIN H TAYLOR
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD 7TH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

JUN 1 1 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Pyo et al. :
Application No. 09/476,416 :
Filed: December 30, 1999 :
Attorney Docket No. 42390.P7452 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 9, 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 April 10, 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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Initial Patent Examination Division for preexamination processing.

Wan Laymon

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

cc: JAMES R THEIN
2231 CRYSTAL DR
SUITE 108
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
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GREGG GOLDMAN
UBS AG, STAMFORD BRANCH
677 WASHINGTON BLVD
STAMFORD CT 06901

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Stuart Lee Breslow et al	:	
Application No. 09/476,448	:	DECISION GRANTING PETITION
Filed: December 30, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4034-46	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of August 3, 2005, 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. **Petitioner should be aware that the power of attorney to have been submitted on June 1, 2005 and July 6, 2005 is missing. The Office is only in receipt of the cover page a BLANK PAGE and the statement under 37 CFR 3.73(b).**

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

This matter is being referred to 3627.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
PROSKAUER ROSE LLP
1585 BROADWAY
NEW YORK, NY 10036-8299

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060522

DATE : May 22, 2006

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6,991794

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.

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

Comments:

Christina Chan

SPE: Christina Chan **Art Unit** 1644

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

APR 27 2000

#4

EZRA SUTTON PA
PLAZA 9 900 ROUTE 9
WOODBRIDGE , NJ 07095

In re Application of	:
Edward L. Tobinick	:
Serial No.: 09/476,643	: PETITION TO MAKE SPECIAL
Filed: December 31, 1999	:
Attorney Docket No.: TOBINICK.3.0	:

This is in response to applicants' petition filed December 31, 1999, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**. Applicant's provisional election is noted.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact 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) 305-3599.

William R. Dixon, Jr.
Special Program Examienr
Technology Center 1600/2900

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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OCT 02 2007
OFFICE OF PETITIONS

In re Application of	:	
Geoffrey B. Rhoads, et al.	:	
Application No. 09/476,686	:	DECISION GRANTING PETITION
Filed: December 30, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60081	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 13, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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OCT 02 2007

OFFICE OF PETITIONS

In re Application of :
Geoffrey B. Rhoads, et al. :
Application No. 09/476,686 : DECISION ON PETITION
Filed: December 30, 1999 :
Attorney Docket No. 60081 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit an amendment to the specification on or before September 6, 2007, as required by the Notice of Drawing Inconsistency With Specification mailed August 6, 2007. Accordingly, the date of abandonment of this application is September 7, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Drawing Inconsistency With Specification of August 6, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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JUN 20 2008
OFFICE OF PETITIONS

In re Application of	:	
Geoffrey B. Rhoads, et. al.	:	
Application No. 09/476,686	:	ON PETITION
Filed: December 30, 1999	:	
Attorney Docket No. 60081	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on February 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of four (4) sheets of replacement drawings containing Figures 1-4; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 20 2008
OFFICE OF PETITIONS

In re Application of :
Geoffrey B. Rhoads, et. al. :
Application No. 09/476,686 : ON PETITION
Filed: December 30, 1999 :
Attorney Docket No. 60081 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 27, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

This application is being referred to Technology Center Art Unit 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Sherry Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/2009

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No 09/476686.: 7562392

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch

571 272-0470

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Kimyen Vu/
SPE

2435
Art Unit

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NOV 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 7

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of:	:	
Pintz et al.	:	DECISION
Application No. 09/476,698	:	ON PETITION
Filed: January 3, 2000	:	
For: SUBPICTURE DECODING ARCHITECTURE AND METHOD	:	

This is a decision on the communication filed by the Applicant August 28, 2003, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR § 1.181(a). No fee is required.

The application was abandoned for failure to timely file a proper reply to the non-final Office action mailed June 28, 2001. A Notice of Abandonment was mailed April 23, 2002.

Petitioner asserts that a proper response to the non-final Office action was timely filed. To support this position, Petitioner has included with the petition a copy of a date stamped mailroom receipt, indicating USPTO receipt of the response on January 22, 2002. The postcard dated December 26, 2001, itemizes the Amendment Transmittal Form, Fee Transmittal, Petition for Extension of Time (Three months), Amendment. Petitioner submitted a copy of these itemized documents along with the petition.

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

The petition is **GRANTED**.

The application will be forwarded to Technology Center's technical support staff for processing the copy of extension of time, and to enter the amendment. From there, the file will be forwarded to the examiner for examination in due course.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY CA 94704-0778

COPY MAILED
MAY 17 2004
OFFICE OF PETITIONS

In re Application of Miller, et al. Application No. 09/476,761 Filed: January 3, 2000 Attorney Docket No. GENSP033	: : : : :	DECISION ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 25, 2003.[1]

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 10, 2002. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on July 11, 2002. A Notice of Abandonment was mailed on November 19, 2002.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of an amendment.

---

[1] Petitioner supplied a copy of the petition via facsimile on March 4, 2003, together with a postcard receipt indicating that it was previously filed on August 25, 2003.

The application file is being forwarded to Group Art Unit 2676 for consideration of the RCE and the amendment, filed March 4, 2004.

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

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

MAILED

JUN 14 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Brown, Raysman, Millstein, Felder & Steiner, LLP
900 Third Avenue
New York, NY 10022

In re Application of
Brian Weston, et al.
Application No. 09/476,935
Filed: December 30, 1999
For: SYSTEM AND METHOD FOR IMPLEMENTING FOREIGN CURRENCY EXCHANGE FORWARDS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on April 17, 2002.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to an Office action mailed on May 24, 2001.

Applicant's petition submits a statement that the applicant did not receive the Office action. It also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. In response to a faxed courtesy copy of the Office action the applicant also points out that the address that the Office action was mailed to was not the correct address of record and is an address unknown to the applicant.

A review of the file indicates that the Office action of May 24, 2001 was indeed mailed to the wrong address and was undoubtedly the reason for non-receipt by the applicant. Therefore, the holding of abandonment is withdrawn and the application is restored to pending status.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment, and redate and remail the Office action to the correct mailing address of record.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.

John J. Love, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597

SM/dc: 6/12/02

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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/476,961	01/04/2000	2815	690	39153/223-(E	1	20	3

CONFIRMATION NO. 8541

CORRECTED FILING RECEIPT

OC000000017839260

JOSEPH N ZIEBERT
FOLEY & LARDNER
FIRSTAR CENTER
777 E AST WISCONSIN AVENUE
MILWAUKEE, WI 532025367

Date Mailed: 01/13/2006

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 mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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)

BIN YU, SUNNYVALE, CA;

Power of Attorney:

Edward Brown--22022
William Dick--22205
William Zahrt II--26070
John Cooper III--26416
Richard Roddy--27688
Vincenzo Pitruzzella--28656
Richard O'Planick--29096
Russell Barron--29512
Michael Rechtin--30128
Barry Grossman--30844

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/08/2000

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/476,961

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

Non-Publication Request: No

Early Publication Request: No

Title

MOS TRANSISTOR WITH ASYMMETRICAL SOURCE/DRAIN EXTENSIONS

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

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Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake
Suite 265
Austin, Texas 78746

MAILED

SEP 0 8 2005

Technology Center 2100

In re Application of: Frederick S. Dunlap et al. Application No.: 09/477,099 Filed: January 4, 2000 For: SYSTEM AND METHOD FOR FORCING AN SRAM INTO A KNOWN STATE DURING POWER-UP	**DECISION ON PETITION UNDER 37 CFR §1.181 FOR SUPERVISORY REVIEW**

This is a decision on the petition under 37 CFR 1.181 filed May 16, 2005 requesting entry of the Amendment under 37 C.F.R. 1.116 filed February 8, 2005.

The petition is **DISMISSED.**

CASE HISTORY

This application was filed on January 4, 2000, with originally presented claims 1-22.

A first Office action rejecting claims 1-22 was mailed to Applicant's representative on February 23, 2004. Applicant filed a response on May 28, 2004 which included amendments to the specification, drawings, and claim 11, cancellation of claims 21-22, and arguments traversing the rejections. An Office action, finally rejecting the pending claims 1-20 was mailed on December 9, 2004.

In a paper filed February 14, 2005, Applicant submitted an amendment to the claims rewriting claims 1 and 11 to incorporate claims 10 and 20 respectively, cancelling claims 10 and 20 and adding claims 23-26, and presented arguments traversing the rejections of record. The Examiner responded with an Advisory action (mail date March 7, 2005) refusing entry of the amendments and did not withdraw the finality of the previous Office action.

Applicant filed a petition under 37 CFR 1.181 on May 16, 2005 contending (a) that the Examiner erred in refusing entry of the amendment filed on February 14, 2005 because it merely incorporates claims 10 and 20 into claims 1 and 11 respectively and that (b) that there is no indication in the Advisory action whether the arguments presented were considered on the merits.

In partial response to this petition, on August 31 2005, the Examiner issued a new Advisory addressing the arguments on the merits and indicating that the amendment after final would not be entered.

OPINION

Petitioner argues that "Although the proposed amendments to claims 1 and 11 may have the effect of changing the scope of other claims ...the proposed amendments narrowed the scope of all pending claims and therefore present the rejected claims in better form for appeal by reducing and simplifying issues for appeal".

The relevant section of the MPEP concerning entry of amendments after a final rejection is MPEP § 714.13 which states:

> ENTRY NOT A MATTER OF RIGHT[1]
>
> 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) is expected in all amendments after final rejection.

As the new advisory points out, Applicant has presented new claims without cancellation of at least an equal number of claims. On this basis alone the amendment is properly refused entry. Since amendments are not entered in part, the rewritten claims 1 and 11 would not be entered.

Furthermore, the Examiner has determined that the arguments as to patentability of claims 10 and 20 do not (in the Examiner's opinion) overcome the rejection of record. Therefore, entry of the amendments to claims 1 and 11 is not appropriate as it would require the Examiner to review the remaining claims for compliance with 45 U.S.C. §112 and as to the necessity of citing new art for the newly narrowed dependent claims. This analysis requires more than cursory review.

The examiner's refusal to enter the proposed amendment filed is correct and consistent with Office policy and practice. Accordingly, the Petition to compel the examiner to enter the amendment is **DISMISSED**.

The application file is being forwarded to Central Files to await a response to the Notice of Non-Compliant Appeal Brief of mail date August 31, 2005.

Any request for reconsideration of this decision must be filed within 2 months.

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[1] Although this section of the MPEP refers to 37 CFR §1.116 as it existed prior to the latest revision, the result is unaffected by the new version

Any inquiries with respect to this decision may be addressed to the undersigned at the number provided below.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Kurdirka & Jobse, LLP
One State Street
Suite 1510
Boston, MA 02109

MAILED

OCT 0 1 2004

Technology Center 2100

In re Application of:
Linden A. DeCARMO, et al.
Application No. 09/477,101
Filed: January 4, 2000
For: METHOD AND APPARATUS FOR DYNAMICALLY BALANCING CALL FLOW WORKLOADS IN A TELECOMMUNICATIONS SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed February 1, 2002.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on June 24, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Oblon, Spivak, McClelland, Maier & Neustadt, P.C. as the attorney(s) of record of the instant application. The Power of Attorney of June 24, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Oblon, Spivak, McClelland, Maier & Neustadt, P.C..

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For

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

cc: Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Paul R. Morico
Baker Botts L.L.P.
35th Floor, One Shell Plaza
910 Louisiana
Houston, TX 77002-4995

MAILED

NOV 27 2000

Technology Center 2600

In re Application Serial No.:

09/477,164

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

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. This address has been provided by the withdrawing attorney(s).

KENNETH A. WIEDER
SPECIAL PROGRAM EXAMINER
GROUP 2700

Mike Amerson
Williams, Morgan and Amerson
7676 Hillmont, Suite 250
Houston, TX 77040

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

Mark E. Andrews
LaRiviere, Grubman & Payne, LLP
P.O. Box 3140
Monterey, Ca. 93942

JAN - 6 2001

In re Application of: Hinman et al.	)	
Application No.: 09/477,224	)	
Filed: Jan. 4, 2000	)	**DECISION ON REQUEST FOR**
For: Classification of Information and Use	)	**WITHDRAWAL AS ATTORNEY**
of Classifications in Searching and	)	
Retrieval of Information	)	

This is a decision on the Request for Withdrawal as Attorney or Agent filed Nov. 30, 2000 (Paper No. 2). Though petitioner cited 37 CFR § 1.53(c) as the basis for his request, the rule appears to have no relevance. As a result, the petition will be treated according to the typical applicable provisions.

Mark Andrews signed the request, and the request indicates that he signed on behalf of other practitioners. He also requested a change in correspondence address.

The petition's signatory is not an attorney of record, so his request to withdraw as attorney or agent is moot. Also, since he is not an attorney of record, he has no authority to sign a request to withdraw on behalf of others. Further, he has no authority to effect a change in correspondence address. MPEP § 405.

Therefore, the request is **DISMISSED** as moot.

All future communications from the United States Patent and Trademark Office will continue to be directed to the above-listed address until otherwise notified by applicants.

Joseph L. Felber

Joseph L. Felber
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 305-4933

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

Mailed

JAN 24 2001

Technology Center 2100

Paper No. 4

Mark E. Andrews
LaRiviere, Grubman & Payne, LLP
P.O. Box 3140
Monterey, Ca. 93942

In re Application of: Hinman et al.	)	
Application No.: 09/477,224	)	
Filed: Jan. 4, 2000	)	**DECISION ON REQUEST FOR**
For: Classification of Information and Use	)	**WITHDRAWAL AS ATTORNEY**
of Classifications in Searching and	)	
Retrieval of Information	)	

This is a supplemental decision to the decision mailed Jan. 6, 2001 (Paper No. 3) on the Request for Withdrawal as Attorney or Agent filed Nov. 30, 2000 (Paper No. 2). The request was **DISMISSED** as moot.

The original decision ended as follows:

> All future communications from the United States Patent and Trademark Office will continue to be directed to the above-listed address until otherwise notified by applicants.

(The "above-identified address" of Paper No. 3 was the same as the address above in this paper.) The decision should have said that all future communications from the United States Patent and Trademark Office will continue to be directed to *the address of record.* The address of record is

> McDermott, Will & Emery
> 600 13th St., N.W.
> Washington, DC 20005-3096

The Office regrets any inconvenience caused by the error.

Joseph L. Felber

Joseph L. Felber
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 305-4933

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of
Raymond Hsu et al.
Application No.: 09/477,278
Filed: January 4, 2000
Attorney Docket No.: PA000090
For: METHOD AND APPARATUS FOR REQUESTING POINT-TO-POINT PROTOCOL (PPP) INSTANCES FROM A PACKET DATA SERVICES NETWORK

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 November 07, 2006. 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 January 4, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on April 4, 2006.

On November 07, 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) petition fee; (2) the required statement of unintentional delay,[1] (3) the required reply in the form of the payment of the issue fee; and (4) a terminal disclaimer. Accordingly, the issue fee payment is 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.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298

---

[1]It is noted that 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 1.37(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Wai Sum Lai	:	
Application No. 09/477,365	:	DECISION ON PETITION
Filed: January 4, 2000	:	UNDER 37 C.F.R. §1.181
Attorney Docket No. 1999-0492	:	
Title: UPSTREAM BANDWIDTH	:	
ALLOCATION FOR PACKET TELEPHONY	:	
IN A SHARED-MEDIA PACKET-	:	
SWITCHED ACCESS NETWORK	:	

This is a decision on the petition filed on August 24, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 7, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings[1]. Accordingly, the above-identified application became abandoned on June 8, 2006. A Notice of Abandonment was mailed on July 26, 2006.

The present petition was submitted on August 24, 2006. The electronic file has been reviewed, and it is noted that on April 19, 2006, an Examiner's Interview was mailed, indicating that new drawings are not required.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**.

1 See MPEP §710.02(e).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lotus Development Corporation
55 Cambridge Parkway
Cambridge, MA 02142

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OCT 03 2005

OFFICE OF PETITIONS

In re Application of
ESTRADA et al.
Application No.: 09/477,477
Filing Date: January 4, 2000
Docket No.: L09-99-048
For: SYSTEM AND METHOD FOR DYNAMICALLY GENERATING VIEWABLE GRAPHICS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 10, 2004.

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 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2004.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the Issue Fee, paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required because this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
PCT Legal Administration

Telephone: 571-272-3283
Facsimile: 571-273-0459

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

MAIL

DEC 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of
Walter P. Sjursen, et al.
Application No. 09/477,700
Filed: January 6, 2000
For: HEARING AID WITH LARGE DIAPHRAGM MICROPHONE ELEMENT INCLUDING A PRINTED CIRCUIT BOARD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed November 5, 2003 (paper No. 13) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Marvin Leedom, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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Paper No. None

DARREN J MILLIKEN
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
7TH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of
Chia-Hong Jan et al.
Application No. 09/477,764
Filed: January 4, 2000
Attorney Docket No. 042390.P5488
Title: A DEVICE HAVING RECESSED SPACERS FOR IMPROVED SALICIDE RESISSTANCE ON POLYSILICON GATES

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed August 19, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed April 22, 2004, which set a shortened statutory period for reply of three (3) months. On July 23, 2004, an amendment was received, and an advisory action was mailed on August 10, 2004. On August 23, 2004, a second amendment was received, and an advisory action was mailed on August 10, 2005. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on July 23, 2004.

With the present petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37

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.

C.F.R. §1.137(b)(1). The amendment submitted on August 23, 2004 shall serve as the required submission.

As such, the petition is **GRANTED**.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

LEON I. EDELSON
LAW OFFICE OF LEON I. EDELSON
P. O. BOX 2465
CHICAGO, IL 60690-2465

JUN 29 2001

In re Application of: Henryk Oleksy
Application No.: 09/477,858
Filed: January 5, 2000
For: PROCESS FOR CONTOUR MACHINING OF METAL BLOCKS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed May 25, 2000 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition does not meet the requirements for special status in that there is no showing that the invention materially contributes to the discovery, development, conservation or more efficient utilization of energy resources as required in (A) or (B). Applicant indicates that the invention increases the efficient utilization of energy resources by increasing the availability of energy resources within the required time frame for construction of new energy resources and contributes to the more efficient utilization of energy sources by reducing the lead time required for new power plants. Applicant further indicates that the invention will contribute to the development or conservation of energy resources by permitting faster construction of new power plants. However, the increase in availability of a resource does not, without more, alter the efficiency of the output or use of the resource. Efficiency is a measure of the amount of useful

energy delivered by a system compared to the amount supplied to it, not just a measure of the amount supplied. As a result, it is not clear how the invention materially contributes to more efficient utilization of resources. With regard to the faster construction of new power plants, applicant asserts that a skilled machinist would take an estimated 20 working days to prepare the root section and blade yet indicates that plants take anywhere from 2-10 years to build. It is not seen where a reduction from 20 days down to an unspecified amount of computer controlled machine time, dependent on the number of machines available, materially alters the development of energy resources considering the long construction time period. Considering also that such machining can be done in parallel with some other construction activities, it is not clear how the invention materially contributes to development of energy resources.

The petition is DENIED.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above.

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

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

LEON I. EDELSON
LAW OFFICE OF LEON I. EDELSON
P. O. BOX 2465
CHICAGO, IL 60690-2465

MAILED

SEP 20 2001

Technology Center 2100

In re Application of: Henryk Oleksy
Application No.: 09/477,858
Filed: January 5, 2000
For: PROCESS FOR CONTOUR MACHINING OF METAL BLOCKS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the request for reconsideration, filed July 26, 2001, regarding the decision mailed June 29, 2001 on the petition, filed May 25, 2000 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant's submissions filed July 26, 2001 and May 25, 2001, considered together, meet all the criteria set forth above and the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

#6

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Paper No. 5

LEON I. EDELSON
LAW OFFICE OF LEON I. EDELSON
P. O. BOX 2465
CHICAGO, IL 60690-2465

MAILED
SEP 20 2001
Official
Technology Center 2100

In re Application of: Henryk Oleksy
Application No.: 09/477,858
Filed: January 5, 2000
For: PROCESS FOR CONTOUR MACHINING OF METAL BLOCKS

DECISION ON PETITION TO MAKE SPECIAL

RECEIVED 10/12/01

This is a decision on the request for reconsideration, filed July 26, 2001, regarding the decision mailed June 29, 2001 on the petition, filed May 25, 2000 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant's submissions filed July 26, 2001 and May 25, 2001, considered together, meet all the criteria set forth above and the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

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)
6412686	2002-07-02	09477864	2000-01-05	DML-001PAT

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Robert R. Mahl/	Date (YYYY-MM-DD)	2007-04-11
Name	Robert R. Mahl		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6412686
Issue Date: July 2,2002
Application No. 09477864
Filed: January 5,2000
Attorney Docket No. DML-001PAT

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

This is a decision on the electronic petition, filed April 13,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2007 . 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

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WASHINGTON, D.C. 20231
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OCT 23 2000

Group 2700

Paper No. 6

William B. Kezer
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-8384

In re Application of: Harry E. Emerson et al.	)	
Application No. 09/477,936	)	
Filed: January 5, 2000	)	
For: SYSTEM FOR MODIFYING AND	)	DECISION ON PETITION
TARGETING ADVERTISING CONTENT	)	
OF INTERNET RADIO BROADCASTS	)	

This is a decision on the petition, filed September 12, 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, ...

(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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAR 1 5 2001

Technology Center 2100

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

Paper No. 9

Ernest D. Buff, Esquire
Ernest D. Buff & Associates, LLC
245 South Street
Morristown, New Jersey 07960

In re Application of: Harry E. Emerson et al.	)	
Application No. 09/477,936	)	
Filed: January 5, 2000	)	
For: SYSTEM FOR MODIFYING AND	)	DECISION ON PETITION
TARGETING ADVERTISING CONTENT	)	
OF INTERNET RADIO BROADCASTS	)	

A decision on the petition, filed September 12, 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 was mailed on October 23, 2000. This is a remail of the aforementioned decision to the new atorneys of record.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 19

BRIAN KINNEAR
HOLLAND & HART
555 SEVENTEENTH STREET
SUITE 3200
DENVER, CO 80202

COPY MAILED

AUG 29 2003

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Lee Sullivan	:	
Application No. 09/477,954	:	ON PETITION
Filed: January 5, 2000	:	
Attorney Docket No. 38105.830037.US0	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 July 30, 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 October 1, 2002. See MPEP 1215.04.

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 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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2684.

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

cc: BRIAN KINNEAR
HOLLAND & HART
555 17TH STREET, SUITE 2900
POST OFFICE BOX 8749
DENVER, CO 80201

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
John H. Burton et al.	:	
Application No. 09/477,977	:	DECISION GRANTING PETITION
Filed: January 5, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 825.001US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 11, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 26, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55402

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JAN 17 2007
OFFICE OF PETITIONS

In re Application of	:	
John H. Burton et al.	:	
Application No. 09/477,977	:	DECISION GRANTING PETITION
Filed: January 5, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 825.001US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 11, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 26, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3739 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

INTELLEVATE
JAN 22 2007
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Coded _____ Verified _____

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

Schwegman Lundberg Woessner & Kluth P.A.
JAN 22 2007
RECEIVED

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)
6170658	2001-01-09	09478065	2000-01-05	043345.0001US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David Gorski/	Date (YYYY-MM-DD)	2009-03-02
Name	David Gorski	Registration Number	61970

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. 6170658
Issue Date: January 9,2001
Application No. 09478065
Filed: January 5,2000
Attorney Docket No. B-65536

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

This is a decision on the electronic petition, filed March 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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SEP 20 2004

#16

THE HALVORSON LAW FIRM
405 W SOUTHERN AVENUE
SUITE 1
TEMPE, AZ 85282

In re Application of	:
Lee Roy Copeland et al	:
Serial No.: 09/478,071	: PETITION DECISION
Filed: January 3, 2000	:
Attorney Docket No.: 511-003	:

This is in response to the petition under 37 CFR 1.181, filed June 14, 2004, for withdrawal of abandonment of the above identified application.

A review of the file history shows that the examiner mailed a Final Office action to applicants on April 18, 2002, setting a three month shortened statutory period for reply. Applicants filed an amendment after Final Office action on July 15, 2002. This reply was considered and entered by the examiner, but did not place the application in condition for allowance as reported in an Advisory Action mailed August 11, 2002 (copy enclosed). No further reply was received and a Notice of Abandonment was mailed to applicants on December 2, 2002. It is noted that both the summary sheet and the penultimate page of the April 18, 2002, Office action state that this is a Final Office action. The only acceptable reply to a Final Office action is an amendment which *prima facie* places the application in condition for allowance, a Notice of Appeal or the filing of continuing examination papers (RCE). None of these were filed. The abandonment is thererfor, proper.

It is further noted that this petition was filed more than 18 months after the Notice of Abandonment was mailed to applicants and is therefore untimely under 37 CFR 1.181. This application may be revived only by filing a petition under 37 CFR 1.137(b) accompanied by a terminal disclaimer, see M.P.E.P. 711.03(c).

The petition is **DENIED**.

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.

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
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NOBLITT & GILMORE
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE, AZ 85251

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Lee Roy Copeland et al :
Application No. 09/478,071 : ON PETITION
Filed: January 3, 2000 :
Attorney Docket No. 511-003 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 18, 2002, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on July 15, 2002, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 13, 2002. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 19, 2002.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed. The $130.00 petition fee is unnecessary. Petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon

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

cc: KRISTOFER E. HALVORSON
THE HALVORSON LAW FIRM, P.C.
1757 E. BASELINE RD., STE 130
GILBERT, AZ 85233

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 08/25/09

DATE : 02-06-09

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/478071 Patent No.: 7435424

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. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE **Art Unit** 1615

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 18

MAIL

NOV 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARGER JOHNSON & MCCOLLOM P C
1030 S W MORRISON STREET
PORTLAND OR 97205

In re Application of:
David William House
Application No. 09/478,136
Filed: January 5, 2000
For: **COCHLEAR IMPLANTS WITH A STIMULUS IN THE HUMAN ULTRASONIC RANGE AND METHOD FOR STIMULATING A COCHLEA**

DECISION
ON PETITION

This is a decision on the request filed on September 21, 2004 which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to MPEP §711.03 and 37 C.F.R. §1.181. No fee is required.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the restriction requirement mailed November 4, 2003, which set a shortened statutory period of one (1) month to reply. A Notice of Abandonment was mailed on September 7, 2004.

Petitioner alleges to have timely filed a proper response to the notice of non-responsive Office action mailed November 4, 2003. In support, petitioner has provided as evidence, a copy of said response, which included a Certificate of Facsimile Transmission dated November 21, 2003. Also included with the response is a copy of an Auto-Reply Facsimile Transmission indicating that a 2-page document from Petitioner was received in the U.S. Patent and Trademark Office on November 21, 2003.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Although Petitioner is not the one who executed the certificate of transmission and there is no personal statement from the person who signed the certificate of transmission, the Auto-Reply Facsimile Transmission report is evidence that the documents were in fact transmitted to the Office. Accordingly, it is deemed that the original response was received on November 21, 2003 and subsequently misplaced. The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the copy of the original response which accompanied the subject petition. Thereafter, the application will be forwarded to the Examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

ANNE E. SATURNELLI
CHOATE HALL & STEWART
53 STATE STREET
BOSTON, MA 02109-2804

COPY MAILED

DEC 0 4 2003

OFFICE OF PETITIONS

In re Application of
Edward L. Bayiates
Application No. 09/478,156
Filed: January 5, 2000
Attorney Docket No. M0995/7002/PJG/AR

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.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2172.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6269877	2001-08-07	09478193	2000-01-05	Q56920-JLR

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	/DJCushing/	Date (YYYY-MM-DD)	2009-11-09
Name	David J. Cushing	Registration Number	28703

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. 6269877
Issue Date: August 7,2001
Application No. 09478193
Filed: January 5,2000
Attorney Docket No. Q56920

:
: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 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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 16

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET N W
WASHINGTON, DC 20005-3315

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OFFICE OF PETITIONS

In re Application of :
Kiichi Hama et al :
Application No. 09/478,370 : ON PETITION
Filed: February 16, 2000 :
Attorney Docket No. 7363.0010 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2001, 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 March 27, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 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 1763 for processing the Request for Continued Examination under 37 CFR 1.114 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
P.O. Box 1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of	:	
Baker et al.	:	DECISION GRANTING PETITION
Application No. 09/478,467	:	
Filed: January 6, 2000	:	
Attorney Docket No. PHB-34314	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 10, 2006, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed on December 9, 2005, which set a three (3) month statutory period for reply.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Baker et al.	:	DECISION GRANTING PETITION
Application No. 09/478,476	:	
Filed: January 6, 2000	:	
Attorney Docket No. PHB-34314	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 10, 2006, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed on December 9, 2005, which set a three (3) month statutory period for reply.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 19

ROBERT D. KUCLER
REED SMITH
P.O. BOX 488
PITTSBURGH, PA 15230-0488

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan Van Tassel et al	:	
Application No. 09/478,702	:	ON PETITION
Filed: January 6, 2000	:	
Attorney Docket No. 99-379-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 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 June 4, 2002, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 5, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $465.00 extension of time submitted with the petition on June 24, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 1774.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JJGJR.: 07-06

Paper No: __

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OFFICE OF PETITIONS

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

In re Application of	:	
Shen	:	
Application No. 09/478,720	:	DECISION
Filing Date: 6 January, 2000	:	
Attorney Docket No.: SUP-029	:	

This is a decision on the petition filed on 8 June, 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 final Office action mailed 16 June, 2004, with reply due absent extension of time on or before 16 September, 2004;
- the instant application went abandoned after midnight 16 September, 2004;
- the Office mailed a Notice of Abandonment on 7 February, 2005;

- on 8 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination and fee with a submission in the form of an amendment under 37 C.F.R. §1.114, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt,[6] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

[6] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegation
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.

The record (including the petition filed on 8 June, 2006) does not necessitate a finding that the delay between midnight 16 September, 2004 (date of abandonment), and 8 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Shen and Counsel Patrick Bever (Reg. No. 33,834) when accepting Petitioners' representation that the delay in filing the response was unintentional.[8]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 2100 for further processing in due course.

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

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

---

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

[8] See 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 the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

In re Application of	:	
Shen	:	
Application No. 09/478,720	:	DECISION ON PETITION
Filed: January 6, 2000	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SUP-029	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application. This decision is made in light of the corrected petition filed December 19, 2006. Further, it appears that petitioner is claiming the benefit under 35 USC 120, not 119(e), of prior application No. 09/366,976.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of

the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The petition is not accompanied by any such amendment and, therefore, fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3), an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
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

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

COPY MAILED
AUG 16 2007
OFFICE OF PETITIONS

In re Application of	:	
Shen	:	
Application No. 09/478,720	:	DECISION ON PETITION
Filed: January 6, 2000	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SUP-029	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

Application No. 09/478,720

All requirements have been met to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional application under 35 U.S.C. § 120.

However, the issue fee in this case was paid on December 28, 2006. The application issued on August 14, 2007 before the granting of a renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Wilson et al.	:	
Application No. 09/478,737	:	ON PETITION
Filed: January 6, 2000	:	
Attorney Docket No. 32759 074288.0101	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 13, 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 Corrected Drawings; (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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 5

Mailed

MAR 2 5 2000

Directors Office
Group 2700

NAREN CHAGANTI
7328 DARTFORD DRIVE #6
MCLEAN , VA 22102

In re application of:)
Naren Chaganti, et al.)
Application No.: 09/478,796)
Filed: January 7, 2000)
For: ONLINE REPOSITORY FOR)
PERSONAL INFORMATION)

DECISION ON PETITION

This is a decision on the petition filed January 7, 2000, to make the above-identified application special under the accelerated examination procedure set forth in 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 statement 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 Passport of Sitapathi Rao Chaganti, an applicant in the above-identified application, showing that he was born August 1, 1931.

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.

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

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.
09/478,977	01/06/2000	PETER C. BROOKS	13761-727	2450

26021 7590 01/30/2004
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

EXAMINER
HARRIS, ALANA M

ART UNIT	PAPER NUMBER
1642	

DATE MAILED: 01/30/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 30 2004

BARRY M. SHUMAN
BILTMORE TOWER
500 SOUTH GRAND AVENUE, SUITE 1900
LOS ANGELES, CA 90071

In re Application of	:
Peter C. Brooks et al	:
Serial No.: 09/478,977	: PETITION DECISION
Filed: July 6, 2000	:
Attorney Docket No.: 89188.0007	:

This is in response to the petition under 37 CFR 1.181, filed November 10, 2003, for restarting of a period for reply based on late or non-receipt of an Office action.

A review of the file history shows that the examiner mailed a non-Final Office action to applicants' previous attorneys, McCutchen, Doyle, Brown & Enersen, on April 23, 2002, setting a three month shortened statutory period for reply. In response applicants, through new attorneys, filed a request for a Continued Prosecution Application (CPA) on October 23, 2002, accompanied by a request for a three month extension of time and fee therefore and the filing fee for the CPA. No other papers accompanied the submission. The CPA request did contain a new correspondence address which information was inadvertently overlooked by the Office. After processing of the CPA request the examiner mailed a new Office action to applicants at the old address on May 13, 2003. Applicants' current attorneys became aware of the missing Office action in October, 2003 and filed this petition on November 10, 2003, but action could not be taken on the petition until after the statutory period for reply had expired. Thus the application became abandoned on November 14, 2003, for failure to reply. In view of the Office error in not utilizing the correct correspondence address, the abandonment status 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 mailing of a new Office action to the correct address.

Applicants should note that a new Power of Attorney has been submitted for this application, however it cannot be accepted as it is incomplete. No indication is given as to who is signing the appointment of attorney form, but it appears to be a representative of the assignee. Further the attached statement under 37 CFR 3.73(b) is incomplete as to assignee information and therefore not acceptable.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON, L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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JUN 19 2008

OFFICE OF PETITIONS

In re Patent No.	:	
7,122,635	:	
Application No. 09/478,977	:	DECISION GRANTING PETITION
Filing Date: January 6, 2000	:	
Issue Date: October 17, 2006	:	
Attorney Docket No. 89188.0007	:	

This is a decision on the petition under 37 CFR 1.182, filed February 5, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,122,635 on October 17, 2006. Petitioner contends, however, that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was not received[1]. The Office of Data Management is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

[1] The petition fee of $400.00 will not be refunded because petitioner has not established that the Letter of Patent was not received. This is normally established by a statement that file records were searched and the Letter of Patent was not found and by the submission of the docket records to substantiate the alleged non-receipt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerry Hong	:	
Application No. 09/478,984	:	ON PETITION
Filed: January 7, 2000	:	
Attorney Docket No. 5244-0115-2	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit formal drawings.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in of replacement drawings containing Figures 1-8; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being referred to the Office of Publications for review of the replacement drawings filed November 1, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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DEC 1 1 2003
OFFICE OF PETITIONS

In re Application of	:	
Thomas Piazza, et al.	:	
Application No. 09/478,999	:	ON PETITION
Filed: January 7, 2000	:	
Attorney Docket No. 42390.P8055	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 24, 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 at midnight on December 24, 2002.

The application file is being forwarded to Technology Center 2600, Art Unit 2672 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

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OFFICE OF PETITIONS

EDWIN H. TAYLOR
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

Paper No. 19

In re Application of
Wayne C. Grant et al.
Application No. 09/479,031
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 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 March 24, 2004, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 25, 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 of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 24, 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.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2121 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

C.c: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
1279 Oakmead Parkway
Sunnyvale, CA 94085

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

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD
200 West Adams Street
Suite 2850
Chicago, IL 60606

MAY 19 2003

In re Application of	)	
Shunpei Yamazaki	)	
Application No. 09/479,262	)	
Filed: January 5, 2000	)	
For: SEMICONDUCTOR DEVICE AND	)	DECISION ON PETITION
METHOD OF MANUFACTURING	)	
THE SAME	)	

This is a decision on the petition, filed April 22, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the restriction requirement of March 26, 2002 A Notice of Abandonment was mailed on March 11, 2003.

Petitioner states that an election was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of an election along with an Information Disclosure Statement by the Patent and Trademark Office (PTO) on June 6, 2002.

The review of the application file reveals that the IDS and the election were received and matched therewith. However, the election and request for a one-month extension of time was not noticed by the examiner and the technical support staff. Consequently, the election was not properly entered in the file. The application is not abandoned in fact.

For above stated reasons, the Notice of Abandonment is hereby vacated and the holding of

abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the election and the petition for a one-month extension of time. From there, it will be returned to the examiner for further prosecution.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

Townsend & Townsend & Crew
Two Embacadero Center, 8th Fl.
San Francisco, CA 94111-3834

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JAN 13 2003

OFFICE OF PETITIONS

In re Application of :
Leping Li :
Application No. 09/479,315 :
Filed: January 6, 2000 :
Attorney Docket No. 018781-003310US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 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 February 22, 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 April 23, 2000.

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

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

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

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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MAR 2 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
K. George Chandy et al
Application No. 09/479,391
Filed: January 6, 2000
Attorney Docket No. UCIVN-004A

This is a decision on the petition, filed by facsimile transmission on March 27, 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 February 5, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1617 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

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Paper No. 17

STOUT UXA BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of	:
K. George Chandy et al	:
Application No. 09/479,391	:DECISION DISMISSING
Filed: January 6, 2000	:PETITION UNDER 37 CFR 1.314
Attorney Docket No. UCIVN-004A	:

This is a decision on the petition filed March 26, 2003, which is being treated as a petition under 37 CFR 1.314 to defer issuance of the subject application.

The petition is **dismissed** as moot in view of the decision mailed March 28, 2003 granting the petition under 37 CFR 1.313(c)(2) to withdraw the application from issue.

Any inquiries specific to this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 1617 for processing the Request for Continued Examination under 37 CFR 1.114 and for appropriate action on the petition under 37 CFR 1.48(a) to correct inventorship filed March 27, 2003.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN P. WOOLDRIDGE
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808 L-703
LIVERMORE, CA 94551

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FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Musick et al.	:	
Application No. 09/479,432	:	ON PETITION
Filed: January 7, 2000	:	
Attorney Docket No. IL-10443	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 10, 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.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 6, 2004, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on July 7, 2004. See MPEP 1215.04.

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

The instant application was filed on January 7, 2000. Accordingly, a terminal disclaimer and requisite fee are required before the application can be revived. A blank terminal disclaimer form has been enclosed for petitioner's convenience.

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

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

By mail: Mail Stop 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: (703) 872-9306
ATTN: Office of Petitions

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

Liana Chase

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

Enclosure: PTO/SB/63 – Terminal Disclaimer

CC: JOHN P. WOOLDRIDGE
252 KAIPII PL.
KIHEI, HI 96753

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN P. WOOLDRIDGE
LAWRENCE LIVERMORE NATIONAL LABORATORY
P O BOX 808 L-703
LIVERMORE, CA 94551

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Musick et al.	:	
Application No. 09/479,432	:	ON PETITION
Filed: January 7, 2000	:	
Attorney Docket No. IL-10443	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 28

LISA A HAILE
GRAY CARY WARE & FREIDENRICH LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121

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JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of
Sternberg, et al.
Application No. 09/479,467
Filed: January 6, 2000
Attorney Docket No. CIT1520-1

DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed May 30, 2002[1].

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to timely file a proper response to the final Office action mailed July 31, 2001. On January 3, 2002, petitioner filed an amendment, made timely by including a Certificate of Mailing dated October 26, 2001. However, by Advisory Action mailed February 1, 2002, the examiner informed petitioner that the amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the above-identified application became abandoned on November 1, 2001. A Notice of Abandonment was mailed on April 8, 2002.

Petitioner has satisfied the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee, submitted the proper reply in the form of a Continued Prosecution Application, and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 $460 extension of time fee submitted with the petition on May 30, 2002 was subsequent to the maximum period obtainable for reply

[1] Supplemented by a facsimile transmission filed July 17, 2002.

(February 1, 2002), this fee has been refunded to petitioner's Deposit Account No. 50-1355.

In addition, because petitioner only submitted $620 for the petition to revive fee, Deposit Account No. 50-1355 has been charged $20.[2]
The Revocation of Power of Attorney/Power of Attorney by Assignee, submitted with the instant petition, has been entered and made of record. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to Technology Center 1600 for processing of the CPA.

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

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[2] Effective October 1, 2001, the small entity fee for a petition under 37 CFR 1.137(b) was raised from $620 to $640.

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MAIL

FEB 23 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DANIEL P. MAGUIRE
423 E ST.
DAVIS CA 95616

In re Application of:
Matthijs P. Smits, et al.
Serial No.: 09/479,548
Filed: January 7, 2000
For: **HEARING EVALUATION DEVICE WITH NOISE DETECTION AND EVALUATION CAPABILITY**

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed on April 8, 2004 setting a shortened statutory period for filing a reply. In response thereto, an amendment was filed on July 12, 2004. On October 25, 2004, the Office mailed a Notice of Non-Compliant Amendment which set a one month time period to respond. Within the Notice, extensions of time were indicated as being permitted under 37 C.F.R. §1.136(a). On January 21, 2005 Applicant filed a petition for two months extension of time and a new amendment. In an apparent oversight of the fact that extensions of time were permitted, the Office held the subject application abandoned. A Notice of Abandonment was mailed on January 21, 2005.

Although no petition or request to withdraw the holding of abandonment has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that an amendment along with a petition for two months extension of time, were timely filed on January 25, 2005. Any inconvenience to the applicant is regretted.

The application is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications
(703) 305-4778

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

Albin H. Gess
Snell & Wilmer
1920 Main Street, Suite 1200
Irvine, CA 92614

COPY MAILED

DEC 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Donald S. Feuer	:	
Application No. 09/479,736	:	ON PETITION
Filed: January 7, 2000	:	
Attorney Docket No. CEN2-BH43	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 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 May 17, 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 18, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $460 extension of time submitted with the petition on December 13, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on December 13, 2002.

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 2662 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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 15

Albin H. Gess
Snell & Wilmer
1920 Main Street, Suite 1200
Irvine CA 92614

MAILED

MAR 1 3 2003

Technology Center 2600

In re Application of :
Donald S. Feuer :
Application No. 09/479,736 :
Filed: January 7, 2000 :
For: **METHOD AND APPARATUS FOR INTERFACING A PUBLIC SWITCHED TELEPHONE NETWORK AND AN INTERNET PROTOCOL NETWORK FOR MULTI-MEDIA COMMUNICATION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on February 19, 2003.

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**.

Petitioner, Albin H. Gess, is removed from record.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Donald S. Feuer
10 Via Tunas
San Clemente, CA 92673

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.: 08-05

Paper No: 21

DONALD S. FEUER
10 VIA TUNAS
SAN CLEMENTE CA 92673

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of		
Feuer	:	
Application No. 09/479,736	:	ON PETITION
Filed: 7 January, 2000	:	
Attorney Docket No. CDN1-BH43	:	

This is a decision on the petition filed on 1 April, 2005, to revive the above-identified application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

NOTE: **At this writing, there is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.**

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 February, 2003, with a reply due (absent a request and fee for extension of time) on or before 12 May, 2003;
- as a result, the application was deemed abandoned after midnight 12 May, 2003;
- the Office mailed Notice of Abandonment on 4 December, 2003;
- the instant petition (accompanied by a request for continued examination, fee and amendment as the submission under 37 C.F.R.§1.114 as the reply) and accompanying declaration recite Petitioner's extreme and extended illness commencing clearly before abandonment, however, the dates involved do not address the extended abandonment through 2004 and into 2005, and Petitioner is reminded that this time period also must be addressed.

NOTE: **Petitioner also is reminded that patent application files, should they proceed to issue, become public record, and Petitioner may wish to redact private health information, financial accounts information and the like before submission and may wish to substitute such redacted materials for documents already submitted and otherwise seek expungement of such private data from Petitioner's application(s).**

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Petitioner has failed to: make a showing of unavoidable delay.

Accordingly, in view of the record, the petition as considered under 37 C.F.R. §1.137(a) hereby is **dismissed** for failing to satisfy the "showing" requirement for the entire period in question.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

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

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

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

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

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

Further correspondence with respect to this matter should be addressed as follows:[7]

By mail: Commissioner for Patents[8]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

cc:
HOVEY WILLIAMS LLP
2405 GRAND BOULEVARD/STE. 400
KANSAS CITY, MO 64108

[7] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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JJGJR.: 08-05

Paper No: 23

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SEP 20 2005

OFFICE OF PETITIONS

HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

In re Application of
Feuer :
Application No. 09/479,736 : ON PETITION
Filed: 7 January, 2000 :
Attorney Docket No. CDN1-BH43 :

This is a decision on the (renewed) petition filed on 1 September, 2005, to revive the above-identified application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 February, 2003, with a reply due (absent a request and fee for extension of time) on or before 12 May, 2003;
- as a result, the application was deemed abandoned after midnight 12 May, 2003;
- the Office mailed Notice of Abandonment on 4 December, 2003;
- the original petition (accompanied by a request for continued examination, fee and amendment as the submission under 37 C.F.R.§1.114 as the reply) and accompanying declaration recite Petitioner's extreme and extended illness commencing clearly before

abandonment, however, the dates involved do not address the extended abandonment through 2004 and into 2005, and Petitioner was reminded that this time period also must be addressed, and for that reason the petition was dismissed on 11 August, 2005;

- Petitioner's submission with the instant renewed petition addressed these deficiencies.

NOTES: **Petitioner *once again* is reminded that patent application files, should they proceed to issue, become public record, and Petitioner may wish to redact private health information, financial accounts information and the like before submission and may wish to substitute such redacted materials for documents already submitted and otherwise seek expungement of such private data from Petitioner's application(s).**

Petitioner's Revocation and Power of Attorney hereby is acknowledged and accepted, and that data has been entered into the Office database.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Petitioner has satisfied the regulatory requirements.

CONCLUSION

Accordingly, in view of the record, the petition under 37 C.F.R. §1.137(a) hereby is **granted**.

The instant application is forwarded to Technology Center 2600 for further processing in due course.

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

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

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

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

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

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

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

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United States Patent and Trademark Office
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www.uspto.gov

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/12/2010

Applicant	: CRAIG A. PAULSEN	: DECISION ON REQUEST FOR
Patent Number	: 6609978	: RECALCULATION of PATENT
Issue Date	: 08/26/2003	: TERM ADJUSTMENT IN VIEW
Application No	: 09/479,754	: OF WYETH
Filed	: 01/07/2000	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No.

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MINNESOTA 55133-3427

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APR 1 2 2002

OFFICE OF PETITIONS

In re Application of :
David Lundin :
Application No. 09/479,795 :
Filed: January 10, 2000 :
Attorney Docket No. 53714USA6B :

ON PETITION

This is a decision on the petition, filed by facsimile transmission on April 11, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 25, 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 2875 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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[1] The request to apply the issue fee to the new Notice 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.**

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ALEXANDRIA, VA 22313-1450
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AUG 12 2004

ELIZABETH ARWINE PATENT ATTORNEY
U S ARMY MEDICAL RESEARCH & MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK MD 21702-5021

STAFF JUDGE ADVOCATE
FORT DETRICK, MD
2004 AUG 17 AM 10: 20

In re Application of Marcia Wolf et al Serial No.: 09/479.877 Filed: January 10, 2000 Attorney Docket No.: WRAIR-95-01B	: : : : :	PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed May 6, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

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 drawings, to applicants on November 3, 2003, setting a three month statutory period for reply. Applicants provide evidence in the form of an Office date stamped postcard and an executed Certificate of Mailing showing that they replied on December 31, 2003, by paying the Issue Fee and submitting a new sheet of drawing. A Notice of Abandonment was mailed to applicants on April 21, 2004, with an attachment dated March 10, 2004, requiring submission of an Abstract. It is not clear if applicants ever received the original mailing which required submission of an Abstract. In any event, the Abstract has now been located and the mailing is considered to have been in error. 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

DOCKET 34047.033
DOCKETED BY: T
DATE 8/24/04
INITIAL SKS

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 14

Mintz Levin Cohn Ferris
Glovsky and Popeo
12010 Sunset Hills Road, Suite 900
Reston, VA 20190

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DEC 1 9 2002

OFFICE OF PETITIONS

In re Application of
Gadi Mazor et al.
Application No. 09/479,997
Filed: January 10, 2000
Attorney Docket No. 25085-007

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 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 in reply to the non-final Office action mailed January 23, 2002, which set a shortened statutory period of reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on April 24, 2002.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on November 5, 2002.

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 2643 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
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Alexandria, VA 22313-1450
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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE GA 30044

COPY MAILED

NOV 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerding et al.	:	
Application Number: 09/480011	:	DECISION ON PETITION
Filing Date: 01/10/2000	:	
Attorney Docket Number: A-5243	:	

This is a decision on the petition filed on 27 September, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 September, 2007, for failure to timely respond to the Notice to File Corrected Application Papers—Notice of Allowance Mailed mailed on 25 July, 2007, which set a two (2) month period for reply. Notice of Abandonment was mailed on 12 October, 2007.

Petitioners have filed replacement drawings as the required reply.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

Receipt of the issue fee filed on 2 October, 2007, is acknowledged.

The address in the petition is different than the correspondence address. A courtesy copy of the decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to the Office of Patent Publications for processing into a patent.

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

Cc:

ANTHONY F. BONNER, JR.
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339-5994

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)
6238289	2001-05-29	09480035	2000-01-10	116.006

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	/Donald V. Tomkins/	Date (YYYY-MM-DD)	2007-05-28
Name	Donald V. Tomkins	Registration Number	48206

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6238289
Issue Date: May 29,2001
Application No. 09480035
Filed: January 10,2000
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 28,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 28,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

GILBERT W. RUDMAN, ESQ.
ELF ATOCHEM NORTH AMERICA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

COPY MAILED

DEC 27 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
SHI-JUN YANG ET AL	:
Application No. 09/480,193	: DECISION ON PETITION
Filed: January 10, 2000	: FOR FILING DATE
Attorney Docket No. IR 3556	:

This is a decision on the petition filed February 23, 2000, requesting a filing date and application number to be assigned to an application deposited under the provisions of 37 CFR 1.10 on January 10, 2000.

The petition is dismissed as moot since the papers deposited under 37 CFR 1.10 were assigned the above-identified application number and filing date.

The instant petition does not require a fee. Therefore, the $130 fee for the instant petition will be credited to deposit account No. 01-2717.

This application will be forwarded to Technology Center AU 1773 for examination in due course.

Any inquiries specific to this decision on petition may be directed to Frances Hicks at (703) 305-8680. Any inquiries regarding the examination of this application should be directed to the Technology Center (Customer Services at (703) 306-5665)).

Brian H

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

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~~MAY 31 2006~~ VOID

JUN - 1 2006

THOMAS HOXIE
NOVARTIS CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER, NJ 07936-1080

In re Application of	:
Mary Ellen Digan et al	: PETITION DECISION
Serial No.: 09/480,236	:
Filed: January 10, 2000	:
Attorney Docket No.: 4-30776A	

This is in response to the petition under 37 CFR 1.181, filed June 18, 2004, to reverse the examiner's holding of a Non-Compliant Appeal Brief.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on November 21, 2002, setting a three month shortened statutory period for reply. Applicants filed a reply on February 3, 2003, requesting reconsideration. On February 24, 2003, the examiner in an Advisory Action maintained the rejections of record.

Applicants timely filed a Notice of Appeal and then filed a first Appeal Brief on July 16, 2003. On October 10, 2003, the examiner held the Brief to be Non-Compliant for failing to contain a concise explanation of the invention as required by the Rules. On October 15, 2003, applicants filed a second Appeal Brief amending only the concise explanation of the invention. On January 29, 2004, the examiner mailed a second Notice of Non-Complaint Appeal Brief, stating that applicants had failed to indicate why the claims did not stand or fall together.

Applicants filed a third Appeal Brief on March 1, 2004, correcting the statement that the claims did not stand or fall together. The examiner mailed a third Notice of Non-Compliant Appeal Brief on May 18, 2004, stating that applicants had improperly introduced a new reference not of record into the Appeal Brief.

Applicants filed this petition on June 18, 2004, requesting reversal of the examiner's holding of Non-Compliant Appeal Brief. The delay in acting on this petition is regretted, but it was not brought to the attention of the deciding Official until recently.

DISCUSSION

A review of the Notices of Non-Compliant Appeal Brief have been made. There appears to be no reason these Notices could not have been combined into a single Notice. With respect to the

first two Notices, the defects noted in the first two Appeal Briefs are correct and required correction prior to forwarding the application to the Board of Patent Appeals and Interferences. The third Notice states that applicants have improperly introduced a new reference into the Brief. The reference the examiner refers to is Hexham et al. However, the examiner cited this reference on page 3, line 10 of the Final Office action mailed November 21, 2002. Applicants cite and argue this reference on page 6 of each of the Appeal Briefs submitted as required in responding to the rejections of record. Thus the examiner's statement that a new reference is relied upon in the Appeal Brief is in error and the Appeal Brief, as filed March 1, 2004, is accepted as complete and proper.

DECISION

The petition is **GRANTED**.

The application will be forwarded to the examiner for immediate preparation of the Examiner's Answer.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John L. LeGuyader
Director, Technology Center 1600

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of

Wilner, et al.

Application No. 09/480,309

Filed: January 10, 2000

Attorney Docket No. 11283/2

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 8, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed September 11, 2006. 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 December 12, 2006. A Notice of Abandonment was mailed on January 8, 2007.

Corrected drawings were received on February 8, 2007.

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

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WASHINGTON, D.C. 20231
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Paper No. 7

John S Beulicck
Armstrong Teasdale LLP
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St. Louis MO 63102

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SEP 13 2002

OFFICE OF PETITIONS

In re Application of
Ruppelt, et al.
Application No. 09/480,344
Filed: January 10, 2000
Attorney Docket No. 9D-EC-19337

ON PETITION

This is a decision on (1) the petition under 37 CFR 1.181 for withdrawal of the holding of abandonment and (2) the petition under 37 CFR 1.137(b) for revival of an unintentionally abandoned application. Both petitions were filed on May 22, 2002 in the same paper.

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

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

The above-identified application became abandoned for failure to timely submit a signed oath or declaration and a $130.00 surcharge for the late filing of the signed oath or declaration in reply to the July 18, 2000 Notice to File Missing Parts of Nonprovisional Application (Notice), which set an extendable two month period for reply. No reply being received by the Office, the above-identified application became abandoned on September 19, 2000. The mailing of this decision precedes the mailing of A Notice of Abandonment.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish nonreceipt 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]

A review of the record indicates no irregularity in the mailing of the July 18, 2000 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993). *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

The showing presented in the instant petition is not sufficient to withdraw the holding of abandonment because a party with first hand knowledge of the alleged non-receipt of the July 18, 2000 Notice has not made a statement as to whether or not the Notice was received. The current attorney of record in St. Louis, Missouri attests to the fact that a thorough search of the application file was conducted. However, it is the staff at General Electric, located in Lousiville, Kentucky, who actually would have received and processed the communication at issue. General Electric is the only party that can explain the dockeing procedure and attest to the fact that the July 18, 2000 Notice was not received. A statement by General Electric is required in order to show non-receipt at the correspondence address of record around the time the Notice was mailed.

Accordingly, the petition under 37 CFR 1.181 is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**. The Offices acknowledges receipt of a signed declaration and the surcharge for the late filing of the signed declaration.

The application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 8

Thomas M. Fisher
Armstrong Teasdale
One Metropolitan Square, Suite 2600
St. Louis, MO 63102-2740

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AUG 1 2 2002

OFFICE OF PETITIONS

In re Application of :
David W. Masker et al. :
Application No. 09/480,345 :
Filed: January 10, 2000 :
Attorney Docket No. 9D-HR-19109 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Notice to File Missing Parts of Application (Notice) mailed February 22, 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 April 23, 2000.

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 3634 for further processing.

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

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Paper No. 9

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LOWENSTEIN SANDLER, PC
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ROSELAND, NJ 07068

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of
Ananth Dodabalapur, et. al.
Application No. 09/480,409
Filed: January 11, 2000
Attorney Docket No. 19-2-16-18

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 12, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight October 12, 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 instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 2800, for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

Armstrong Teasdale
One Metropolitan Square, Suite 2600
St. Louis, MO 63102-2740

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AUG 1 9 2002
OFFICE OF PETITIONS

In re Application of :
Stephen Hettinger :
Application No. 09/480,584 :
Filed: January 10, 2000 :
Attorney Docket No. 9D-HR-19167-HETTINGER :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 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 February 23, 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 April 24, 2000.

The application file is being forwarded to Technology Center AU 3744 for further processing.

Telephone inquiries concerning this matter 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

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Paper No. 10

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SUITE 2600
ST. LOUIS, MO 63102

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SEP 16 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dooley et al.
Application No. 09/480,586
Filed: January 10, 2000
Attorney Docket No. 9D-HL-19136

This is a decision on the "Petition for Withdrawal of Holding of Abandonment or, in the Alternative, for Revival of an Unintentionally Abandoned Patent Application," filed on May 16, 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application and, alternatively, a petition under 37 CFR 1.137(b) to revive this application.

The petition under 37 CFR 1.181 is **DISMISSED.**
The alternative petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned on April 19, 2000 for failure to timely respond to the February 18, 2000 Notice to File Missing Parts of Nonprovisional Application ("2/18/00 Notice"), which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

§1.181 petition

The petition requests withdrawal of the holding of abandonment on the basis that the 2/18/00 Notice was not received by General Electric Company ("GE").

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1]

The showing required to overcome this presumption consists of:[2]

---

[1] 1156 OG 53 (Oct. 25, 1993).

[2] *Id.*

(1) a statement from the practitioner:

-stating that the Office action was not received by the practitioner;
-attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been entered had it been received and docketed.

The 2/18/00 Notice was addressed to GE at the correspondence-address-of-record at that time: Appliance Park, 2-225, Louisville, KY 40225, and according to the PTO record was mailed to that address. If the file was subsequently transferred to GE's outside counsel, the fact that the 2/18/00 Notice is not presently in the transferred file does not establish that GE never received the 2/18/00 Notice; neither does it rule out the possibility that the 2/18/00 Notice had been received by GE but was never docketed.[3] The §1.181 petition is thus dismissed and the holding of abandonment in this application will not be withdrawn. No petition fee is owed.

§1.137(b) petition

In reply to the 2/18/00 Notice, the petition encloses a signed "Declaration and Power of Attorney." Also included are: the $1,280 petition fee, the $130 surcharge for late filing of an acceptable declaration, and a statement that the entire delay in filing the missing items from the due date until the filing of a grantable §1.137(b) petition was unintentional. The §1.137(b) petition is thus granted.

The application is being returned to the Office of Initial Patent Examination for further processing, including issuance of a filing receipt if one has not yet been mailed. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[3] See MPEP section 711.03(c)(II) (Aug. 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

COPY MAILED

SEP 1 7 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Fulks
Application No. 09/480,588
Filed: January 10, 2000
Attorney Docket No. 9D-HR-19163

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile on September 13, 2002, requesting that the above-identified application be revived.

The petition is **GRANTED.**

This application became abandoned on April 17, 2000 for failure to timely respond to the February 16, 2000 Notice to File Missing Parts of Application ("2/16/00 Notice"), which provided an extendable 2-month reply period.[1] No extension of time under 37 CFR 1.136(a) was obtained.

In reply to the 2/16/00 Notice, the petition encloses a signed "Combined Declaration and Power of Attorney for Patent Application." Also included are: an authorization to charge Deposit Account No. 01-2384 for the $1,280 petition fee and the $130 surcharge for late filing of an acceptable declaration; and a statement that the entire delay in filing the signed declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The new power of attorney and correspondence address have been entered and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The due date, 4/16/00, was a Sunday. Under 37 CFR 1.7(a), a proper oath/declaration filed on or before the next business day, 4/17/00, would have been considered "timely." However, failure to do so on or before that date renders the application abandoned as of 4/17/00.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

COPY MAILED

SEP 1 7 2002

OFFICE OF PETITIONS

In re Application of
Ruppelt et al.
Application No. 09/480,589
Filed: January 10, 2000
Attorney Docket No. 9D-EC-19348

ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment or, in the Alternative, for Revival of an Unintentionally Abandoned Patent Application," filed on May 16, 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application and, alternatively, a petition under 37 CFR 1.137(b) to revive this application.

The petition under 37 CFR 1.181 is **DISMISSED.**
The alternative petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned on May 9, 2000 for failure to timely respond to the March 8, 2000 Notice to File Missing Parts of Nonprovisional Application ("3/8/00 Notice"), which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

§1.181 petition

The petition requests withdrawal of the holding of abandonment on the basis that the 3/8/00 Notice was not received by General Electric Company ("GE").

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1]

The showing required to overcome this presumption consists of:[2]

---

1 1156 OG 53 (Oct. 25, 1993).

2 *Id.*

(1) a statement from the practitioner:

-stating that the Office action was not received by the practitioner;
-attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been entered had it been received and docketed.

The 3/8/00 Notice was addressed to GE at the correspondence-address-of-record at that time: Appliance Park, 2-225, Louisville, KY 40225, and according to the PTO record was mailed to that address. If the file was subsequently transferred to GE's outside counsel, the fact that the 3/8/00 Notice is not presently in the transferred file does not establish that GE never received the 3/8/00 Notice; neither does it rule out the possibility that the 3/8/00 Notice had been received by GE but was never docketed.[3] The §1.181 petition is thus dismissed and the holding of abandonment in this application will not be withdrawn. No petition fee is owed.

§1.137(b) petition

In reply to the 3/8/00 Notice, the petition encloses a signed "Declaration and Power of Attorney." Also included are: the $1,280 petition fee, the $130 surcharge for late filing of an acceptable declaration, and a statement that the entire delay in filing the missing items from the due date until the filing of a grantable §1.137(b) petition was unintentional. The §1.137(b) petition is thus granted.

The application is being returned to the Office of Initial Patent Examination for further processing, including issuance of a filing receipt if one has not yet been mailed. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[3] See MPEP section 711.03(c)(II) (Aug. 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6275195
Issue Date: August 14,2001
Application No. 09480615
Filed: January 10,2000
Attorney Docket No. 2208

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

This is a decision on the electronic petition, filed October 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6275195	2001-08-14	09480615	2000-01-10	2208

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	/Charles M. Gyenes/	Date (YYYY-MM-DD)	2009-10-05
Name	Charles M. Gyenes		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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#12

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JUL 11 2003

Office of the Director
Group 3600

McAndrews Held & Malloy LTD
500 Madison Street
34th Floor
Chicago, IL 60606

In re Application of	:	**NOTICE OF WITHDRAWAL**
Robert Carey, et al	:	**FROM ISSUE**
Application No. 09/480,724	:	**UNDER 37 CFR 1.313(b)**
Filed: January 7, 2000	:	

The above-identified application is withdrawn from issue after payment of the issue fee **Due to unpatenatability of one or more claims. See 37 CFR 1.313(b)(3).**

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of this application.

Telephone inquiries should be directed to John J. Love, Director, Technology Center 3600 at 703 308-1020.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John J. Love, Director
Technology Center 3600
703 308-1020

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)
6,551,399	2003-04-22	09/480,804	2000-01-10	40004551-0001-002

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	/Tarek N. Fahmi/	Date (YYYY-MM-DD)	2007-06-27
Name	Tarek N. Fahmi	Registration Number	41402

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. 6551399
Issue Date: April 22,2003
Application No. 09480804
Filed: January 10,2000
Attorney Docket No. O4551.P001

:

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

:

This is a decision on the electronic petition, filed June 27,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 27,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

APR 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Matthew Todd Hupp :
Application No. 09/480,974 :
Filed: January 11, 2000 :
Attorney Docket No. 7905 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 November 29, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on February 28, 2002, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 29, 2002. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 29, 2002.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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).

Pursuant to petitioner's authorization, Deposit Account No. 16-2480 was charged a total of $2,290.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application and $790.00 for the RCE fee.

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

This file is being forwarded to Technology Center 3727 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

COPY MAILED

SEP 1 8 2002

OFFICE OF PETITIONS

In re Application of
Graves et al.
Application No. 09/481,065
Filed: January 11, 2000
Attorney Docket No. 9D-RG-19384

ON PETITION

This is a decision on the "Petition for Withdrawal of Holding of Abandonment or, in the Alternative, for Revival of an Unintentionally Abandoned Patent Application," filed on June 4, 2002, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application and, alternatively, a petition under 37 CFR 1.137(b) to revive this application.

The petition under 37 CFR 1.181 is **DISMISSED.**
The alternative petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned on April 19, 2000 for failure to timely respond to the February 18, 2000 Notice to File Missing Parts of Nonprovisional Application ("2/18/00 Notice"), which provided an extendable 2-month reply period. No extension of time under 37 CFR 1.136(a) was obtained.

§1.181 petition

The petition requests withdrawal of the holding of abandonment on the basis that the 2/18/00 Notice was not received by General Electric Company ("GE").

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1]

The showing required to overcome this presumption consists of:[2]

---

1 1156 OG 53 (Oct. 25, 1993).

2 *Id.*

(1) a statement from the practitioner:

-stating that the Office action was not received by the practitioner;
-attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been entered had it been received and docketed.

The 2/18/00 Notice was addressed to GE at the correspondence-address-of-record at that time: Appliance Park, 2-225, Louisville, KY 40225, and according to the PTO record was mailed to that address. If the file was subsequently transferred to GE's outside counsel, the fact that the 2/18/00 Notice is not presently in the transferred file does not establish that GE never received the 2/18/00 Notice; neither does it rule out the possibility that the 2/18/00 Notice had been received by GE but was never docketed.[3] The §1.181 petition is thus dismissed and the holding of abandonment in this application will not be withdrawn. No petition fee is owed.

§1.137(b) petition

In reply to the 2/18/00 Notice, the petition encloses a signed "Declaration and Power of Attorney" and an authorization to charge the application basic filing fee of $740 to Deposit Account No. 01-2384. Also included are: an authorization to charge the $1,280 petition fee and the $130 surcharge for late filing of an acceptable declaration to the same deposit account, and a statement that the entire delay in filing the missing items from the due date until the filing of a grantable §1.137(b) petition was unintentional. The §1.137(b) petition is thus granted.

The new power of attorney and correspondence address have been entered and made of record.

The application is being returned to the Office of Initial Patent Examination for further processing, including issuance of a filing receipt if one has not yet been mailed. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[3] See MPEP section 711.03(c)(II) (Aug. 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Bib Data Sheet

CONFIRMATION NO. 5148

SERIAL NUMBER	FILING DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
09/481,065	09/18/2002 RULE	219	3742	9D-RG-19384

APPLICANTS

TODD VINCENT GRAVES, LOUISVILLE, KY;
DENNIS PATRICK KILL, LOUISVILLE, KY;
JESSE SPALDING HEAD, LOUISVILLE, KY;
CHARLES RAY SMITH, SHELBYVILLE, KY;

**** CONTINUING DATA ****************************

This appln claims benefit of 60/115,744 01/13/1999

**** FOREIGN APPLICATIONS ***********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 02/17/2000

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	KY	11	20	3

ADDRESS

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis ,MO 63102

TITLE

COMBINATION OVEN ILLUMINATION IN MICROWAVE ONLY COOKING MODE

FILING FEE RECEIVED		
870	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

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STORM LLP
BANK OF AMERICA PLAZA
901 MAIN STREET, SUITE 7100
DALLAS TX 75202

COPY MAILED

SEP 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Douglas R. Elliott	:	
Application No. 09/481,126	:	ON PETITION
Filed: January 11, 2000	:	
Attorney Docket No. TEQ 01117 PTUS	:	

This is a decision on the petition, filed June 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record disclose that the application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 8, 2007. *See* MPEP 1215.04.

It is noted that a Notice of Allowance and a Notice of Allowability were mailed on June 20, 2007. Since this application was abandoned on January 8, 2007 the examiner had no procedural authority with respect to the abandoned application on or after January 8, 2007. Lorenz v. Finkl, 333 F.2d 885, 891 142 USPQ 26, 30 (CCPA 1964). While it is unfortunate that, notwithstanding the lack of a proper response to the outstanding Office action, the examiner subsequently issued a Notice of Allowability and a Notice of Allowance, such actions by the examiner were performed without proper authority, and thus, had no force and effect. The examiner has no authority to revive an abandoned application. Id. The examiner's indication of patentable subject matter in an abandoned application will not have the effect of saving that application from abandonment. Lorenz v. Finkl, supra. As the Notice of Allowance of June 20, 2007, and the Notice of Allowability of June 20, 2007, were issued in an abandoned application, they were issued without proper authority on the part of the examiner. As such, they have no force and effect and are vacated.

In view of the above, the application is *sua sponte* withdrawn from issue. Petitioner is advised that the issue fee paid on June 29, 2007, is refunded; however if this application is again allowed, petitioner may request that the fee be applied towards the issue fee required by the new Notice of Allowance.[1]

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $750; and (3) an adequate 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 $1,080 extension of time fee submitted with this 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.

The application is being referred to Technology Center AU 3693 for appropriate action by the examiner on the response filed June 21, 2007.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

In re Application of
Jeffrey Phillips
Application No. 09/481,207
Patent: 6,489,346
Filed: January 11, 2000
Issued: December 3, 2002
Attorney Docket Number: 40015630-003

: NOTICE

This is a notice regarding your request filed on September 12, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

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

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

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

Deposit account No. 13-0019 will be charged the deficiency fee of $450.00.

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

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

NIXON PEABODY, LLP
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN VA 22102

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JUL 01 2002
OFFICE OF PETITIONS

In re Application of :
Koichiro Tanaka :
Application No. 09/481,396 : ON PETITION
Filed: January 12, 2000 :
Attorney Docket No. 0756-2092 :

This is a decision on the petition, filed by facsimile transmission on July 1, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 25, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2877 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:
ROBINSON INTELLECTUAL PROPERTY LAW OFFICE, P.C.
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

---

[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 th previously paid issue f be applied towards the new Notice and payment of any balance due will result in th abandonment of the application.**

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Koichiro Tanaka	:	
Application No. 09/481,396	:	ON PETITION
Filed: January 12, 2000	:	
Attorney Docket No. 0756-2092	:	

This is a decision on the petition, filed May 20, 2005, and supplemented on May 26, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.8(b), filed May 26, 2005.

The petitions are **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 26, 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 2828 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,456	01/11/2000	Matthew Todd Hupp	7907	5663

27752 7590 01/30/2004

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER
NEWHOUSE, NATHAN JEFFREY

ART UNIT	PAPER NUMBER
3727	16

DATE MAILED: 01/30/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 16

In re Patent No. HUPP, MATTHEW TODD	:	
Issue Date: May 28, 2002	:	**DECISION DISMISSING**
Appl. No.: 09/481,456	:	**PETITION**
Filed: January 11, 2000	:	*37 CFR 1.324*
For: Slider For Opening Or Closing A Reclosable Fastener	:	
Disposed In A Two Dimensional Plane	:	
	:	
	:	

This is a decision on the petition filed November 19, 2003 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) 3 above. The Assignee Consent filed with the petition does not comply with 37 CFR 3.73(b) (see also MPEP 324).

Lee W. Young
Supervisory Patent Examiner
Art Unit 3727
Patent Examining Group 3700

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 21 2005

In re Patent No. HUPP, Matthew Todd.	
Issue Date: May 28, 2002	**DECISION GRANTING PETITION**
Appl No.: 09/481,456	*37 CFR 1.324*
Filed: January 11, 2000	
For: Slider For Opening Or Closing A Reclosable Fastener Disposed In A Two Dimensional Plane	

This is a decision on the petition filed March 26, 2004 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Nathan J. Newhouse
Supervisory Patent Examiner
Art Unit 3727
Technology Center 3700

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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Paper No. 12

Schiff Hardin & Waite
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
George G. Gelfer :
Application No. 09/481,477 :
Filed: January 11, 2000 :
Attorney Docket No. 5685 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 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 ARenewed Petition under 37 CFR 1.137(b).@ This is not final agency action within the meaning of 5 U.S.C. ' 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a verified 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 pursuant to 37 CFR 1.137(c). The instant petition lack(s) item(s) (1).

As to item (1), The petition filed in the above-identified application was not accompanied by a reply to the non-final Office action mailed February 21, 2003. The required reply to a non-final Office action in a non-provisional application must be either: an argument or amendment under 37 CFR 1.111, a Request for Reconsideration, or a continuing application. See MPEP 711.03(C).

In response to petitioner's request, a copy of the Office action issued July 16, 2002 will be mailed with this decision.

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[1] In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

By hand: Customer Window
Crystal Plaza 2, Lobby (Rm. 1B03)
2011 South Clark Place
Arlington, VA 22202

By Fax: (703) 872-6906
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed the undersigned at (703) 308-6911.

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

Attachment: Non-Final Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

Schiff Hardin & Waite
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

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MAR 24 2004
OFFICE OF PETITIONS

In re Application of	:	
George G. Gelfer	:	
Application No. 09/481,477	:	ON PETITION
Filed: January 11, 2000	:	
Attorney Docket No. 5685	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 17, 2004, to revive the above-identified application.

The petition is Granted.

The application file is being forwarded to Technology Center AU 2853 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
Washington, D.C. 20231
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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of
Ping Zhou
Application No. 09/481,627
Filed: January 12, 2000
Attorney Docket No. 15436.432.6.1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 19, 2004.

The application became abandoned for failure to pay the issue fee on or before June 16, 2003. Receipt is acknowledged of the requisite issue/publication on July 19, 2004.

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

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 (703) 305-9220. 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 5

Borealis Technical Limited
23545 NW Skyline Blvd
North Plains, OR 97133-9204

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FEB 23 2000
OFFICE OF PETITIONS
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In re Application of
Avto Tavkhelidze, et al.
Application No. 09/481,803
Filed: August 31, 1998
For: Diode Device

DECISION GRANTING PETITION

This is a decision on the petition filed May 5, 1999[1], requesting that the FWC request under 37 CFR § 1.62[2] filed August 31, 1998, be treated as a continuation-in-part (CIP) application filed under 37 CFR 1.53(b) and accorded a filing date of August 31, 1998.

Receipt is hereby acknowledged of a facsimile on November 25, 1998, including, *inter alia*, a copy of the request for FWC, Supplemental Declaration, and pages 1-20 of the specification filed on August 31, 1998, a copy of Express Mail Label No. EE083773371US showing a "date-in" date of August 31, 1998 , a copy of a date stamped post card acknowledging receipt of the application papers filed on August 31, 1998, and a copy of check no. 6301 for $801.00. Receipt is also acknowledged of the correspondence filed November 30, 1998, including *inter alia*, copies of the FWC request, Supplemental Declaration, Express Mail Label No. EE083773371US, date stamped post card, check no. 6801, pages 1-42 of the specification, and five (5) sheets of drawings. Any inconvenience caused by the delay in responding to the requests is regretted.

A copy of the application papers (specification, pages 1-42, five sheets of drawings, and supplemental Declaration), were filed on August 31, 1998.

A review of application file no. 08/924,910 reveals that the application papers filed on August 31, 1998, were not matched with the file. Subsequently in October of 1998, each applicant submitted a request that application no. 08/924,910 be expressly abandoned in favor of the CIP filed August 31, 1998. The letter of express abandonment was processed and entered on October 28, 1998. Correspondence regarding the status of the application filed August 31, 1998 was filed on November 25, 1998, and November 30, 1998 as acknowledged above. The instant petition was filed on May 5, 1999.

---

[1] The petition filed May 5, 1999, was signed by only one inventor, Jonathan S. Edelson. A supplemental petition was filed December 7, 1999, with co-inventor, Avto Tavkhelidze's signature.

[2] 37 CFR 1.62 was deleted from Title 37 of the Code of Federal Regulations effective December 1, 1997. See Notice of Final Rule, 62 Fed. Reg. 53132 (October 10, 1997).

In view of the evidence submitted and the fact that the original papers filed August 31, 1998, were received and have now been matched with the file, it has been determined that the FWC request was filed prior to the abandonment of prior application no. 08/924,910, but was not matched with the file and was not processed. Therefore, the application was pending at the time the FWC request was filed.

Accordingly, the petition to treat the application filed August 31, 1998, as a CIP application under 37 CFR 1.53(b) with a filing date of August 31, 1998, is **granted**.

The original request for a File-Wrapper-Continuing Application, specification, and drawings filed August 31, 1998, and original petition filed on May 5, 1999, and accompanying papers have been removed from the file of application no. 08/924,910 and have been assigned application no. 09/481,803. The papers filed November 25, 1998, and November 30, 1998 have also been removed and placed in the file of application no. 09/481,803. All future correspondence concerning the continuation-in-part application should be directed to application no. 09/481,803. The Notice of Change of Correspondence Address filed in application no. 08/924,910 on May 18, 1999, is hereby acknowledged and a copy has been placed in application file no. 09/481,803.

Petitioner's request for a refund of the petition fee is denied. The petition and fee were required to correct applicant's error of filing a request for a FWC application under 37 CFR 1.62 which had been deleted from Title 37 of the Code of Federal Regulations at the time the CIP application, now assigned application no. 09/481,803, was filed.

After mailing of this decision, Office records will be corrected to show that the $395.00 basic filing fee, excess claims fees of $164.00 and $ 242.00 paid on August 31, 1998, and the petition fee of $130.00 for the instant petition paid on May 5, 1999, were paid in application no. 09/481,803, not application no. 08/924,910.

Thereafter, application no. 09/481,803 will be forwarded to the Office of Initial Patent Examination Division for further processing as a CIP under 37 CFR § 1.53(b) with a filing date of August 31, 1998, using the specification including claims, drawings, Supplemental Declaration filed August 31, 1998.

Telephone inquiries may be directed to Petitions Attorney, Jennifer M. Hayes, at (703) 306-5608, or if unavailable, the undersigned at (703) 305-9285.

Eugenia A. Jones

Eugenia A. Jones
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

jmh

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RONALD L. DRUMHELLER, ESQ.
94 TEAKETTLE SPOUT ROAD
MAHOPAC NY 10541

COPY MAILED

MAR 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Tetsuya Tamura	:	
Application No. 09/481,847	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. 00280818AA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a timely reply to the nonfinal Office action mailed July 26, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 27, 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).

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.

The change of address submitted with the instant petition is not signed by a registered attorney of record in the instant application file. Also, the change of address reference Application No. 09/418,847 rather than 09/481,847.

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

This matter is being referred to Technology Center AU 2124.

Karen Creasy

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

cc:

MICHAEL E. WHITHAM
WHITHAM, CURTIS & CHRISTOFFERSON
11491 SUNSET HILS ROAD, SUITE 340
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Rustin W. Allred :
Application No. 09/481,851 : ON PETITION
Filed: January 14, 2000 :
Attorney Docket No. TI-29746 :

This is a decision on the petition, filed February 15, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The 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 31, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 1, 2004.

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

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

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

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

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

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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, MS 3999
DALLAS, TX 75265

In re Application of	:	
Rustin Allred	:	
Application No. 09/481,851	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. TI-29746	:	

This is a decision on the renewed petition filed, May 23, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 23, 2005.

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

This matters is being referred to Technology Center AU 2637 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

Charles E. Krueger
Law Offices of Charles E. Krueger
POB 5607
Walnut Creek, CA 94596-1607

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Michael D. Doyle
Application No. 09/481,984
Filed: January 11, 2000
Attorney Docket No. 19850-2US

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed July 1, 2002, which set a shortened statutory period for reply of three months. A three-month extension of time under the provisions of 37 CFR 1.136 was obtained on December 16, 2002. Accordingly, the above-identified application became abandoned on December 17, 2002.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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 2154 for further processing.

Latrice Bond

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/23/06

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/482023** Patent No.: **7090707**

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**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Glenn Caldwell
Supervisory Patent Examiner
Technology Center 1700

SPE

1764
Art Unit

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OFFICE OF PETITIONS

In re Application of
Hadad
Application No. 09/482,030
Filed: January 13, 2000
Attorney Docket No. N/A
For: CELLULAR NETWORK SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) being obtained and no timely reply being received, this application became abandoned on February 5, 2005. A Notice of Abandonment was mailed on July 8, 2005.

Petitioner has submitted an amendment as the reply, an acceptable statement of the unintentional nature of the delay in responding to the November 4, 2004 non-final Office action, and the required revival petition and fee. Therefore, the petition is granted.

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

The application file is being forwarded to Technology Center AU 2681 for further processing.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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CONRAD J. CLARK
CLARK & BRODY
1750 K STREET NW, SUITE 600
WASHINGTON, DC 20006

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
John R. Wells et al :
Application No. 09/482,653 :
Filed: January 13, 2000 :
Attorney Docket No. 70869-0078

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 Irvin Dingle at (571) 272-3210.

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

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HARRIS F. BROTMAN
THE BROTMAN GROUP
7911 HERSCHEL AVENUE
SUITE 301
LA JOLLA CA 92037

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AUG 1 1 2006
OFFICE OF PETITIONS

Patentee: Tankovich
Patent No. 6,315,756
Application No. 09/482,707
Filed: January 13, 2000
Issue Date: November 13, 2001
Title of Invention: Tumescent Solution

ON PETITION

This is a decision on the petition filed March 20 2006, under 37 CFR 1.378(c), to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued November 13, 2001. The last day of the grace period for paying the three and one-half (3½) year maintenance fee was November 13, 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 address on the petition differs from the correspondence address of record. If appropriate petitioner should submit a change of correspondence address. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary

This file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Harris F. Brotman
Stemedica Cell Technologies, Inc.
5375 Mira Sorrento Place
Suite 100
San Diego, CA. 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Mailed: APR 9 2004

RPG

Paper No. 8

In re application of
Robert John Barsotti et al.
Serial No. 09/482,724
Filed: January 13, 2000
For: GAS BARRIER COATING SYSTEM FOR POLYMERIC FILMS AND RIGID CONTAINERS

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 22, 2003, for failure to respond to the Office Action dated February 26, 2002. Petitioner contends 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 file and petitioner's evidence provided with the instant petition indicates that the request has merit.

Submitted as evidence is a copy of the response and a copy of the post card receipt from the USPTO, date stamped by OIPE on March 20, 2002, i.e. within one month.

Additionally, applicants' noted that the Notice of Abandonment was not received. A review of case revealed that the address was changed some time after mailing of the first Office Action. Such a change appears to be improper, since nothing in record shows such a request was made. Therefore the address will be changed back to that of which was originally filed, on the declaration of record.

Therefore, the Notice of Abandonment dated October 22, 2002 is hereby withdrawn.

The case will be returned to the LIE for 1) correction of the address, 2) returning the case to pending status, and 3) entering the response attached as exhibit A of the present petition. After such is completed the case will be forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Charles E. Krukiel
E.I. du Pont de Nemours and Company
Legal-Patents
Wilmington, DE 19898

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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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MAR 1 5 2006

OFFICE OF PETITIONS

In re Application of	:
Marcus Peinado et al	:
Application No. 09/482,725	: DECISION GRANTING PETITION
Filed: January 13, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MSFT-0092/127334.4	:

This is a decision on the petition, filed March 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the appropriateness of the concurrently filed Supplemental Declaration and Power of Attorney.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), 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).*

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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FEB 13 2008

In re Application of	:	
John D. Dreher	:	
Application No. 09/482,773	:	DECISION ON PETITION
Filed: January 13, 2000	:	
Attorney Docket No. 2870/220	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 11, 2007, which set a shortened statutory period for reply of 30 days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2813 for appropriate action by the Examiner in the normal course of business on the reply received October 3, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Cynthia R. Miller
Estee Lauder Companies
155 Pinelawn Road
Ste. 345S
Melville, NY 11747

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)
6336914	2002-01-08	09482838	2000-01-13	TGXX-1039US

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	/Kevin J. Dunleavy/	Date (YYYY-MM-DD)	2010-02-18
Name	Kevin J. Dunleavy	Registration Number	32024

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6336914
Issue Date: January 8,2002
Application No. 09482838
Filed: January 13,2000
Attorney Docket No. 149786.00008

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

This is a decision on the electronic petition, filed February 18,2010 ,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 18,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 9, 2005

Raymond C. Stewart
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P. O. Box 747
Falls Church, VA 22040-0747

Patent No.: **6874869 B1**
Inventor(s): **Peter Joseph Hollands, et al.**
Issued: April 5, 2005
Title: **INKJET PRINTHEAD**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JAN 3 1 2005

Technology Center 2100

In re Application of:
William E. Sobel
Application No. 09/483,536
Filed: January 14, 2000
For: THWARTING MAP-LOADED MODULE MASQUERADE ATTACKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 03, 2004.

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

The signer of the petition, Brian M. Hoffman is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the Power of Attorney dated May 09, 2002.

James R. Matthews
for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

JOHN A. O'TOOLE
P.O. BOX 1113
MINNEAPOLIS, MN 55440

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JUL 2 9 2002

OFFICE OF PETITIONS

In re Application of
Mary K. Toth et al
Application No. 09/483,039
Filed: January 18, 2000
Attorney Docket No. GMI5212USA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 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 September 13, 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 December 14, 2001.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 24, 2002.

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 1700 for further processing.

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

cc:

Timothy A. Czaja
Dicke, Billig & Czaja, P.A.
701 Fourth Avenue South
Suite 1250
Minneapolis, MN 55415

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 17

John A. O'Toole, Esq.
P. O. Box 1113
Minneapolis, MN 55440

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of Mary K. Toth, et al. Application No. 09/483,039 Filed: January 18, 2000 Attorney Docket No. 5212USA	: : : : :	ON PETITION

This is a decision on the petition filed April 28, 2003, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent infra.

Petitioner asserts that while both of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventor Arne H. Brauner, has agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to June 3, 1999.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all of the inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Mary Toth to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

The application file is being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475, or in her absence, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 2724400, 3004 E. HARMONY ROAD
FORT COLLINS, CO 80527-2400

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
John W. Lance et al	:	
Application No. 09/483,063	:	DECISION ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. 200304209-1	:	

This is a decision on the petition under 37 CFR 1.182, filed February 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, was mailed on April 27, 2006, by another office, prior to the granting of this petition.

Petitioner is advised that, if the printing of the patent has progressed to the point where the desired order of inventorship cannot be printed, petitioner may request a certificate of correction.

This application is being referred to Publishing Division.

Telephone inquiries regarding 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
Washington, D.C. 20231
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Paper No. 6

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON , DC 20004

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NOV 2 2 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Campbell et al.	: DECISION DISMISSING PETITION
Application No. 09/483,084	: AND REFUSING STATUS
Filed: 14 January, 2000	: 37 CFR 1.47(a)
Attorney Docket No. 00981-0007-US00	:

This is a decision on the petition filed on 24 May, 2000 (certificate of mailing date 22 May, 2000), which is being treated as a petition to accord the above-referenced application a filing date of 14 January, 2000, with page 4 of the specification as a part of the original disclosure, and a petition under 37 CFR 1.47(a).[1]

The petitions are **DISMISSED**

Petitioner 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 1.182," and/or 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.** Extensions of time under 37 CFR 1.136(a) are permitted.

On 14 January, 2000, the application was filed, without an executed oath or declaration, with 24 pages of specification (pages 1-3 and 5-25) including 52 claims, on 14 January, 2000, without an executed oath or declaration.

On 22 March, 2000, Initial Patent Examination Division mailed a "Notice of Omitted Items" and a "Notice to File Missing Parts of Application" stating that Page 4 of the specification appeared to have been omitted from the drawings, that

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

an executed oath or declaration as required by 37 CFR 1.63 was not included, and that the basic filing fee, additional claim fees, an executed oath or declaration, and a surcharge for their late filing, was required. A two (2) month period for reply was set.

On 24 May, 2000 (certificate of mailing date 22 May, 2000), petitioners submitted, *inter alia*:

a. page 4 of the specification;

b. a petition under 37 CFR 1.182 requesting that omitted page 4 be accorded a filing date of 14 January, 2000;

c. a declaration signed by joint inventor Campbell on behalf of himself and joint inventor Omilinsky;

d. a "Petition under 37 CFR 1.47(b)" including a statement of the last known address of non-signing joint inventor Omilinsky;

e. a declaration by Mary S. Consalvi.

Petition to Accord a Filing Date of 14 January, 2000

Petitioners admit that "part of page 4 was not copied and submitted with the application as filed." Petitioners request that the application including page 4 be accorded a filing date of 14 January, 2000. In the alternative, petitioners request that the application as filed be accorded a filing date of 14 January, 2000, and that page 4 be accorded a filing date of 19 May, 2000. Page 4 must be accorded a filing date of 24 May, 2000, however, which is the date of receipt in the Office rather than the date of 19 May, 2000, which is the date of the certificate of mailing under 37 CFR 1.8(b), however, because the certificate of mailing procedures may not be used for purposes of obtaining a filing date.[2]

As petitioners have admitted that page 4 was not included with the application as filed, the application as filed on 14 January, 2000, with 24 pages of specification including 51 claims, is accorded a filing date of 14 January, 2000. Page 4 of the specification is accorded a filing date of 24 May, 2000. Petitioners must submit a new oath or declaration covering page 4, filed on 24 May, 2000, with any renewed petition.

Petition under 37 CFR 1.47(a)

Petitioner states that joint inventor Barry Omilinsky has refused to sign the declaration for the above-identified application.

---

[2] 37 CFR 1.8(a)(2)(i)(A).

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 petition lacks items (1) and (2) above.

In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and Declaration) was sent or given to the non-signing inventor for review.[3] The declaration of Mary S. Consalvi states that joint inventor Omilinsky refused to sign the declaration "on or about March 6, 2000, when he received the documents which had already been signed by co-inventor Campbell." Petitioner has not stated whether the application as filed was sent or given to the non-signing inventor, who mailed or sent the application papers, and when the papers were sent or given to the non-signing inventor. Petitioner should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, petitioner must provide proof that the non-signing inventor refuses to sign the Declaration.[4] If there is a written refusal, petitioner must provide a copy of the written refusal. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), petitioner must provide a supplemental oath or declaration covering page 4 filed on 24 March, 2000, as stated above.

Counsel's deposit account, No. 08-3038, will be charged the basic filing and additional claim fees as well as the surcharge for late filing and fees for the petitions under 37 CFR 1.182 and 1.47(a).

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

By mail: Commissioner of Patents and Trademarks

---

[3] MPEP 409.03(d).

[4] Id.

Application No. 09/483,084

Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

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OFFICE OF PETITIONS
A/C PATENTS

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON , DC 20004

In re Application of	:
Campbell et al.	: DECISION ACCORDING A
Application No. 09/483,084	: FILING DATE AND REFUSING
Filed: 24 May, 2000	: STATUS UNDER
Attorney Docket No. 00981-0007-US00	: 37 CFR 1.47(a)

This is a decision on the renewed petition filed on 26 January, 2001 (certificate of mailing date 22 January, 2001), which is being treated as a petition under 37 CFR 1.53 to accord the above-referenced application a filing date of 14 January, 2000, with page 4 of the specification as a part of the original disclosure, and a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.53 is **GRANTED**.

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

Petitioner 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 1.182," and/or 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.** Extensions of time under 37 CFR 1.136(a) are permitted.

In their renewed petition, petitioners state that joint inventor Omilinsky died on 19 January, 2001. In order to obtain Rule 47 status, petitioners would need to show that a copy of the application papers were given to the legal representative of the deceased joint inventor, and that the legal representative subsequently refused to sign. However, as Omilinsky assigned all of his rights in the invention to assignee Blue Ridge Pharmaceuticals, Inc. ("Blue Ridge"), Blue Ridge may sign the declaration on his behalf.

Petitioner should provide (a) a copy of the assignment from joint inventor Campbell to Blue Ridge, (b) a revocation and new power of attorney from Blue Ridge, as the assignee intervening as a matter of right, to petitioner's counsel, and (c) an oath or declaration signed by both joint inventor Campbell and by a corporate officer of the assignee. The oath or declaration should contain signature blocks containing the residence, mailing address, and citizenship for joint inventors Campbell and Omilinsky and also for the corporate officer signing on behalf of Blue Ridge. If the oath or declaration is not signed by a corporate officer (president, vice president, secretary, or treasurer), proof of the signing individual's authority to sign on behalf of the assignee must be provided.

As petitioner has requested a filing date of the date of deposit of the missing page 4 of the specification, and submitted a declaration covering that page, the application will be accorded a filing date of 24 May, 2000.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 13

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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JUL 13 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Campbell et al.	: DECISION NOTING JOINDER OF
Application No. 09/483,084	: INVENTOR AND PETITION UNDER
Filed: 24 May, 2000	: 37 CFR 1.47(a) MOOT
Attorney Docket No. 00981-0007-US00:	

Papers filed on 15 June, 2001, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on 19 March, 2001, included a Declaration signed on behalf of the deceased inventor, Barry A. Omilinsky, by Conan R. Deady, Secretary of Blue Ridge Pharmaceuticals, Inc., assignee of the entire interest of the present application for patent.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

per D. Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper # 11

Marc A Hubbard
Munsch Hardt Kopf and Harr PC
Suite 4000
1445 Ross Avenue
Dallas TX 75202

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MAR 1 3 2006
OFFICE OF PETITIONS

In re Application of
Peshkin et al.
Application No. 09/483,107
Patent: 6,198,794
Filed: January 14, 2000
Issued: March 6, 2001
Attorney Docket Number: 4204.2C3

: NOTICE

This is a notice regarding your request filed on February 6, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c). Petitioner has also submitted a petition under 37 CFR 1.378(c).

The petition under 37 CFR 1.28 is **granted**.
The petition under 37 CFR 1.378(c) is **dismissed** as inappropriate.[1]

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record.

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

[1]It is noted the 3.5 year maintenance fee was timely submitted on March 7, 2005. A petition under 37 CFR 1.378(c) and surcharge are not required to accept the deficiency and change in status pursuant to 37 CFR 1.28.

authorization of agent must be submitted.

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 $1640 surcharge will be refunded via treasury check.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Joann K. Corey
MAKO Surgical Corp
2901 Simms Street
Hollywood, Fl. 33020

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

#5 Rec. Granted

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/483,127	**4/10/00**	**ALAN DOWD, ET AL**	**105.176US1**

Title: **NETWORK SECURITY MODELING SYSTEM AND METHOD**

Art Unit	Paper Number

Correspondence Address:
THOMAS F. BRENNAN
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

PATENT & TRADEMARK OFFICE
MAILED
JUN 13 2000

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 525,045

Grant Date: 09-Jun-00

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

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The grant of this license does not in any way lesson the responsibility of the 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 respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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AUG 21 2006
OFFICE OF PETITIONS

In re Application of :
Daniel Jay Thomsen, Richard :
O'Brien, Jessica Bogle, and :
Charles Payne :
Application No. 09/483,164 : DECISION ON PETITION
Filed: January 14, 2000 : UNDER 37 C.F.R. §1.182
Attorney Docket No. 105.174US1 :
Title: LOCALLY ADAPTABLE :
CENTRAL SECURITY MANAGEMENT IN :
A HETEROGENEOUS NETWORK :
ENVIRONMENT :

This is a decision on the petition under 37 C.F.R. §1.47(a)[1] filed May 18, 2006, requesting that a declaration of facts under 37 C.F.R. §1.131 be accepted without the signature of one of the three affiants.[2] This submission is properly treated as a petition under 37 C.F.R. §1.182.

On November 15, 2005, the Office issued a final rejection. Petitioner wishes to submit an affidavit/declaration of facts to swear behind the rejection and establish prior invention. However, the assignee, Secure Computing Corporation, has determined that joint inventor Bogle (who signed the declaration pursuant to 37 C.F.R. §1.63, submitted on May 8, 2000) is unwilling to execute the §1.131 declaration. Therefore, the granting of a petition under 37 C.F.R. §1.182 is required before the affidavit is accepted, since less than all of the named affiants will be signing the document.

---

1 37 C.F.R. §1.47(a) does not apply to the present situation.
2 The four affiants are the three joint inventors, and it is alleged that Ms. Bogle has refused to sign the §1.131 declaration.

In order for this petition to be granted, Petitioner will need to have included the following three requirements:

(1) the petition fee as set forth in 37 C.F.R. §1.17(f);
(2) a statement of the last known address of the non-signing inventor, and;
(3) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application;

Petitioner has met each of these three requirements. Regarding the first requirement, Petitioner has submitted a portion of the petition fee. The remaining $270 has been charged to his Deposit Account, as authorized in the petition.

As such, the present petition is **GRANTED**. The declaration of facts under 37 C.F.R. §1.131 will be entered without the signature of Ms. Bogle.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the declaration of facts under 37 C.F.R. §1.131 which was received with the present petition can be processed.

It is noted in passing that the declaration which was submitted on May 8, 2000 cannot be accepted, as it fails to comply with 37 C.F.R §1.63. The declaration contains non-initialed and non-dated changes by inventor Bogle[3]. Petitioner will need to submit either a declaration which has been properly executed by each of the joint inventors, or a declaration in compliance with MPEP §409.03(a) in conjunction with a petition under 37 C.F.R §1.47(a).

Paul Shanoski

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

3 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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September 5, 2006

FILE COPY

Patent No. : 7,028,254 B2
Ser. No. : 09/483175
Inventor(s) : Xia, et al.
Issued : April 11, 2006
Title : **SYSTEM AND METHOD FOR PROVIDING A MARKETING PRESENTATION**
Docket No. : **021756-020100US**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 1 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,028,254	:	
Issue Date: 04-11-2006	:	
Application No. 09/483,175	:	DECISION ON PETITION
Filed: 01-13-2000	:	
Attorney Docket No. 021756-020100US	:	

This is a decision on the petition filed November 6, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignment information on the front page of the above-identified patent by way of a certificate of correction.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioner submitted a certificate of correction (and fee) as required by 37 CFR 3.81(b). Further, the Office assignment records reflect that Oracle International Corporation is an assignee of record. As petitioner has met the provisions of 37 CFR 3.81(b), the request is **GRANTED**.

The $130.00 processing fee and the $100.00 certificate of correction fee will be charged to the Deposit Account as authorized.

---

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

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-7-06

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction for Appl. No. 09/483175 Patent No.: 7028254

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

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

Please check Assignee on Title Patent

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

Certificates of Correction Branch

703-308-9390 ext. 117

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: See decision granting 3.81(b) request.

CTD ~~SPE~~ OP

4700 Art Unit

#19
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 24 2004

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FEB 24 2004

OFFICE OF THE DIRECTOR
TC 3600

Charlie Kulas
Carpenter and Kulas, LLP
1900 Embarcadero Rd, Ste. 109
Palo Alto, CA 94303

In re application of
Li-Wen Chen
Application No. 09/483,182
Filed: January 13, 2000
For: APPARATUS FOR VISUALIZING INFORMATION IN A DATA WAREHOUSING ENVIRONMENT

Paper No. 19

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 9, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks reason for the withdrawal under condition B) above.

As to condition B), a proper reason for withdrawal as 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/cps: 2/9/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#21 DW

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MAR - 8 2004

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MAR - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

Charlie Kulas
Carpenter and Kulas, LLP
1900 Embarcadero Rd, Ste. 109
Palo Alto, CA 94303

In re application of
Li-Wen Chen
Application No. 09/483,182 :
Filed: January 13, 2000 :
For: APPARATUS FOR VISUALIZING INFORMATION IN A DATA WAREHOUSING ENVIRONMENT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 2, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks reason for the withdrawal under condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

KJD/mjz: 3/5/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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TRELLIS INTELLECTUAL PROPERTY LAW GROUP
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Li-Wen Chen	:	DECISION ON PETITION
Application No. 09/483,182	:	TO WITHDRAW
Filed: January 13, 2000	:	FROM RECORD
Attorney Docket No. 052719-000800	:	

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 22, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reason for withdrawl was not indicated.

All future communications from the Office will continue to be directed to the below-listed address as indicated on the change of address filed november 25, 2005.

This application is being referred to Technology Center AU 3624 to await a reply to the non-final Office action mailed February 13, 2006.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: FLIESLER MEYER
FOUR EMBARCADERO CENTER, 4TH FLOOR
SAN FRANCISCO, CA 94111-4156

UNITED STATES 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

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Francisco Corella	:	
Application No. 09/483,186	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. 10001559-1	:	

This is a decision on the petition under 37 CFR 1.137(b), on April 18, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed January 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

#14 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR - 1 2004

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MAR - 1 2004

OFFICE OF THE DIRECTOR
TC 3600

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Charlie Kulas
Carpenter and Kulas, LLP
1900 Embarcadero Rd, Ste. 109
Palo Alto, CA 94303

In re application of
Li-Wen Chen
Application No. 09/483,386 :
Filed: January 13, 2000 :
For: SYSTEM FOR VISUALIZING INFORMATION IN A DATA WAREHOUSING ENVIRONMENT :

Paper No. 14

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 2, 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 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).

A review of the file reveals that a Request for Withdrawal of Attorney was accepted and a Notice Regarding the Change in Power of Attorney inadvertently mailed to an incorrect address on October 31, 2003. There is currently no Power of Attorney in this case and the correct Correspondence Address is now:

Charlie Kulas
Carpenter and Kulas, LLP
1900 Embarcadero Rd, Ste. 109
Palo Alto, CA 94303

Therefore, the request for withdrawal of attorney is not approved as moot since the requesting attorney, Paul Durdik, no longer has power of attorney in this application.

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

SNM/cps: 2/9/04

cc:

Paul Durdik
Squire, Sanders & Dempsey L.L.P
600 Hansen Way
Palo Alto, CA 94304-1043

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100216

DATE : February 16, 2010

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,570,929

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Dwayne Bost/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

NEEDLE & ROSENBERG
127 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1811

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AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Jeffery Miller et al
Application No. 09/483,434
Filed: January 14, 2000
Attorney Docket No. 14014.0360

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 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 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 26, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 27, 2002.

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

The application file is being forwarded to Technology Center 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
Washington, D.C. 20231
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Group 2700

Paper No. 7

LOWELL ANDEERSON
STETINA, BRUNDA, GARRED & BRUCKER
24221 CALLE DE LA LOUISA,
4TH FLOOR

In re Application of Dianna L. Cleveland Application No.: 09/483,445 Filed: January 14, 2000 For: METHOD AND APPARATUS FOR PREPARING CUSTOMIZED READING MATERIAL	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to treat the above-identified application as special and advance the examination thereof, under 37 C.F.R. § 1.102 and M.P.E.P. § 708.02(VIII), filed February 15, 2000

A grantable petition to make special under 37 C.F.R. § 1.102 and 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.

The petition lacks requirement (c). The petition does not include a listing of the field of search by class and subclass, or an indication of the search strategy or terms used for computer searches.

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

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

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

The application file will be forwarded to the Technology Center's Central Files and will await action in its regular turn.

for

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
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DIANNA CLEVELAND
23232 PERALTA DRIVE
SUITE 201
LAGUNA HILLS CA 92653

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,683,611 :
Issue Date: January 27, 2004 :
Application No. 09/483,445 : ON PETITION
Filed: January 14, 2000 :
Attorney Docket No. DCLEVE.001A :

This is a decision on the petition under 37 CFR 1.378(c), filed July 14, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 28, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

It is noted that petitioner submitted a petition fee of $400.00 on July 14, 2009, which appears to be unnecessary. Petitioner may request a refund of the fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

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

The patent file is being referred to Files Repository.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DIANNA CLEVELAND
11 CALLIENDRA ST.
LADERA RANCH, CA 92694

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,683,611 Application Number 09/483,445

Issue Date January 27, 2004 Filing Date January 14, 2000

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

Also complete the following information, if applicable

07/17/2009 DALLEN 00000004 6683611
01 FC:1462 400.00 OP
02 FC:1599 2130.00 OP

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ Date

_____ Signature

_____ Typed or Printed Name of Person Signing Certificate

Adjustment date: 09/24/2009 LDIEP1
07/17/2009 DALLEN 00000004 6683611
02 FC:1599 -2130.00 OP

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

07/17/2009 DALLEN 00000004 6683611
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

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

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

1. SMALL ENTITY

☑ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 490.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

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

☑ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

PAGE 4/5 * RCVD AT 7/14/2009 2:41:38 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/41 * DNIS:2738300 * CSID:9495954741 * DURATION (mm-ss):01-04

PTO/SB/56 (03-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____.

OR

☑ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Signature(s) of Petitioner(s) — Date: 7/14/09

Dianna Cleveland
Typed or printed name(s) — Registration Number, if applicable

949-300-3202
Telephone Number

11 Calliandra St
Address

Ladera Ranch, CA 92694
Address

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

ENCLOSURES

☑ Maintenance Fee Payment

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

☐ _____

PAGE 5/5 * RCVD AT 7/14/2009 2:41:38 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/41 * DNIS:2738300 * CSID:9495954741 * DURATION (mm-ss):01-04

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Smith	:	
Application No. 09/483,469	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No.: **137786.01**	:	

This is a decision on the petition filed May 21, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 17, 2004. 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 March 18, 2005. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

This matter is being referred to Technology Center 2154 for appropriate action on the amendment filed May 21, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

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)
6691153	2004-02-10	09483508	2000-01-14	60026-0026

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	/ChristopherJPalermo#42056/	Date (YYYY-MM-DD)	2010-02-10
Name	Christopher J. Palermo	Registration Number	42056

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6691153
Issue Date: February 10,2004
Application No. 09483508
Filed: January 14,2000
Attorney Docket No. 60026-0026

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

This is a decision on the electronic petition, filed February 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 10,2010 . 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.

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

In re Application of	:	
Sharon S. Liu et al	:	
Application No. 09/483,724	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. 5437-112	:	

This is a decision on the petition under 37 CFR 1.314, filed June 30, 2006, to defer issuance of the patent for one month.

The petition is **GRANTED**.

Since the requested deferral period pursuant to MPEP 1306.01 has now passed, and the amendment filed May 19, 2006, and the IDS considered by the examiner, the application will be referred to the Publishing Division.

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MICHAEL R. REINEMANN
CESARI AND MCKENNA
30 ROWES WHARF
BOSTON, MA 02110

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SEP 1 5 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Michael F. Morganelli et al. :
Application No. 09/483,759 :DECISION REFUSING STATUS
Filed: January 14, 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 130017-0010 :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 23, 2000.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 14, 2000 without an executed oath or declaration and naming Michael F. Morganelli; Christopher J. Phillips and Gerard M. Reilly as joint inventors.

Accordingly, on February 24, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, filing fee, and a surcharge for their late filing.

In response, on August 23, 2000, petitioner filed a $65.00 surcharge fee, a four month extension of time fee of $680.00, $345.00 in filing fee, a Declaration and Power of Attorney signed by inventors Michael F. Morganelli and Christopher J. Phillips, a small entity statement, a declaration from Thomas K. Zebrowski, the instant petition and petition fee.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1)set forth above.

As to item (1), Rule 47 applicant has failed to adequately show or provide proof that nonsigning inventor Gerard Reilly has refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). In this regard, while the declaration of Thomas Zebrowski states that the application papers, Declaration and Power of Attorney and Assignment were mailed to nonsigning inventor Reilly for his signature, no evidence has been presented showing that these papers were in fact received by the nonsigning inventor. Did the nonsigning inventor receive the application papers? See Manual of Patenting Examining Procedure, Section 409.03(d). Copies of documentary evidence such as certified mail return receipt, telegrams, etc., to support a conclusion that the nonsigning inventor has refused to join in the application after having been presented with the application papers must be submitted.

Where there is an express or 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 off the affidavit or declaration.

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.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

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: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Frances Hicks

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

cc:
Cesari and McKenna LLP
88 Black Falcon Avenue
Boston, MA 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

MICHAEL R REINEMANN
CESARI AND MCKENNA
30 ROWES WHARF
BOSTON, MA 02110

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DEC 0 5 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Michael F. Morganelli et al.
Application No. 09/483,759
Filed: January 14, 2000
For: METHOD AND APPARATUS FOR DETECTING AND RESOLVING CIRCULARFLOW PATHS IN GRAPHICAL PROGRAMMING SYSTEMS

: DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on October 23, 2000 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed September 15, 2000, included a Declaration signed by previously nonsigning inventor Gerard M. Reilly in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

This application is being forwarded to Initial Patent Examination Division for Preexamination Processing.

Inquiries related to this decision may be addressed to Wan Laymon at (703) 306-5685.

Frances Hicks

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

cc: CESARI AND MCKENNA LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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Paper No. 27

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

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NOV 14 2003

OFFICE OF PETITIONS

In re Application of Veronique Mahe, Pascale Joetzjer, Anne Emmanuelle Guise Application No. 09/483,766 Filed: January 19, 2000 Attorney Docket No. ROC-17	:	DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.183, filed October 9, 2003, to waive the requirement under 37 CFR 1.67 that all of the inventors sign a supplemental declaration.[1]

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

The above-identified application was filed on January 19, 2000. In an *Ex Parte Quayle* Office action mailed June 9, 2003, the examiner required a new oath or declaration in compliance with 37 CFR 1.67(a). This notice set a two month shortened statutory period for reply.

In reply, applicant filed the instant petition. The petition was made timely by including a two month Extension of Time.

37 CFR 1.67 states, in pertinent part:

> (a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of §1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.

---

[1] A petition under 37 CFR 1.47 only applies to the initially filed 37 CFR 1.63 declaration.

> (1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47 may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.

With the instant petition, attorney Andrea L. Colby has set forth the steps taken to secure joint inventor Guise's signature on the supplemental declaration. According to Colby, she learned that Guise had left her employer, Johnson & Johnson France. Copies of the supplemental declarations were forwarded to Guise's new business address as well as her home address. However, no response was ever received.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The supplemental reissue declaration was required to be signed by joint inventors Mahe, Joetzjer, and Guise. However, only Mahe and Joetzjer executed the declaration. Petitioner has demonstrated that a *bona fide* effort was made to secure Guise's signature on the supplemental declaration. Accordingly, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The $420 fee for a two month extension of time, necessary to make the petition timely, has been charged to Deposit Account No. 10-0750, as authorized. In addition, the petition fee of $130 has also been charged to petitioner's deposit account.

The newly executed declaration filed on October 14, 2003 will be entered, despite the fact that the requirement set forth in 37 CFR 1.67(a)(1) that all the inventors sign a supplemental oath or declaration has not been satisfied.

The application file is being forwarded to Technology Center 1600 for preparation of a Notice of Allowance and Notice of Allowability.

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

Christina P. Donnell

Christina Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Steven I Weisburd
Ostrolenk Faber Gerb & Soffen LLP
1180 Avenue of the Americas
New York NY 10036-8403

MAILED

SEP 9 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Mitsunobu Ono, et al.
Application No. 09/483,883
Filed: January 18, 2000
For: **ENDOSCOPE APPARATUS AND FUNCTION ADJUSTING CIRCUIT FOR ENDOSCOPE**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed August 25, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED**.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed February 1, 2005. A Notice of Abandonment was mailed on August 9, 2005.

Petitioner asserts that a proper response was timely filed on April 1, 2005. In support of the petition, Petitioner has submitted, a copy of Applicant's reply including a certificate of mailing dated April 1, 2005 and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office (USPTO) on April 4, 2005.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

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

The application file will be forwarded to the Technology Center's technical support staff for appropriate processing and entry of the amendment. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

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OCT 05 2004

Director's Office
Office of Patent Publication

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

In re Application of	:	
Mareike Klee, et al.	:	**DECISION ON PETITION**
Application No. 09/483,923	:	
Filed: January 18, 2000	:	
Attorney Docket No. PHD-99.008	:	

This is a decision on the Petition To Withdraw Abandonment Under MPEP § 711.03(c), received in the United States Patent and Trademark Office (USPTO) on January 8, 2002. The undersigned became aware of the petition upon receipt of a duplicate copy on September 23, 2004.

The petition is **DISMISSED**.

Petitioner states that the Issue Fee Transmittal with authorization to charge the Issue Fee to Assignee's Deposit Account was mailed on July 3, 2001.

The Office acknowledges receipt of Part B – Issue Fee Transmittal—present in the application file—on July 5, 2001, as evidence by the "Office Date" stamp thereon. Inspection of the Transmittal reveals that item 4a. And 4b.was not completed. .

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, which states:

As an additional aid to applicants, the rule as proposed has been further amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee such as by submitting an incorrect issue fee amount, or completing the issue fee transmittal form provided by the Office with the notice of allowance, a general authorization to pay fee or a specific authorization to pay the issue fee, submitted prior to the mailing of the notice of allowance, will be allowed to act a payment of the correct issue fee.

Also, MPEP 1306, which states in part:

The payment of the issue fee due may be simplified by using a U.S. Patent and Trademark Office Deposit Account or a credit card payment with form, PTO-2038 for such a fee. See MPEP 509 However, any such payment must be specifically authorized by reference to the "issue fee" or "fees due under 37 CFR 1.18."

Investigation of the application file reveals a general authorization to charge any additional fees (see paper # 4) was filed January 18, 2000. Unfortunately, the authorization instructs that the issue fee be excluded unless explicitly requested to do so. Since, there is no authorization to charge the issue fee, the holding of abandonment was proper and cannot be withdrawn at this time.

Petitioner should consider filing a Petition for Revival Of Abandoned Application under 37 CFR 1.137 (a) or (b).

Telephone inquires in regards to filing a petition under 37 CFR § 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9285 or 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

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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OFFICE OF PETITIONS

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

In re Application of
Mareike Klee, et al.
Application No. 09/483,923
Filed: Janaury 18, 2000
Attorney Docket No. PHD-99,008

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 8, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 13, 2001. A Notice of Abandonment was mailed November 21, 2001. Receipt is acknowledged of the requisite issue fee on November 8, 2004.

The application is being referred 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SMITH, GAMBRELL & RUSSELL,
LLP
1850 M STREET, NW
SUITE 800
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Patent of	:	
Stig Steen	:	
Patent No. 6,794,124	:	
Issued: September 21, 2004	:	ON PETITION
For: PRESERVATION SOLUTION	:	

This is a decision on the Petition Under 37 CFR 1.183, filed October 7, 2004, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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Paper No. 14

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

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MAY 29 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Scott L. Barham
Application No. 09/484,071
Filed: January 18, 2000
Attorney Docket No. CU-2110-TJK

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 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 10, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 11, 2001.

The Associate Power of Attorney filed May 19, 2003 has been made of record.

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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1754.

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

cc: WILDMAN HARROLD ALLEN & DIXON
225 WEST WACKER
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

MAR 2 2 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DENNIS S. FERNANDEZ, ESQ
P.O. BOX D
MENLO PARK, CA 90426-6402

In re Application of:
William Herz.
Application No.: 09/484,088
Filed: January 18, 2000
For: METHOD AND APPARATUS FOR FOR UPDATING UNIVERSAL REMOTE DATABASES THROUGH TV VBI PROCESSING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Attorney filed March 7, 2001.

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

The request is **GRANTED**.

The following attorney(s) are withdrawn from the record: Dennis S. Fernandez, Irene H. Fernandez, Peter C. Su.

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

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

cc: Mr. Shannon Tyson, General Counsel
ZiLOG, Inc.
4201 Bee Caves Road, Suite C-100
Austin, TX 78746

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

APR 24 2000

SCHWEITZER CORNMAN GROSS
& BONDELL LLP
230 Park Avenue, Suite 2000
New York, New York 10169

In re Application of	: DECISION ON
SCHUMANN et al.	: PETITION
Application No.: 09/484,121	: UNDER 37 CFR 1.137(b)
Filing Date: 04 April 1998	:
Attorney's Docket No.: 0107-020P/GPK	:
For: THERAPEUTIC AGENT FOR THE TREATMENT OF SEPTICAEMIA, ITS PREPARATION AND USE	:

This is a decision on applicant's "Petition to Revive Unintentionally Abandoned Application" under 37 CFR 1.137(b) filed 13 January 2000 to revive international application PCT/DE98/00964 for purposes of copendency with the present application.

BACKGROUND

On 04 April 1998, applicants filed international application PCT/DE98/00964, which designated the United States and claimed a priority date of 11 July 1997. A Demand for international preliminary examination was filed prior to expiration of 19 months from the priority date. Accordingly, the last day of the thirty-month period for paying the basic national fee for entry into the national stage in the United States was 11 January 2000. The case was ABANDONED on 12 January 2000.

On 13 January 2000, applicant filed, *inter alia*: a transmittal letter regarding a "New Patent Application"; an application containing a specification, including claims and drawings; and the instant petition and fee to revive the international application as to the United States under 37 CFR 1.137(b) for purposes of copendency with the present application.

DISCUSSION

International application PCT/DE98/00964 became abandoned as to the United States of America at midnight on 12 January 2000 for failure to pay the basic national fee.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply unless it has been previously submitted, (2) the fee set forth in 37 CFR 1.17(m), (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" and (4) a terminal disclaimer, in an application filed before 08 June 1995.

As to item (2), the required petition fee has not been paid and applicant has not supplied a deposit account number to charge the petition fee. Accordingly, the petition is dismissed.

CONCLUSION

For the reasons above, the petition under 37 CFR1.137(b) is **DISMISSED** without prejudice.

The international application remains **ABANDONED** as to the United States.

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 1.137(b)." No additional petition fee is required.

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

This application is being forwarded to Office of Initial Patent Examination to process the submission of the 13 January 2000 as a U.S. application filed under 35 U.S.C. 111(a). Because of the lack of copendency, the present application will not be treated as a continuation of international application number PCT/DE98/00964.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

09/484121

426 Rec'd PCT/PTO 01 MAY 2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Ralf Reiner Schumann and Norbert Lamping

App. No. 09/484,121

Filed on January 13, 2000

For THERAPEUTIC AGENT FOR THE TREATMENT OF SEPTICAEMIA, ITS PREPARATION AND USE

Attorney's Docket 0107-020P/GPK

05/05/2000 PVOLPE 00000128 09484121
01 FC:241 605.00 OP

Asst. Commissioner of Patents
Washington DC 20231
Attn. Mr. Antony Smith
Petitions Attorney
PCT Legal Office

Sir:

This is in reference to the Decision on Petition under 37 C.F.R. 1.137(b), mailed on April 24, 2000.

Enclosed herewith is a check for the previously inadvertently unpaid small entity petition fee of $605. Accordingly, it is respectfully requested that the previously dismissed petition on account of the omission of the payment of this fee, be now granted.

Also enclosed herewith is claim for small entity status. The other missing filing particulars will be submitted and paid upon the receipt of a deficiency notice when the application is being processed.

Upon the granting of the petition, it is respectfully requested that the file be retrieved from the Office of Initial Patent Examination to where it was sent for processing under 35 U.S.C. 111, and the application now be processed instead as a continuation of international application No. PCT/DE98/00964.

Respectfully submitted

SCHWEITZER CORNMAN GROSS & BONDELL LLP
230 Park Avenue
New York 10169
(212)986-3377

Gabriel P. Katona
attorney of record

I hereby certify that this correspondence is deposited with the U.S. Postal Service, addressed as above, on April 27, 2000

Cynthia A. Pilato

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUL 03 2000

SCHWEITZER CORNMAN GROSS
& BONDELL LLP
230 Park Avenue, Suite 2000
New York, New York 10169

In re Application of
SCHUMANN et al.
Application No.: 09/484,121
Filing Date: 04 April 1998
Attorney's Docket No.: 0107-020P/GPK
For: THERAPEUTIC AGENT FOR THE TREATMENT OF SEPTICAEMIA, ITS PREPARATION AND USE

: DECISION ON
: PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on applicant's (renewed) "Petition to Revive Unintentionally Abandoned Application" under 37 CFR 1.137(b) filed 01 May 2000 to revive international application PCT/DE98/00964 for purposes of copendency with the present application.

BACKGROUND

On 04 April 1998, applicants filed international application PCT/DE98/00964, which designated the United States and claimed a priority date of 11 July 1997. A Demand for international preliminary examination was filed prior to expiration of 19 months from the priority date. Accordingly, the last day of the thirty-month period for paying the basic national fee for entry into the national stage in the United States was 11 January 2000. The case was ABANDONED on 12 January 2000.

On 13 January 2000, applicant filed, *inter alia*: a transmittal letter regarding a "New Patent Application"; an application containing a specification, including claims and drawings; and a petition to revive the international application as to the United States under 37 CFR 1.137(b) for purposes of copendency with the present application.

On 24 April 2000, the petition to revive under 37 CFR 1.137(b) was dismissed because applicant failed to provide the requisite petition fee under 37 CFR 1.17(m).

On 01 May 2000, the applicant filed the present renewed petition to revive under 37 CFR 1.137(b) and requisite petition fee.

DISCUSSION

International application PCT/DE98/00964 became abandoned as to the United States of America at midnight on 12 January 2000 for failure to pay the basic national fee.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply unless it has been previously submitted, (2) the fee set forth in 37 CFR 1.17(m), (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" and (4) a terminal disclaimer, in an application filed before 08 June 1995.

The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP 711.03(c), page 700-88, left column, third full paragraph.) International application PCT/DE98/00964 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/365,492.

As to item (2), the required petition fee has been paid.

With regard to Item (3), applicant's statement in the 13 January 2000 "Petition to Revive Unintentionally Abandoned Application" that "[i]t is hereby requested that above-identified international application designating the United States, be revived, because it was unintentionally abandoned two days too soon" does not comply with 37 CFR 1.137(b)(3). However, the statement will be accepted and construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, Petitioner is required to provide a statement to that effect.

As to item (4), as the international application was filed after 08 June 1995, a terminal disclaimer is <u>not</u> required.

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/DE98/00964 is **GRANTED**.

The application will then be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODWIN PROCTER LLP
103 EISENHOWER PARKWAY
ROSELAND NJ 07068-1757

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OFFICE OF PETITIONS

In re Application of	:	
Schumann et al.	:	
Application No. 09/484,121	:	ON PETITION
Filed: 13 January, 2000	:	
Att'y Docket No. 103888-307-NP	:	

This is a decision on the petition under 1.137(b),[1] filed on 3 September, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 24 June, 2004, for failure to file a proper reply to the final Office action mailed on 23 December, 2003, which set a three (3) month shortened statutory period for reply. On 3 June, 2004, a three (3) month extension

---

[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)).

of time was filed accompanied by an amendment after final rejection. The amendment was found not to place the case in condition for allowance, however, and an Advisory Action was mailed on 28 June, 2004. Notice of Abandonment was mailed on 26 July, 2004.

Petitioner has submitted an amendment after final rejection and a Notice of Appeal, as the required reply.

The examiner has determined that the amendment after final filed with the present petition would place *prima facie* place the case in condition for allowance. As such, the amendment will be considered the reply, and the Notice of Appeal will not be entered, but will be retained in the Official file. The Notice of Appeal fee will not be charged.

The petition fee of $665.00 will be charged to counsel's deposit account, No. 06-0923, as authorized in the amendment accompanying the petition.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ATI TECHNOLOGIES, INC.
C/O VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.
222 N.LASALLE STREET
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of :
David I.J. Glen :
Application No. 09/484,123 :
Filed: January 13, 2000 :
Attorney Docket No. 0100.9900210 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 26, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 27, 2004. A Notice of Abandonment was mailed on October 7, 2005.

Petitioner has filed an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2628 for processing of the Amendment, filed October 24, 2005, in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6340266
Issue Date: January 22,2002
Application No. 09484190
Filed: January 18,2000
Attorney Docket No. 1015-010

:

: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)
6,340,266	2002-01-22	09/484,190	2000-01-18	1015-010

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

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Paper No. 6

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis MO 63102

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MAY 30 2002

OFFICE OF PETITIONS

In re Application of:
McDonald, *et al.*
Application No. 09/484,292
Filed: January 18, 2000
Attorney Docket No. 9D-HR-19273-McDonald

DECISION GRANTING PETITION

This is a decision on the petition under 37 C.F.R. §1.8(b), or in the alternative, 37 C.F.R. §1.137(b), filed on February 7, 2002.

Application History.

Petitioner filed this application on January 18, 2000. While a filing date was granted, the application was lacking a properly executed declaration. Therefore, the office of initial patent examination mailed a notice to file missing parts to the address of record on April 6, 2000, requesting a properly executed declaration and the $130.00 late filing surcharge required under 37 C.F.R. §1.16(e). The notice set a two month extendable period for replying. However, no reply was received within that time. Therefore, the application lapsed into an abandoned state on June 7, 2000.

The Law.

§ 1.8 Certificate of mailing or transmission.

(a) ...

(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 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 prompt and timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Analysis.

There is no statement by the individual with personal knowledge regarding the timely mailing of the correspondence. Mr. George L. Rideout, Jr. signed the certificate of mailing on the reply. Therefore, he is assumed to be the individual who forwarded the correspondence. Petitioner has only supplied a narrative of events surrounding the mailing of the response, signed by himself. A statement from Mr. Rideout would be required to satisfy the requirement under 37 C.F.R. §1.8(b)(3) of a statement which attests "on a personal knowledge basis to the previous timely mailing or transmission."

In the absence of Mr. Rideout's statement, *this petition must be and is dismissed* for failure to satisfy the requirements of 37 C.F.R. §1.8.

However, in the alternative, Petitioner has requested relief under 37 C.F.R. §1.137(b). All requirements for relief under that rule have been met. Accordingly, *the petition under 37 C.F.R. §1.137(b) is* ***granted***.

The request to maintain the current power of attorney is accepted.

This application will be returned to the Office of Initial Patent Examination for processing in accordance with this decision.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402-0938

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Kie Y. Ahn et al	:	
Application No. 09/484,303	:	DECISION GRANTING PETITION
Filed: January 18, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 303.648US1	:	

This is a decision on the petition, filed September 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 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 2823 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Kie Y. Ahn et al	:	
Application No. 09/484,303	:	DECISION GRANTING PETITION
Filed: January 18, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 303.648US1	:	

This is a decision on the petition, filed July 10, 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 26, 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 2823 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

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), 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
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OFFICE OF PETITIONS

SCHWEGMAN,LUNDBERG, WOESSNER & KLUTH
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Kie Y. Ahn et al	:	
Application No. 09/484,303	:	ON PETITION
Filed: January 18, 2000	:	
Attorney Docket No. 303.648US1	:	

This is a decision on the petition, filed March 7, 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 25, 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 2823 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-23-07

Paper No.: _____

TO SPE OF : **Technology Center** 2823

09/484303

SUBJECT : Request for Certificate of Correction on Patent No.: 7262130 B1

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

Changes correcting the spelling of hexafluoride are accepted & approved.

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2823

Art Unit

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)
6782663	2004-08-31	09484344	2000-01-18	09320.0095US01

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	/Gregory A. Sebald/	Date (YYYY-MM-DD)	2008-10-30
Name	Gregory A. Sebald	Registration Number	33280

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. 6782663
Issue Date: August 31,2004
Application No. 09484344
Filed: January 18,2000
Attorney Docket No. 9320.95US01

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

This is a decision on the electronic petition, filed October 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 October 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. 9

ROSSI & ASSOCIATES
P.O. BOX 826
ASHBURN, VA 20146-0826

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Oved Shlomo Frank Zucker :
Application No. 09/484,376 : ON PETITION
Filed: January 14, 2000 :
Attorney Docket No. APTI:027 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 24, 2005 (originally filed January 21, 2003), which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed May 20, 2002. Accordingly, this application became abandoned on August 21, 2002. A Notice of Abandonment was mailed on December 17, 2002.

Petitioner asserts that a proper response was in fact timely filed in response to the Office action in the form of an amendment with a request for a three (3) month extension of time on November 20, 2002. In support, petitioner has submitted a copy of the originally filed amendment with the request for a three (3) month extension of time. The amendment with the request for a three (3) month extension of time contains an executed Certificate of Mailing under 37 CFR 1.8 dated November 20, 2002.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

A petition fee has not been charged.

The file is being forwarded to Technology Center 2800 for further examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 14300
WASHINGTON DC 20044-4300

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:
Martin Dubs et al	:DECISION ON PETITION UNDER
Application No. 09/484,421	: 37 CFR 1.313(c)(1)
Filed: January 18, 2000	:
Attorney Docket No. 622/48561	:

This is a decision on the "Petition to Withdraw Application from Issue under 37 C.F.R. § 1.313(b)(5)," filed August 24, 2004, which is being treated as a petition 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).

Petitioner is advised that the issue fee paid on August 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680 (effective September 27, 2004, the new number will be (571) 272-3218).

The matter is being referred to Technology Center AU 1745 for appropriate action on the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of
Köster, et al.
Application No. 09/484,484
Filed: January 18, 2000
Atty. Dkt. No.: 24743-2300

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "RETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)" filed September 2, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 449 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days as indicated on the Determination of Patent Term Adjustment mailed June 3, 2005 to an adjustment of 450 days.

A review of the application history reveals under 37 CFR 1.702(a)(1), an adjustment of 18 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began March 19, 2001, the day after the date that is 14 months after the date that the application was filed, and ended July 16, 2002, the date the non-final Office action was mailed. See, 37 CFR 1.703(a)(1).

A further adjustment of 570 days under 37 CFR 1.702(a)(2) can be attributed to the Office for failure to respond within four months to applicants' response submitted July 11, 2003. The adjustment began November 12, 2003, the day after the date that is four months after the date that applicants' response to the

non-final Office action was filed, and ended June 3, 2005 the date that the Notice of Allowance was mailed.

The adjustment totaling 588 days can be reduced 92 days for applicants' failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(b). The reduction began November 29, 2001, the day after the date that is three months after the date that the Office communication was mailed, and ended February 28, 2002, the date applicants' submitted a response.

The adjustment totaling 588 days is further reduced 47 days in connection with the supplemental response submitted April 16, 2002. See, 37 CFR 1.704(c)(8). The reduction began March 1, 2002, the day after the date that the initial response was filed, and ended April 16, 2002, the date the supplemental response was filed.

Accordingly, at the time of allowance, the application was entitled to an adjustment of 588 days for Office delays. The adjustment of 588 days is properly reduced 139 days for applicants' failure to engage in reasonable efforts to conclude prosecution, resulting in an overall adjustment at the time of allowance of 449 days.

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

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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 :
Sameer Halepete et al :
Application No. 09/484,516 :
Filed: January 18, 2000 :
Attorney Docket No. TRANS34

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 2112.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5
MAIL

AUG 09 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of)
Amnon D. Silverstein)
Application No.: 09/484,667)
Filed: January 18, 2000)
For: POINTING DEVICE FOR DIGITAL)
CAMERA DISPLAY)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special under 37 C.F.R. § 1.102 and M.P.E.P. § 708.02(VIII), filed June 24, 2002.

A grantable petition to make special under 37 C.F.R. § 1.102 and 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.

The petition lacks requirements (b), (c) and (e). The petition does not include a statement that all claims are directed to a single invention or a listing of the field of search by class an subclass as required. The petition also does not include a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over the references.

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

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

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

The application file will be forwarded to the Technology Center's Central Files and will await action in its regular turn.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES
SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3202

COPY MAILED

OCT 2 7 2009

OFFICE OF PETITIONS

In re Patent No. 6,334,611	:	
Issue Date: January 1, 2002	:	
Application No. 09/484,696	:	DECISION ON PETITION
Filed: January 18, 2000	:	
Attorney Docket No. Q57403	:	

This is a decision in response to the PETITION FOR DUPLICATE LETTERS PATENT UNDER 37 C.F.R. 1.182 AND PETITION TO EXPEDITE PROCESSING, filed October 1, 2009.

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

The petitions are **GRANTED**. The requisite $400 petition fee for each petition has been charged to counsel's deposit account as authorized.

It is noted that petitioner indicates that this petition was filed using two mediums simultaneously. Petitioner is reminded that the filing of duplicate copies of correspondence in the file of an application, patent or other proceeding should be avoided, since the filing of multiple copies may result in unnecessary processing delays. See MPEP 502.04

The Publishing Division is directed to issue a duplicate Letters Patent.

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

Inquiries regarding the issuance the duplicate Letters Patent may be directed to Niomi Farmer at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower, 8th Floor, Room C23 Fax No. (571) 270-9937)

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

MAIL

SEP - 4 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SHALOM WERTSBERGER
SALTAMAR INNOVATIONS
30 FERN LANE
SOUTH PORTLAND, ME 04106

In re Application of :
Eyal Bartfeld
Application No.: 09/484,730
Filed: January 18, 2000
For: METHOD AND APPARATUS FOR SELECTING AND DISPLAYING MULTI-MEDIA MESSAGES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 10, 2001, 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 file did not include copies all of the referenced material in the petition that most closely related to the subject matter. The file does not include the copies of the UK patent number GB2,349,058 and the annex to corresponding PCT application PCT/IL00/00030 as publication number WO 00/44173.

The petition is **DENIED**.

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

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

Kenneth A. Wieder
Special Program 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

Paper No. 11

SHALOM WERTSBERGER
SALTAMAR INNOVATIONS
30 FERN LANE
SOUTH PORTLAND, ME 04106

MAIL

NOV 26 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Eyal Bartfeld
Application No.: 09/484,730
Filed: January 18, 2000
For: METHOD AND APPARATUS FOR SELECTING AND DISPLAYING MULTI-MEDIA MESSAGES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition under 37 C.F.R. § 1.102, filed September 24, 2001 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 file now includes copies of all referenced material in the petition that petitioner believes is most closely related to the subject matter of the claims of the instant application.

Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder

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

LAWSON & WEITZEN, LLP
88 BLACK FALCON AVE
SUITE 345
BOSTON, MA 02210

COPY MAILED
FEB 29 2008
OFFICE OF PETITIONS

In re Application of
Bartfeld Eyal
Application No. 09/484,730
Filed: January 18, 2000
Attorney Docket No. 18481-002

ON PETITION

This is a decision in response to the petition, filed October 23, 2007, 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 December 14, 2005. A Notice of Abandonment was mailed on March 22, 2007. In response, on October 23, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(d) requires that any petition to revive in either a utility or plant application filed before June 8, 1995, be accompanied by a terminal disclaimer and fee as set forth in §1.321. Since this application is filed *after* June 8,1995, no terminal disclaimer and fee are required. Accordingly, the terminal disclaimer filed October 23, 2007 is **not** accepted and $65 fee paid therefor is being refunded to counsel's deposit account.

The application is being referred to Technology Center AU 2623 for consideration of the amendment filed October 23, 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
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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Suder et al.	:	
Application No. 09/484,732	:	ON PETITION
Filed: January 18, 2000	:	
Attorney Docket No. 21618-003002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 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 formal drawings (previously submitted on November 14, 2006); (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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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

DEC 10 2002

UR
PAPER NO.20

In re Application of	:	
Jeremy Barker et al.	:	DECISION
Serial No. 09/484,799	:	ON
Filed: January 18, 2000	:	PETITION
For: LITHIUM-BASED ACTIVE MATERIALS	:	UNDER 708.02,V
AND PREPARATION THEREOF	:	

This is in response to the petition filed November 05, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Roger Williams
Valence Technology, INC.
301 Conestoga Way
Henderson, NV 89015

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)
6,307,156	2001-10-23	09/484,819	2000-01-18	1028-002U

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Francisco J. Avellanet/	Date (YYYY-MM-DD)	2007-06-30
Name	Francisco J. Avellanet		
Enter Reel and Frame Number		Remove	
Reel Number	019511	Frame Number	0422
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6307156
Issue Date: October 23,2001
Application No. 09484819
Filed: January 18,2000
Attorney Docket No. AVE-034

:

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

:

This is a decision on the electronic petition, filed July 16,2007 ,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 July 16,2007 . 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

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Director's Office
Office of Patent Publication

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

In re Application of :
HARRINGTON, JOHN J., et al. : **DECISION ON PETITION**
Application No. 09/484,895 :
Filed: January 18, 2000 :
Attorney Docket No. ATX-007CP4DV7 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under CFR §1.181, received in the United States Patent and Trademark Office (USPTO) on February 6, 2006.

The petition is **GRANTED**.

The application was held abandoned for applicant's failure to timely file corrected drawings as required in the Notice Of Allowability mailed June 24, 2005, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on January 25, 2006.

The petitioner has demonstrated that the letter Submission Of Formal Drawings and one set of formal drawings (sixty-two sheets, Figures 1-37C) were timely mailed via Express Mail on September 26, 2005, and is in compliance with 37 CFR § 1.10 in that (1) the Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with the "Express Mail" mailing label thereon has been submitted, (3) included a true copy of the "Express Mail" mailing label showing the "date in," and (4) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely submit corrected drawings is hereby withdrawn and the application restored to pending status.

The Office acknowledges receipt of the Fee(s) Transmittal and payment of issue fee on September 26, 205 via Express Mail.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSIE RAMIREZ-KIM
DIAGNOSTIC SYSTEMS LABORATORIES, INC.
445 MEDICAL CENTER BOULEVARD
WEBSTER, TX 77598

COPY MAILED

MAY 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,448,086 :
Issued: September 10, 2002 :
Application No. 09/484,903 : NOTICE
Filed: January 18, 2000 :
Docket No.: 33267.25USPT :

The above-identified application has been referred to the Office of Petitions for consideration of the "CHANGE OF STATUS UNDER 37 C.F.R. § 1.27(g)(2) WITHDRAWAL OF SMALL ENTITY STATUS" filed February 13, 2006. This matter is being treated as a request under 37 CFR 1.28 to change entity status.

The request for change in entity status is hereby **DISMISSED**.

Practitioner 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 under 37 CFR 1.28." Any extensions of time will be governed by 37 CFR 1.136(a).

Practitioner seeks to advise the Office of a change in entity status whereby small entity status is no longer claimed. Practitioner, however, does not appear to be authorized to represent the instant patent before the Office. Moreover, the correspondence address of practitioner differs from that currently of record.

Therefore, in accordance with 37 CFR 1.34, further proof of authority to act in a representative capacity is requested. Practitioner is advised that the requested change in entity status has not been entered into the record.

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 regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: MITCHELL E. ALTER
BECKMAN COULTER, INC.
P.O. BOX 169015
MAIL CODE 32-A02
MIAMI, FLORIDA 33116-9015

UNITED STATES 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. 6158519
Issue Date: December 12,2000
Application No. 09485000
Filed: January 18,2000
Attorney Docket No. 31,524

:

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

:

This is a decision on the electronic petition, filed December 12,2006 ,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 12,2006. 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.

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)
6158519	2000-12-12	09485000	2000-01-18	13222.26942

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	/Patrick M. Bergin/	Date (YYYY-MM-DD)	2006-12-12
Name	Patrick M. Bergin	Registration Number	54994

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of
Erich Wanker et al.
Application No. 09/485,005
Filed: September 11, 2000
Attorney Docket No. V0179/7001

ON PETITION

This is a decision on the petition filed August 6, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment of 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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on March 13, 2007, for failure to file a timely response to the non-Final Office Action mailed December 11, 2006, which set a three (3)-month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 24, 2007.

Petitioner contends that a response to the December 11, 2006 non-Final Office Action was timely filed on May 1, 2007 and points to copies of the response with a certificate of mail dated May 1, 2007 and a postcard receipt date stamped on May 4, 2007 by the USPTO. Unfortunately, neither has been located with the instant petition.

Perhaps the papers were included with the petition and became separated but until such time as sufficient proof of a timely response (including any appropriate extensions of time previously filed) having been filed, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

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

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
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SEP 27 2007

OFFICE OF PETITIONS

In re Application of
Erich Wanker et al.
Application No. 09/485,005
Filed: September 11, 2000
Attorney Docket No. **V0179/7001**

ON PETITION

This is a decision on the request for reconsideration filed September 20, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on March 13, 2007 for failure to file a timely response to the non-Final Office Action mailed December 11, 2006, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed July 24, 2007.

Petitioner asserts that a proper response, was filed on May 1, 2007, with a two month extension of time request. In support, petitioner submits a copy of the reply said to have been filed, with a certificate of mail dated May 1, 2007, and includes a postcard receipt date stamped May 4, 2007 by the United States Patent and Trademark Office.

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 is being referred to Technology Center 1641 for appropriate action on the amendment filed May 1, 2007 (certificate of mail date) and received on May 4, 2007, a copy of which was submitted September 20, 2007 with the instant petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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. 6534942
Issue Date: March 18,2003
Application No. 09485019
Filed: January 31,2000
Attorney Docket No. 3933.001

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

This is a decision on the electronic petition, filed February 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6534942	2003-03-18	09485019	2000-01-31	8353-3

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Max Schmidhuber/	Date (YYYY-MM-DD)	2009-02-24
Name	Max Schmidhuber for PS Automation GmbH fur Gese...		
Enter Reel and Frame Number		Remove	
Reel Number	013692	Frame Number	0427
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Washington, D.C. 20231
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Richard L. Mayer
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In re Application of LAUBLE, Christian, et al. U.S. Application No.: 09/485,074 PCT No.: PCT/EP98/04659 International Filing Date: 24 July 1998 Priority Date: 02 August 1997 Attorney's Docket No.: 10537/68 For: VIBRATION DAMPER FOR A TUBULAR DRIVE SHAFT	:	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This decision is issued in response to applicants' "Petition To Revive Under 37 CFR 1.137(b) filed on 27 September 2000. Applicants have paid the required petition fee.

BACKGROUND

On 24 July 1998, applicants filed international application PCT/EP98/04659 which claimed a priority date of 02 August 1997 and which designated the United States. On 11 February 1999, a copy of the international application was communicated 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 nineteen months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the IB) and payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 02 February 2000.

On 02 February 2000, 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 translation of the international application into English and an unexecuted declaration of the inventors. The transmittal letter noted that the international application had already been transmitted by the IB, and it authorized a charge to Deposit Account No. 11-0600 for required fees, including the basic national fee.

On 22 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the

oath or declaration later than thirty 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 September 2000, applicants filed the Petition To Revive considered herein, accompanied by a "Response To Missing Requirements."

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, the "required reply" was a proper response to the Notification Of Missing Requirements mailed on 22 March 2000, that is, an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration after the thirty month deadline. The "Response To Missing Requirements" filed with the Petition To Revive on 27 September 2000 included an executed declaration in compliance with 37 CFR 1.497 and the authorization to charge Deposit Account No. 11-0600 $130 for the required surcharge. Thus, applicants have made a submission which would have been "sufficient to have avoided abandonment" had it been made in a timely manner, that is, on or before 22 April 2000. Accordingly, applicants have submitted the "required reply." Item (1) is satisfied.

Item (2) is the required petition fee. The Petition To Revive provided authorization to charge Deposit Account No. 11-0600 $1,210 for the petition fee. Item (2) is satisfied.

As for item (3), the Petition To Revive expressly states that the "entire delay in Applicant's failure to file a response to the Notification Of Missing Requirements was unintentional." This statement is construed as being the statement required by 37 CFR 1.137(b)(3), that is, 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." Applicants **must** notify this Office if this is **not** a correct interpretation of this statement. Based on this interpretation of the statement contained in the Petition to Revive, item (3) under 37 CFR 1.137(b) is satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application. Applicants have therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b). The Petition To Revive is granted.

CONCLUSION

Applicants' Petition To Revive is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision, including mailing of a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating 27 September 2000 as the date of receipt of the 35 U.S.C. 371(c) requirements.

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 STATE. ,EPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUL 03 2000

Richard E. Jenkins
Suite 1400 University Tower
3100 Tower Boulevard
Durham, NC 27707

In re Application of NEUMAYR Application No.: 09/485,277 PCT No.: PCT/EP98/05030 Int. Filing Date: 07 August 1998 Priority Date: 07 August 1997 Attorney Docket No.: 1328/3 For: PROCESS TO MANUFACTURE A CELLULOSE FIBRE FROM HYDRATE CELLULOSE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 17 May 2000. The required petition fee of $605.00 (37 CFR 1.17(m)) has been included.

BACKGROUND

On 07 August 1998, applicant filed international application PCT/EP98/05030, which claimed priority of an earlier application filed 07 August 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 February 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 1999, 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 07 February 2000.

On 03 February 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an English translation of the international application as required by 35 U.S.C. 371 (c)(2) and an oath or declaration as required by 35 U.S.C. 371 (c)(4). Applicant also submitted an **unsigned** "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor"

On 07 February 2000, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application. As applicant's "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor" was not signed, the basic national fee submitted on 03 February 2000 was insufficient.

On 17 May 2000, applicant filed the present petition along with a signed "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor."

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply is a signed "Statement Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(b) -- Independent Inventor." which renders the basic national fee submitted on 03 February 2000 sufficient.

As to Item (2) the appropriate small entity petition fee of $605.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required national stage application was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons above, the petition for revival is **GRANTED**.

This application will be given an international application filing date of 07 August 1998 and a date of **17 May 2000** under 35 U.S.C. 371 and 102(e).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Leonard E. Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080306

DATE : March 31, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 6753366B1

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: /Harold Y. Pyon/ **Art Unit** 1796

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080328

DATE : April 9, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 6,753,366

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: /Harold Pyon/ Art Unit 1796

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 5 2007

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MILLEN WHITE ZELANO & BRANIGAN
ARLINGTON COURTHOUSE PLAZA I
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

In re Application of Ulrich Klar et al Serial No.: 09/485,292 Filed: May 3, 2000 Attorney Docket No.: Sch-1742	PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed July 31, 2007, requesting withdrawal of a Notice of unacceptable Appeal Brief mailed June 26, 2007.

BACKGROUND

A review of the file history shows that a first examiner mailed a first Office action to applicants on April 10, 2001, and remailed the action on December 12, 2001, setting forth a restriction requirement and an election of species requirement in this application which was filed under 35 U.S.C. 371. Applicants elected a single species from claim 8, as requested, on June 12, 2002. Prosecution continued with the mailing of a non-Final Office action on August 27, 2002, with further responses and Office actions following. At some point in the prosecution the original election of species was redesignated as a restriction requirement.

Following filing of RCE papers and a new non-Final Office action and response, a Final Office action was mailed to applicants on April 28, 2006, to which a response was filed on August 4, 2006. In view of the response, the finality of the previous Office action was withdrawn and a new Final Office action was mailed to applicants on September 14, 2006. Applicants filed a Notice of Appeal on December 14, 2006 and an appropriate Appeal Brief on February 23, 2007.

On June 26, 2007, the examiner mailed a Notice of unacceptable Appeal Brief to applicants stating that the Brief was unacceptable because the claims contain subject matter which is not appealable. The examiner then notes that the claims were subject to a restriction requirement and still contain subject matter which has been withdrawn and not examined. The examiner also refers to an affidavit under 37 CFR 1.132 supplied with the Appeal Brief which is indicated as

not being commensurate with the scope of the claims (since they contain non-elected subject matter). The examiner then indicates the Appeal will be dismissed if applicants do not amend the claims to the scope being examined.

Applicants filed this petition on July 31, 2007, objecting to the Notice and questioning whether the examiner has authority to dismiss an Appeal on such grounds.

DISCUSSION

Applicants request withdrawal of the examiner's letter on June 26, 2007, and the requirements thereof.

Applicants note that an original restriction and election of species was set forth and responded to in an appropriate manner with the claims of Group I being elected and claims to the other groups being canceled. No traverse of the requirement was made. Subsequently the examiner made a further purported restriction requirement within the claims of the elected Group. Applicants indicate that an objection to this requirement was made, but no petition has been filed regarding it.

It should be noted that this application is a National Stage Entry under 35 U.S.C. 371. As such restriction of the claims is improper. However, a finding of Lack of Unity may be or have been appropriate. Lack of Unity guidelines do not permit or provide for election of species requirements, although an examiner may seek guidance from applicants as to what species would be an appropriate starting point for search and examination of a large Markush group. In any event, applicants and the examiner have reached a point in prosecution where the claims contain examined subject matter and unexamined subject matter as defined by the effected election of species.

The examiner has objected to the claims in the Appeal Brief, and has made similar objections in past Office actions, as containing non-elected subject matter. For this reason alone the examiner holds the Appeal Brief unacceptable. The Appeal Brief is proper in all other aspects and is directed to the rejection of the elected species as set forth by the examiner in the Final Office action.

A review of guidelines governing Appeal Briefs shows no prohibition of claims which contain non-elected subject matter or withdrawn subject matter being included in the Appendix of Claims attached to the Appeal Brief. It is presumed that even in situations where the non-elected subject matter is within a claim which also contains elected subject matter on which the Appeal is based that the Board of Patent Appeals and Interferences can discern between the two and provide a decision appropriate to the elected subject matter.

The examiner states that applicants must maintain a clear line of demarcation between appealable and petitionable subject matter. Applicants have done so and directed their Brief only to appealable subject matter. No petition of the restriction or election of species requirement has been filed, nor is required to be filed.

DECISION

The petition is **GRANTED.** The examiner's letter mailed June 26, 2007, is hereby vacated.

The application will be forwarded to the examiner for consideration of the Appeal Brief and appropriate action thereon.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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Paper No. 16

DRINKER BIDDLE & REATH
ONE LOGAN SQUARE
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PHILADELPHIA, PA 19103-6996

COPY MAILED

AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Stefan Niewiarowski et al	:	
Application No. 09/485,323	:	ON PETITION
Filed: February 7, 2000	:	
Attorney Docket No. 6056-236	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 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 October 1, 2001, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 2, 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 $980.00 extension of time submitted with the petition on July 2, 2002 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 AU 1653.

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
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Washington, D.C. 20231

07 NOV 2000

Julian H. Cohen
LADAS & PERRY
26 West 61st Street
New York, New York 10023

In re Application of	:	
LAZAREV, et al.	:	
U.S. Application No. 09/485,329	:	DECISION ON PETITION
PCT No.: PCT/RU98/00251	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 03 August 1998	:	
Priority Date: 11 August 1997	:	
Attorney Docket No.: U 012599-9	:	
For: DICHROIC POLARIZER		

This is a decision on applicant's "PETITION FILED UNDER 37 CFR 1.47(a)" filed 17 May 2000 to accept the application without the signature of joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev. The required petition fee of $65.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 03 August 1998, applicant filed international application no. PCT/RU98/00251 which claimed a priority date of 11 August 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 18 February 1999. A Demand for international preliminary examination 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 at midnight on 11 February 2000.

On 07 February 2000, 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 translation of the international application; and a preliminary amendment.

On 29 February, applicant filed a Statement Claiming Small Entity Status.

On 17 April 2000, 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.

On 17 May 2000 applicant filed a petition under 37 CFR 1.47(a) and required fee; a declaration and power of attorney executed by joint inventor, Pavel Ivanovich Lazarev on his own behalf and behalf of the non-signing joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko

and Sergei Vasilievich Belyaev.

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.

A review of the present petition reveals that applicant has not satisfied item (2) above, in that the applicant has not set forth an allegation that the nonsigning inventors cannot be reached or refused to sign much less any documentary evidence to support such an allegation. (See Manual of Patent Examining Procedure §409.03(d).

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

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) 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

MAY 2 4 2001

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Julian H. Cohen
LADAS & PERRY
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In re Application of LAZAREV, et al. U.S. Application No. 09/485,329 PCT No.: PCT/RU98/00251 Int. Filing Date: 03 August 1998 Priority Date: 11 August 1997 Attorney Docket No.: U 012599-9 For: DICHROIC POLARIZER	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to "REQUEST FOR CORRECTED FILING RECEIPT" filed 26 July 2000 and "RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.47(a)" which is being treated as a renewed petition under 37 CFR 1.47(a) filed 01 December 2000. In a decision dated 07 November 2000, the "PETITION UNDER 37 CFR 1.47(a)" filed 17 May 2000 was dismissed because applicant did not provide adequate proof that joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev, 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 inventors.

DISCUSSION

A. Request for Corrected Filing Reciept

A review of the application file and other Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Filing Receipt mailed by the DO/EO/US on 10 July 2000. Specifically, the oath or declaration requirement under 35 U.S.C. 371(c)(4) for entry into the national stage in the United States of America has not been satisfied. As such, the 10 July 2000 Filing Receipt was erroneously mailed by the DO/EO/US and must be vacated.

B. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The 07 November 2000 decision indicated that petitioner has satisfied items (1) and (4) above.

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 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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.

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 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 joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko, and Sergei Vasilievich Belyaev refused to execute the application or could not be reached after diligent. The "Declaration" of Vladimir Biriulin states in paragraph three that, "Messr. Miroshin and Belyeaev have received a form of Declaration (and) they did not sign it..." The declaration is accompanied by letter to Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev. Applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to

Messr. Miroshin and Belyeaev. Additionally, Mr. Biriulin alleges that inventor Nicolai Vladimirovich Malimonenko could not be found because "he was on a business trip abroad." As stated above, the fact that a non signing inventor is on vacation or out of town is not an acceptable reason for filing under 37 CFR 1.47. Moreover, no documentary evidence to support the failed attempts was provided in Mr. Biriulin's declaration. Furthermore, it does not appear that Mr. Biriulin has first hand knowledge of all the facts. It is noted that the letter to the missing inventors were mailed by Carl Cobb, not Vladimir Biriulin.

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 Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev and when such papers were sent and that the nonsigning inventors have subsequently refused to execute the application. 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.

For the above reasons, it would not be appropriate to accept this application without the signatures of Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev at this time.

Regarding item (3) above, applicant has not provided a clear statement of the last known address of the non-signing inventor.

CONCLUSION

The Request for corrected Filing Receipt is **DISMISSED** without prejudice and 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) 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.

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.

Leonard Smith
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PCT Legal Office

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FEB 0 7 2002

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William R. Evans
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In re Application of	:	
LAZAREV, et al.	:	
U.S. Application No. 09/485,329	:	DECISION ON PETITION
PCT No.: PCT/RU98/00251	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 03 August 1998	:	
Priority Date: 11 August 1997	:	
Attorney Docket No.: U 012599-9	:	
For: DICHROIC POLARIZER		

This decision is in response to"RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.47(a)" which is being treated as a renewed petition under 37 CFR 1.47(a) filed 24 August 2001. In a decision dated 24 May 2001, the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 01 December 2000 was dismissed because applicant did not provide adequate proof that joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev, 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 inventors.

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 07 November 2000 decision indicated that petitioner has satisfied items (1) and (4) above.

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 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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be

dismissed as inappropriate.

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 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.

a. Inventor Sergei Vasilievich Belyaev

As to Item (2), a review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Sergei Vasilievich Belyaev. The steps taken are sufficient to show that missing inventor Belyaev refuses to execute the application.

b. Inventors Alexandr Alexandrovich Miroshin and NicolaiVladimirovich Malimonenko

The petition does not include sufficient factual proof that joint inventor Alexandr

Alexandrovich Miroshin and NicolaiVladimirovich Malimonenko refused to execute the application. The "Declaration" of Alla Y. Sakharova fails to provide documentary evidence to support a showing that the two inventors were presented with a copy of the complete application nor the susequent refusal by joint inventor Alexandr Alexandrovich Miroshin and NicolaiVladimirovich Malimonenko. Additionally, the "Declaration" of Alla Y. Sakharova infers that Alexandr Alexandrovich Miroshin and NicolaiVladimirovich Malimonenko are refusing to execute application based on Mr. Belyaev emails. In that Sergei Vasilievich Belyaev does not appear to be the attorney for the inventors, any such statement would not constitute a refusal by the inventors.

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

For the reasons stated above, it would not be appropriate to accept the application without the signatures of Alexandr Alexandrovich Miroshin and NicolaiVladimirovich Malimonenko under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CAR 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) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CAR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT., Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT. Legal Office.

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25 SEP 2002

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New York, New York 10023

In re Application of	:	
LAZAREV, et al.	:	
U.S. Application No. 09/485,329	:	DECISION ON PETITION
PCT No.: PCT/RU98/00251	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 03 August 1998	:	
Priority Date: 11 August 1997	:	
Attorney Docket No.: U 012599-9	:	
For: DICHROIC POLARIZER		

This decision is in response to "Response to Decision on Petition under 37 CFR 1.47(a) Combined Declaration and Power of Attorney" filed 29 July 2002. In a decision dated 07 February 2002, the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 24 August 2001 was dismissed because applicant did not provide adequate proof that joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev, refused to execute the application or could not be reached after diligent effort.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 29 July 2002 with the present communication was executed by the previously non-signing inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev. As such, the submission is a proper reply to the Decision mailed 07 February 2002. The declarations filed 17 May 2000 and 29 July 2002 are acceptable under 37 CFR 1.497.

The application has an international filing date of **03 August 1998** under 35 U.S.C. 363 and a date of **29 July 2002** 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-identified international application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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Paper No. 13

FEB 0 8 2005

DIRECTOR OFFICE
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Kavita Lepping
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PO Box 34385
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In re Application of: Adamy et al.	)	
Application No. 09/485,445	)	**DECISION ON PETITION TO**
Attorney Docket No. 32221-153110 RK	)	**WITHDRAW HOLDING OF**
Filed: February 11, 2000	)	**ABANDONMENT UNDER 37 CFR**
For: CONTROL UNIT COMPRISING	)	**§1.181**
DYNAMIC FUZZY LOGIC CONTROL	)	
ELEMENTS, TEMPORALLY DISCRETE	)	

This is a decision on the petition filed July 2, 2004 requesting the Withdrawal of the Holding of Abandonment under 37 CFR §1.181. This application was held abandoned for failure to respond to the Notice of Allowance mailed December 2, 2002 (Paper No. 9). A Notice of Abandonment was mailed on June 9, 2004 (Paper No. 11). The Office wishes to apologize for the delay in responding to this petition.

In support of the petition, Ms. Lepping has submitted papers to support the statements involving the nonreceipt of the Notice of Allowance. These include the firm's docket report dated March 1-3, 2003; a copy of the firm's incoming mail log from the dates of December 2-13, 2002; and a statement from Ms. Carolyn Hopkins regarding the docketing procedures at Venable, LLP.

The proof necessary is set forth in MPEP §711.03(c). The showing required to establish nonreceipt of an Office action includes the following:

*1) a statement from **the practitioner** that the Office action was not received,*
*2) a statement from **the practitioner** that **the file jacket** and docket records were searched,*
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.
(Emphasis added.)

The petition fails to fully comply with the requirements set forth above. The evidence submitted fails because Ms. Lepping, while a registered practitioner, is not of record in this application and therefore is not the practitioner as intended under the guidelines. In addition, the practitioner's statement should clearly state the docket records **and** the file jacket were searched. The statement from Ms. Hopkins does not cure these problems because she is a Patent Coordinator, and not a practitioner. It is noted her statement presumes the issue fee due date was March 2, 2003, but the Notice of Allowance and Fee Due indicates the issue fee due date was March 3, 2003. As the evidence in Attachment 1 spans the period of March 1 to March 3, 2003, Ms.

Hopkins statement does not need to be amended. However, the practitioner should provide a clarifying statement as to why some of the sheets provided as Attachment 2 are handwritten and others are computer generated. As Ms. Hopkins' states the process involves a manual log-in, the computer generated pages in Attachment 2 suggests an error could have occurred between the hand recording of data and its later entry into a "Mail Log." The practitioner should clarify that procedure and check the firm's internal records, if appropriate. However, new evidence is not required other than the appropriate statements from the practitioner.

The evidence submitted to date has not overcome the presumption of receipt. The petition is **DISMISSED**.

Petitioners should clarify some of the statements made in the instant petition if a request on this matter is renewed. On page 2 in the "Statement of Facts," the following statements are made

> On June 2, 2004, the undersigned received a phone call from the Examiner requesting approval for an *examiner's amendment*. The undersigned indicated that he was not aware the application was allowed because a Notice of Allowance was never received. *The undersigned further indicated that at this point, the application would be considered abandoned.* On June 10, 2004, the Notice of Abandonment dated June 9, 2004 was received. (Emphasis added)

The practitioner should review and clarify these statements for the record. As the application was abandoned by statute on March 3, 2003, it is unclear why a discussion might have been held in June 2004 for an examiner's amendment. In addition, if applicants are now petitioning to withdraw the holding of abandonment, why did the "undersigned" make a statement in June 2004 that the "application would be considered abandoned"? Did the practitioner intend for the application to be abandoned?

If the petitioners desire further review of this decision, petitioners should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 571-272-3567.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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Technology Center 2100

Paper No. 18

Venable, Baetjer, Howard and Civiletti, LLP
P.O. Box 34385
Washington D.C. 20043-9998

In re Application of: Adamy et al.
Application No. 09/485,445
Attorney Docket No. 32221-153110 RK
Filed: February 11, 2000
For: CONTROL UNIT COMPRISING DYNAMIC FUZZY LOGIC CONTROL ELEMENTS, TEMPORALLY DISCRETE

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

This is a decision on the renewed petition filed February 16, 2004 and supplemented by a response filed March 15, 2005 requesting the Withdrawal of the Holding of Abandonment under 37 CFR §1.181. This application was held abandoned for failure to respond to the Notice of Allowance mailed December 2, 2002 (Paper No. 9). The original petition was filed July 2, 2004 and was dismissed on February 8, 2005.

In the renewed petition and supplement, the practitioners submitted papers to support the statements involving the nonreceipt of the Notice of Allowance. These include a statement from the practitioner of record, and clarifying statements about the firm's docket report dated March 1-3, 2003 and the firm's incoming mail log from the dates of December 2-13, 2002. These submissions supplement the original petition and evidence filed on July 2, 2004.

The petition, along with the renewed petition and supplement comply with the requirements set forth in MPEP § 711.03(c). The evidence submitted supports the practitioner's statement that he never received the Office action and overcomes the presumption of receipt.

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application will be forwarded to the Technology Center support staff for withdrawal of the holding of abandonment. Applicants have submitted an amendment at the request of the Special Programs Examiner to ensure the dependencies of any allowed claims are clear. The application will be forwarded to the examiner for consideration of the amendment filed March 15, 2005 and a Notice of Allowability will be remailed, if appropriate.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3567

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Paper No. 19

Cantor Colburn
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Bloomfield, CT 06002

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OFFICE OF PETITIONS

In re Application of
F. Bierwirth
Application No. 09/485,468
Filed: February 8, 2000
Attorney Docket No. SWR-0046

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2004, 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 12, 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 June 13, 2002. See MPEP 1215.04.

The application file is being forwarded to Technology Center AU 3635 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

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 16 2002

#19

MARY J. WILSON
NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:
HARBERD et al	:
Serial No. 09/485,529	: DECISION ON PETITION
371 Filing Date: 1 March 2000	:
Attorney Docket No. 620-91	:

This letter is in response to the Petition under 37 CFR 1.144, filed 8 July 2002.

BACKGROUND

This application was filed on 1 March 2000, under 35 U.S.C. 371 as the national stage filing of PCT/GB98/02383, filed 7 August 1998, which claims priority to Great Britain serial number 9717192.02, filed 13 August 1997.

A review of the file history shows that original claims 1-53 were directed a polynucleotides which expressed in *Triticum aectivum* provide inhibition of growth, polynucleotide encoded by such, antibodies which bind to the polynucleotides, method of using the antibodies to obtain the polypeptide, primers specific for the polynucleotides and a method of using the primers to isolate (produce) the polynucleotide.

A preliminary amendment filed 15 June 2001 amended some claims' dependency to correspond with US practice and cancelled claim 47. A second preliminary amendment filed 26 June 2001 added SEQ ID Nos. to the claims to comply with the sequence requirements.

On 3 October 2001, the Office mailed Paper No. 12, which contained a five-way Restriction Requirement, dividing the claims into groups as follows:

Restriction to one of the following inventions is required under 35 U.S.C. § 121 and 372:

I. Claims 1-13 and 28-46, drawn to polynucleotide encoding Rht polypeptide or a cell comprising said polynucleotide and methods of transforming said cell.
II. Claims 48-50, drawn to a method of identifying a Rht polynucleotide using primers
III. Claims 51 and 53, drawn to isolated Rht polypeptide[1]
IV. Claim 52, drawn to an antibody
V. Claim 54 drawn to a method for obtaining or identifying a Rht polypeptide.

The Examiner explained that the technical feature linking Groups I-V appears to be that they all relate to genes for dwarfism in maize or wheat. However the examiner reasoned that such genes have already been disclosed in the prior art as evidenced by Harberd et al. Additionally the examiner stated that Chaing et al disclose the polypeptide of claim 14, so the technical feature is not a contribution over the prior art. The Examiner then states that the instant invention lacks unity of invention and restriction is set forth as it applies to U.S. practice.[2]

The Restriction Requirement also contained a request to restrict to one of the SEQ ID Nos. in Groups I-V, although no reasons to support this request were provided.

The Examiner concludes that

> Because these inventions I-V are distinct for the reasons given above and have acquired separate status in the art because of their different subject matter and fields of search, restriction for examination purposes as indicated is proper.[3]

In Paper No. 13, filed 3 December 2001, Applicants elected Group I, claims 1-46 and SEQ ID No. 104 for examination, with traverse.

Applicants pointed out some errors in the Group numbers: namely that at page 2, fifth line from bottom, reference was made to inventions IX and on page 2, fifth line of first full paragraph and one page 3, line 6, reference is made to Groups I-VIII. Applicants also pointed out that claims 14-27 were not included in any Group and that they should be included in Group I. The election contained an extensive traverse, the bulk of which is included in the petition under review and will be considered below. Applicants also added two new claims 55-56 drawn to the invention of Group I.

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[1] Claim 53 belonged with claim 52 in Group IV since it is directed to a polypeptide which includes the antigen binding site of the antibody of claim 52.

[2] This application is filed as a 371 national stage of a PCT application. As such, Unity of Invention applies to this application, even if the technical feature linking several groups is purportedly not a contribution over the prior art.

[3] This conclusion is not in keeping with the Restriction Requirement, because the action failed to discuss the classification of the groups or to elaborate on any different fields of search.

On 6 February 2002, the Office mailed a non-final action as Paper No. 14. Applicants' election and traversal was acknowledged. The Examiner agreed that Group I encompasses claims 1-49 and that all the claims were divided up among Groups I-V in the Restriction Requirement. The Examiner also agreed to examine claims in Group I drawn to SEQ ID No. 104 and SEQ ID No. 7 and their encoding polynucleotides 105 and 14, encompassing claims 1-9,14-16, 26-46 and 55-56.[4]

The Examiner conceded that none of the references teaches or suggests disclosed Rht polynucleotides/polypeptide sequences, still the Restriction Requirement was deemed proper in view of a variety of US practice considerations, including distinctness, independence, search burden.[5] The Restriction Requirement was made FINAL.

Claims 10-13, 17-25 and 48-54 were withdrawn from examination as being directed to non-elected inventions. Claims 1-3, 6-9, 14-16 were rejected under 35 U.S.C. 112, second paragraph for indefiniteness. Claims 1-2, 6-9, 14-16, 30-31 and 55-56 and dependent claims 28-29, 32-45 were rejected under 35 U.S.C. 112, first paragraph for lacking full scope of enablement. Claims 1-2, 6-9, 14-16, 28-46 and 55-56 were rejected under 35 U.S.C. 112, first paragraph as containing subject matter which was not adequately described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed had possession of the claimed invention. Claims 1-9, 14-16, 26-46 and 55-56 were deemed free of the prior art. Claims 4-5 and 26-27 were considered allowable.

On 8 July 2002, applicants filed an amendment to the specification and claims, canceling claims 2, 7-9, 16, 30, 31, 55 and 56 and amending claims 1, 3, 6, 14, 15, 32, 33, 36-42, 45, and 46. Applicants also filed this petition.

On 27 September 2002, Special Program Examiner Burke contacted applicants representative and invited them to correct certain informalities with claims 10-13 (depend upon canceled claims) and 48-50 and 54 (improper multiple dependent claims) via an amendment sent by facsimile to (703)-305-7939.

On 3 October 2002, applicants faxed in an amendment to claims 48, and 54.

DISCUSSION

The application, file history and petition have been considered carefully. The petition presents two concerns:

(1) a request to have the restriction requirement between Groups I-V withdrawn.

---

[4] It is noted that Group I is not directed to polypeptides. Group I is directed to the polynucleotides encoding SEQ ID Nos. 7 and 104, including polynucleotides with SEQ ID No. 14 and 105. SEQ ID No. 7 is an amino acid sequence 623 residues in length and is encoded by SEQ ID No. 14. SEQ ID No. 104 is an amino acid sequence fragment of SEQ ID No. 104, and is 17 residues in length and is encoded by SEQ ID No. 105.

[5] None of which apply to this application filed under 35 U.S.C. 371 as a national stage from a PCT application.

(2) a request that the requirement for the election of sequences be withdrawn.

Each concern will be addressed in turn.

Applicants are correct that the instant application represents the national stage filing of PCT/GB98/02383 and that Unity of Invention standards apply for any restriction of inventions in this application.

The Petition explains that the Rht phenotype is a dwarf phenotype in wheat and is known in the prior art. A corresponding phenotype characterized in maize as D8/D9 is also known in the prior art. Applicants present that the special technical feature is the nucleotide sequences which are responsible for the Rht dwarf phenotype in other plants, which phenotypes are gibberellin insensitive. According to PCT Rule 13.2, the special technical feature means those technical features that define a contribution which each of the claimed inventions, when considered as a whole, makes over the prior art. On this point the examiner has agreed: the prior art does not each or suggest the invention in the claims under examination. See Paper No. 14, page 2-3, bridging paragraph. Thus applicants and examiner have agreed that the special technical feature of Group I is the polynucleotide molecules which are responsible for the Rht dwarf phenotype in other plants, which phenotypes are gibberellin insensitive.

MPEP 1850 and the PCT Administrative Instructions, Annex B explain which Combinations of Different Categories of Claims may be permitted under PCT Rules.

> In addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product.

In this application, the first product is the polynucleotide molecule (Group I, minimally claims 1, 3-6, 14-15, 26-29, 32-38, 42, 43). The first method of use for the polynucleotide molecule is in the transformation of cells to make plant cells or plant (Group I, claims 39-41, 44-46). The first method of making the polynucleotide molecule is the method of identifying or isolating the polynucleotide (Group II, claims 48-50).

In the instant application, Group I already includes the first product and the first method of using that product. Group II recites the first method of making the first product. Applicant is correct in requesting the rejoinder of Group II with Group I. Claims 48-50 are drawn to the first method of making the polynucleotide. Claims 48-50 were incorrectly placed in a different group in the restriction requirement and will be rejoined with Group I.

The Petition requests also the rejoinder of Groups III, IV and V with Group I because these relate to the isolated Rht polypeptide, antibody which binds the polypeptide and methods of identifying Rht polypeptide. This reasoning is not persuasive for the following reasons.

The polypeptide of Group III does not share a special technical feature with the polynucleotide of Group I. According to the PCT Administrative Instructions, for molecules to be of similar nature, they need to share a common core structure and a common property or activity. Groups I and III do not meet the criteria of Markush Practice in PCT Administrative Instructions, Annex B because a DNA molecule and a protein molecule share neither common structure nor common function. Unity of Invention is lacking between Groups I and III.

Nor does the relationship of polypeptides of Group III and the polynucleotides of Group I conform with Example 17 of the PCT Administrative Instructions. In Example 17, there exists a one-to-one interrelationship between the Protein X and the DNA molecules which encode Protein X. Given a particular amino acid sequence, one can identify all of the open reading frames which encode that molecule, due to degeneracy of the DNA codon. The instant claims are written in the opposite format: DNA X and polypeptide encode by DNA X. In view of the presence of six different open reading frames, different potential start sites, different splice sites, etc, one cannot identify all of the protein molecules which will be encoded by DNA X. A second importance distinction between the instant claims and those in Example 17, the instant claims are not directed to a single molecule but encompass a family of molecules which are defined by a minimal structure. For these reasons, there is no shared technical feature between the polynucleotides of Group I and the polypeptides of Group II. Thus applicants' request to have Group III examined concurrently with Group I is denied.

A similar analysis shows that the antibodies of Group IV do not share a technical feature in common with either the polypeptide of Group III nor with the polynucleotide of Group I. There is no shared property or activity in common with the antibody, the polypeptide it binds to and the polynucleotide which encodes the polypeptide. Nor is there a shared common core structure between the antibody, the polypeptide it binds to and the polynucleotide which encodes the polypeptide. For these reasons, the antibody, polypeptide and polynucleotide do not meet the criteria of similar nature set forth in PCT Administrative Instructions, Annex B, "Markush Practice." Applicants' request to have Groups III and IV examined with Group I is denied.

Finally, with regards to the request to rejoin Group V, claim 54, with Group I, it is noted that claim 54 is directed to a method of using the second product, the polypeptide of Group III. The PCT Administrative Instructions, Annex B, Categories of Invention makes it clear that a method of using the second product does not have unity of invention with the first product. The restriction between Groups I and V is proper.

Turning now to applicants' request to have all the claims directed to polypeptide sequences examined together, it is noted that the withdrawn claims 10-13, 17-25, and 48-50 directed to the non-elected sequences are dependent from and therefore necessarily narrower in scope than the independent claims 1, 6 and 14. Independent claims 1, 6 and 14 have already been examined and found free of the prior art. The Office cannot establish a burden of search of the additional sequences because the claims are drafted in a manner that the sequences are required together to describe the invention. The

sequences are not claimed in the alternative as separate inventions. Applicants are correct that in this application, restriction to a single sequence is improper.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above as follows:

> The Restriction Requirement between Groups I, III, IV and V is maintained.
> The Restriction Requirement between Groups I and Group II has been withdrawn.
> The restriction requirement to a single sequence has also been withdrawn.
> Claims 1, 3-6, 10-15, 17-29, 32-46, 48-50 are under examination.
> Claims 51-54 remain withdrawn as being directed to the non-elected invention.

There is no fee for the filing of this petition. A credit of $130.00 will be deposited to Applicants' Deposit Account 14-1140.

The Office will enter the amendment filed 3 October 2002 to correct the dependency of claims 48 and 54. The application will then be forwarded to the examiner for action consistent with this decision.

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

John Doll
TC1600 Group Director

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Paper No. 19

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Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Sara W. Boehmer et al.	:	
Application No. 09/485,559	:	ON PETITION
Filed: February 11, 2000	:	
Attorney Docket No. FL1049USPCT	:	

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 January 28, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. A three month extension of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on July 31, 2003.

The application is being forwarded to Technology Center1764, 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

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Wilmington, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
BOEHMER, et al.	:	DECISION ON PETITION
Application No.: 09/485,559	:	
Filed: February 11, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: FL1049USPCT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 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 July 7, 2005, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on August 22, 2005, that reply did not prima facie place this application in condition for allowance as indicated in the Advisory Action mailed September 19, 2005. No extensions of time under provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on October 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 7, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1764.

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
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Paper No. 18

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Luc Bettiol et al	:	
Application No. 09/485,650	:	ON PETITION
Filed: April 5, 2000	:	
Attorney Docket No. CM1817	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 9, 2004.

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

The application is being forwarded to Technology Center AU 1751 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
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JAN 25 2006

OFFICE OF PETITIONS

KENNETH M. FAGIN
136 SUMMER WALK DRIVE
GAITHERSBURG MD 20878

In re Application of	:	
Leonard Colin Andrews	:	
Application No. 09/485,657	:	ON PETITION
Filed: March 24, 2000	:	
Attorney Docket No. FBR-ABUS-0001	:	

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 12, 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 2644 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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)
6,291,534	2001-09-18	09/485,700	2000-05-25	MGT

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 hess/	Date (YYYY-MM-DD)	2007-09-15
Name	Robert J. Hess	Registration Number	32139

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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United States Patent and Trademark Office
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In re Patent No. 6291534
Issue Date: September 18,2001
Application No. 09485700
Filed: May 25,2000
Attorney Docket No. 8907-9023

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

This is a decision on the electronic petition, filed September 17,2007,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 17,2007. 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.

410 Rec'd PCT/PTO 08 MAY 2000

#3

LAW OFFICES
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OIPE JC90 MAY 08 2000 PATENT & TRADEMARK OFFICE

May 8, 2000

BOX PCT

Assistant Commissioner for Patents
Washington, D.C. 20231

PCT/JP98/03163
-filed July 15, 1998

Re: Application of Tetsuro, TAMAI et al.
AMINOETHYLPHENOXYACETIC ACID DERIVATIVES AND DRUGS FOR PAIN REMISSION AND CALCULI REMOVAL PROMOTION IN URINARY LITHIASIS
Our Ref: Q57350

Dear Sir:

Attached please find a NOTICE OF MISSING PARTS that we believe was sent in error.

The error on the attached NOTICE OF MISSING PARTS is in the upper left hand corner. A stamped serial no. (09/485,879) does not correspond to our docket. Mr. Dickerson (Group Art Unit 1600) advised that this serial no. does not belong to our law firm. Therefore, he advised to send it back to this branch and research can be done to forward this to the correct firm.

A NOTICE OF MISSING PARTS was responded to on March 31, 2000 in our case (09/463,432) We were advised by Mr. Dickerson (Group Art Unit 1600) that a PTO-903 was mailed on April 17, 200 in our case (09/463,432).

Respectfully submitted,

Peter D. Olexy, P.C.
Registration No. 24,513

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Date: May 8, 2000

NFRC

09/485879

09/463,432

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D.C. 20231

U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
		TAMAI	0-57350

5071
SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

APR 19 2000

INTERNATIONAL APPLICATION NO.

I.A. FILING DATE 07/19/98 PRIORITY DATE 07/25/97

04/17/00

DATE MAILED:

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as
   - ☐ a Designated Office (37 CFR 1.494),
   - ☑ an Elected Office (37 CFR 1.495):
   - ☑ U.S. Basic National Fee.
   - ☑ Copy of the international application in:
     - ☑ a non-English language.
     - ☐ English.
   - ☑ Translation of the international application into English.
   - ☐ Oath or Declaration of inventors(s) for DO/EO/US.
   - ☐ Copy of Article 19 amendments.
   - ☐ Translation of Article 19 amendments into English.
   - ☑ The International Preliminary Examination Report in English and its Annexes, if any.
   - ☑ Translation of Annexes to the International Preliminary Examination Report into English.
   - ☐ Preliminary amendment(s) filed _____ and _____.
   - ☐ Information Disclosure Statement(s) filed _____ and _____.
   - ☐ Assignment document.
   - ☐ Power of Attorney and/or Change of Address.
   - ☐ Substitute specification filed _____.
   - ☐ Statement Claiming Small Entity Status.
   - ☑ Priority Document.
   - ☑ Copy of the International Search Report ☑ and copies of the references cited therein.
   - ☐ Other:

2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
   - ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
     - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
   - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later that the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
   - ☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
     - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
   - ☐ d. Surcharge for providing the oath or declaration later that the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☑ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes MUST be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Telephone: (703) Kaya Baltimore National Stage Processor (703) 305-3095

52 Rec'd PCT/PTC 22 JUN 2000

EXPRESS MAIL NO.

PATENT COOPERATION TREATY

Int'l Application No.	:	PCT/EP98/05360
Int'l Filing Date	:	24 August 1998
U.S. Application No.	:	09/485,879
Inventors	:	GIESING, Michael, et al.
Title	:	METHOD FOR CHARACTERIZING DISSEMINATED AND MICROMETASTASIZED CANCER CELLS
Docket No.	:	790076.401
Date	:	22 June 2000

Box PCT
Assistant Commissioner for Patents
Washington, DC 20231-0001

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE

Assistant Commissioner for Patents:

In response to the "Notification of Missing Requirements" dated 22 May 2000, please find enclosed a Declaration and Power of Attorney and a copy of Form PCT/DO/EO/905 for filing in the above-referenced matter. The surcharge for the late filing of the Declaration was paid at the time of original transmittal on 16 February 2000.

The Assistant Commissioner is authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required, or credit any overpayment, to Deposit Account No. 19-1090.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC

Eric J. Gash
Registration No. 46,274

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031
F:\WFORGN\US PCT resp missing requirements.doc

UNITED STATES PARTMENT OF COMMERCE
Patent and Trade. . Office
Address: ASSISTANT COMMISSIONER FOR PATENTS
Box PCT
Washington, D C. 20231

U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/485879	GIESING	M	790076.401

SEED INTELLECTUAL PROPERTY LAW GROUP
6300 COLUMBIA CENTER
701 5TH AVENUE
SEATTLE, WA 98104-7092

INTERNATIONAL APPLICATION NO.
PCT/EP98/05360

I.A. FILING DATE	PRIORITY DATE
24 AUG 98	22 AUG 97

DATE MAILED: MAY 22 2000

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as:
   - ☐ a Designated Office (37 CFR 1.494),
   - ☒ an Elected Office (37 CFR 1.495):
   - ☒ U.S. Basic National Fee.
   - ☒ Copy of the international application in:
     - ☒ a non-English language.
     - ☐ English.
   - ☒ Translation of the international application into English.
   - ☐ Oath or Declaration of inventors(s) for DO/EO/US.
   - ☐ Copy of Article 19 amendments.
   - ☐ Translation of Article 19 amendments into English.
   - ☒ The International Preliminary Examination Report in English and its Annexes, if any.
   - ☒ Translation of Annexes to the International Preliminary Examination Report into English.
   - ☐ Preliminary amendment(s) filed _____ and _____.
   - ☐ Information Disclosure Statement(s) filed _____ and _____.
   - ☐ Assignment document.
   - ☐ Power of Attorney and/or Change of Address.
   - ☐ Substitute specification filed _____.
   - ☐ Verified Statement Claiming Small Entity Status.
   - ☒ Priority Document.
   - ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
   - ☐ Other:
2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
   - ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
     - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
   - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
   - ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
     - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
   - ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)). ** SURCHARGE WAS PAID AT THE TIME OF FILING **
3. Additional claim fees of $_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes MUST be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR. 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed:
☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875

Kaya Baltimore (183)
Telephone: 703-305-3695

FORM PCT/DO/EO/905 (December 1997)

14 SEP 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

Kurt T. Mulville
LYON & LYON LLP
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-2066

In re Application of :
ETCHES, Robert J. *et al* :
Application No.: 09/486,215 :
PCT No.: PCT/CA98/00792 : **DECISION**
Int. Filing Date: 21 August 1998 :
Priority Date: 22 August 1997 :
Attorney Docket No.: 251/037 US :
For: PRODUCTION OF PROTEIN IN EGGS :

This decision is in response to applicants' "Petition to Accord Filing Date of February 22, 2000" submitted 06 October 2003 which has been treated as a petition under 37 CFR 1.181 and is hereby **DISMISSED** as follows:

Applicants request to correct the filing date in the above-captioned application to 22 February 2000, the date of national stage entry. Section 1893.03(b) of the MPEP (Rev.2 May 2004 pg. 1800-194) states, in part:

> 37 CFR 1.496(a), first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met." Thus, when the file wrapper label or PALM bib-data sheet and **filing receipt** are printed, the information is read from the PALM data base and **the information printed in the filing date box** is the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements **rather than the actual international filing date** . . .
>
> Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong.

A review of the above-captioned application reveals that the DO/EO/US mailed a Notification of Acceptance of Application under 35 U.S.C. 371 on 25 June 2002 listing a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and date of receipt of all 35 U.S.C. requirements of "07/08/2002" which is the date that applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) and the $65.00 surcharge fee.

Therefore, the filing receipt indicating a filing date of 08 July 2002 was correct.

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 1.181."

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457
(571) 273-3302 (after 30 September 2004)

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

CHARLES N. QUINN
SAUL EWING
CENTRE SQUARE WEST
1500 MARKET STREET 38TH FLOOR
PHILADELPHIA, PA 19102-2186

COPY MAILED

AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Lorna Fyfe	:	
Application No. 09/486,239	:	ON PETITION
Filed: February 23, 2000	:	
Attorney Docket No. 313617	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 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 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 March 22, 2001, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 23, 2001.

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 of currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to petitioner's authorization, Deposit Account No. 04-0480 was charged $160.00 for the Notice of Appeal.

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 1651.

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

cc: DECHERT
1717 ARCH STREET
4000 BELL ATLANTIC TOWER
PHILADELPHIA, PA 19103

FEB 0 1 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POTTER ANDERSON & CORROON LLP
ATTN: KATHLEEN W. GEIGER, ESQ.
1313 NORTH MARKET STREET
P.O. BOX 951
WILMINGTON, DE 19899-0951

#4

In re Application of	:	DECISION ON
Kunio SEKIYA	:	
Serial No.: 09/486,483	:	
PCT No.: PCT/JP99/05023	:	PETITION UNDER
Int. Filing Date: 14 September 1999	:	
Priority Date: 25 September 1998	:	
Attorney's Docket No.: 24555-001	:	37 CFR 1.10(c) and 1.181
For: POLLUTION PREVENTION METHOD FOR	:	
CANVAS USED IN PAPER MACHINE	:	

This decision is in response to applicant's "PETITION TO ACCORD CORRESPONDENCE FILING DATE SHOWN ON EXPRESS MAIL LABEL 'DATE-IN'", treated as a petition under 37 CFR 1.10(c) and 1.181, filed in the United States Patent and Trademark Office (USPTO) on 11 October 2001, to accord a filing date of 23 March 2001 to the above-identified application papers. No petition fee is required.

BACKGROUND

On 14 September 1999, applicant filed international application No. PCT/JP99/05023, which claimed a priority date of 25 September 1998 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 06 April 2000.

A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 25 March 2001.

On 23 March 2001, applicant filed, via Express Mail, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The United States Designated/Elected Office (DO/EO/US) accorded a filing date of 23 March 2001 to the

itemized post card receipt.

On 16 May 2001, a Notice of Cancellation of Assigned Serial Number was mailed to applicants indicating that the documents filed under 35 U.S.C. 371 to enter the national stage before the U.S. Designated/Elected Office were received by the U.S. Patent and Trademark Office on 23 March 2001, assigned serial number 09/806,021 and were misplaced. Copies of the documents were refiled on 16 May 2001 by facsimile and assigned 09/486,483. Applicants were notified that 09/806,021 was canceled and future filings should reference 09/486,483.

On 01 August 2001, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (FORM PCT/DO/EO/903) which indicated a 35 U.S.C. 371 date of 04 April 2001.

On 11 October 2001, applicant filed the present petition requesting a corrected filing date, and included a copy of the Customer Receipt of the "Express Mail" mailing label #EJ229640116US and an itemized postcard receipt date-stamped by the USPTO "23 MAR 2001".

DISCUSSION

A review of the application file reveals that the original Transmittal Letter and associated papers as well as Express mailing label #EJ229640116US are not contained therein. Applicant's copy of the Express Mail label #EJ229640116US was addressed to the "Box PCT, Assistant Commissioner for Patents, Washington, D.C. 20231" and bears the US Postal Service (USPS) date-stamp of 23 March 2001. The entry in the "Date In" box on the Express Mail Customer Copy is illegible. A copy of the itemized postcard receipt bearing the Express Mail #EJ229640116US is date-stamped by the USPTO "23 MAR 2001".

The USPTO date-stamped, itemized postcard receipt bears the attorney docket number and Express Mail #EJ229640116US and indicates that the "transmittal letter for National Stage entry, patent application under 371(25 pages), declaration and power of attorney, drawings (9), assignment, information disclosure statement, PTO-1449 (4 references), authorization to charge deposit account $1198.00 and $40.00, transmittal for amendment to claims, PCT Article 19 and amendments-English translations" were deposited with the USPTO on 23 March 2001 and was preliminarily assigned U.S. serial number 09/806,021.

The evidence submitted, a copy of a postcard receipt with a USPTO mailroom stamped date of 23 March 2001 itemizing the submission for national stage entry, is sufficient to establish that the papers for national stage entry for this application were received in the USPTO on 23 March 2001. The petition was accompanied by a copy of the Certificate of Mailing under 37 CFR 1.10 and a copy of the Express mail label for #EJ229640116US which was also date-stamped by the USPS "23 March 2001". Accordingly, it is appropriate to accord the date of

receipt of the above mentioned papers a date of 23 March 2001.

CONCLUSION

Applicant's petition requesting that the national stage papers be accorded a receipt date of 23 March 2001 is **GRANTED**.

The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 01 August 2001 and the filing receipt issued in this case are **VACATED**.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for according the national stage papers a receipt date of **23 March 2001** and issuance of a new Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of **23 March 2001** and for a corrected filing receipt indicating a "Filing Date" of 23 March 2001.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: 703-306-5467
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

MAR 4 2004

Mailed:

spg
Paper Number 14

In re application of	:	
Kunio Sekiya	:	DECISION ON
Serial No. 09/486,483	:	PETITION
Filed: March 23, 2001	:	
For: POLLUTION PREVENTION METHOD FOR CANVAS	:	
USED IN PAPER MACHINE	:	

This is in response to the SUBMISSION OF COLOR PHOTOGRAPHS PURSUANT TO 37 CFR 1.84 filed October 2, 2003 which has been treated as a petition to accept color drawings or photographs under 37 C.F.R. § 1.84(a)(2) or (b)(2).

The petition (submission), which was submitted in response to the Office letter mailed September 26, 2003, includes (1) the fee as required by 37 CFR 1.17(h) *[note - the fee has been charged to applicant's deposit account as authorized in the submission]* and (2) three sets of the color photographs. The petition fails to amend the specification to include the language set forth in 37 CFR 1.84(a)(2)(iv) and to provide an explanation stating why color photographs are necessary.

In view of the fact that all of the requirements for the acceptance of color photographs set forth in 37 C.F.R. § 1.84(a)(2) or (b)(2) have not been met the petition cannot be granted and the application is hereby abandoned because the period for reply to the Office letter mailed September 26, 2003 is not extendable.

The Petition is **DENIED**.

Steven P. Griffin
Supervisory Patent Examiner
Technology Center 1700

POTTER ANDERSON & CORROON LLP
ATTN: KATHLEEN W. GEIGER, ESQ.
P.O. BOX 951
WILMINGTON DE 19899-0951

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POTTER ANDERSON & CORROON LLP
ATTN: KATHLEEN W. GEIGER, ESQ.
P O BOX 951
WILMINGTON, DE 19899-0951

COPY MAILED

OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Kunio Sekiya	:	
Application No. 09/486,483	:	DECISION GRANTING PETITION
Filed: March 23, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 24555-001	:	

This is a decision on the petition, filed July 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 August 22, 2003 (certificate of mailing date of August 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 (571) 272-3218.

This matter is being referred to Technology Center AU 1731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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

Mailed: 10/20/05

spg
Paper Number _____

In re application of
Kunio Sekiya
Serial No. 09/486,483
Filed: March 23, 2001
For: POLLUTION PREVENTION METHOD FOR CANVAS USED IN PAPER MACHINE

DECISION ON PETITION

This is in response to the PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS (37 CFR § 1.84(a)(2) and (b)(2)) filed December 6, 2004.

The petition includes (1) the fee as required by 37 CFR 1.17(h) *[note - the fee was previously charged to applicant's deposit account]*, (2) three sets of the color photographs *[previously filed]*, and (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iv).

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

The application shall be forwarded to the Office of Publications for processing.

Steven P. Griffin
Supervisory Patent Examiner
Technology Center 1700

POTTER ANDERSON & CORROON LLP
ATTN: KATHLEEN W. GEIGER, ESQ.
P.O. BOX 951
WILMINGTON DE 19899-0951

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

JOSEPH S TRIPOLI
THOMSON MUTIMEDIA LICENSING INC
CN 5312
PRINCETON, NJ 08543-0028

COPY MAILED

NOV 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Peter Mahr :
Application No. 09/486,512 : ON PETITION
Filed: February 28, 2000 :
Attorney Docket No. RCA90070 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 non-final Office action mailed March 4, 2002, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 4, 2002.

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.

Pursuant to petitioner's authorization, Deposit Account No. 07-0832 was charged $1,280.00 for the petition to revive an unintentionally abandoned application.

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 2653.

Wan Laymon

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

cc: FRANCIS A. DAVENPORT
2 INDEPENDENCE WAY
SUITE 2
PRINCETON, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 4 2004

#23

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER PA 19002

In re Application of	:
Ansgar Behler et al	:
Serial No.: 09/486,677	: PETITION DECISION
Filed: June 26, 2000	:
Attorney Docket No.: H2938PCT/US	:

This is in response to the petition under 37 CFR 1.181, filed July 22, 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 the examiner mailed a new non-Final Office action to applicants on September 3, 2002, setting a three month shortened statutory period for reply. The Office action followed applicants' submission of an Appeal Brief and gave applicants the option of replying to the Office action under 37 CFR 1.111 or requesting reinstatement of the Appeal. Applicants replied on March 10, 2003 (Certificate of Mailing dated March 3, 2003), including a request for a three month extension of time and fee therefor, requesting reinstatement of the Appeal and supplying a new (supplemental) Appeal Brief. A Notice of Abandonment was mailed to applicants on May 22, 2003, when the reply was not timely correlated with the file. The reply has now been 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 preparation of the Examiner's Answer or other appropriate 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 703-308-3824 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BACON & THOMAS
625 SLATERS LANE
4TH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/23/2010

Applicant	: MICHAEL LAMLA	: DECISION ON REQUEST FOR
Patent Number	: 7636438	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/486,723	: OF WYETH
Filed	: 05/18/2000	:
		:

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
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Alexandria, VA 22313-1450
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Paper No. 23

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

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Toni M. Kutchan et al	:	
Application No. 09/486,757	:	DECISION GRANTING PETITION
Filed: July 3, 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. J&J-1673	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 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 9, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 10, 2002. A Notice of Abandonment was mailed on May 21, 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 a Request for Continued Examination (RCE) and the submission (37 CFR 1.114); (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of September 9, 2002 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 1635 for processing the RCE request 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

JOHN S. PRATT
KILPATRICK STOCKTON LLP (BELLSOUTH)
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of	:	
John P. Hart et al	:	
Application No. 09/486,787	:	ON PETITION
Filed: March 2, 2000	:	
Attorney Docket No. 36968/191614	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 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 3, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 4, 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 2683.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

Schiff Hardin & White
Patent Department
7100 Sears Tower
CHICAGO IL 60606-6473

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of
Stefan Pfab
Application No. 09/486,908
Filed: May 11, 2000
Attorney Docket No.: P00.0365
Title: DATA STORAGE DEVICE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a)[1], filed September 19, 2002, which is properly treated a petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment.

The petition is **GRATNED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 21, 2001, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 22, 2001. A Notice of Abandonment was mailed on June 12, 2002.

Petitioner asserts that this non-final Office action was not received.

A review of the official file reveals that on January 8, 2001, petitioner submitted a change of address, which was neither entered nor made of record. It is further noted that both the non-final Office action and the Notice of Abandonment were mailed to the former address.

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1 A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

For these reasons, it is decided that the non-final Office Action of September 21, 2001 was never received by Petitioner.

In view thereof, the petition under 37 CFR §1.181(a)is GRANTED. The holding of abandonment is hereby **WITHDRAWN**.

As the petition under 37 CFR §1.181(a) has been granted, the petition under 37 CFR §1.137(a) is not required. If the petitioner wishes to have the $110.00 petition fee refunded, he should submit a request for refund to the Office of Finance[2]. A copy of this decision should accompany any such request.

The Change of Correspondence Address has been entered and made of record.

The application is being forwarded to Technology Center 2100 for re-mailing of the non-final Office Action.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Commissioner of Patents and Trademarks, Box 17, Washington, DC 20231. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL Paper No. 14

SEP 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SUGHRUE, MION, ZINN, MACPEAK, & SEAS
2100 PENNSYLVANIA AVENUE N W
WASHINGTON DC 20037

In re Application of:
NAKAMURA, TAISUKE
Application No. 09/487,330
Filed: January 19, 2000
For: DISPLAY DEVICE, PORTABLE ELECTONIC DEVICE AND METHOD OF CONTROLLING DISPLAY DEVICE

DECISION
ON PETITION

This is a decision on the petition filed July 9, 2003 based on MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. No fee is required.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed December 11, 2002. A Notice of Abandonment was mailed June 30, 2003.

The petition alleges that the Office action mailed December 11, 2002 was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Notice of Allowance was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish the failure to receive an Office communication must include the following:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner,

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the final Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Final Office action on the part of the Patent Office.

The allegation of non-receipt is supported by a statement by the practitioner attesting that the final Office action was not received and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate Petitioner's claim.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of an Office action as set forth above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED.**

The application file will be forwarded to the Technology center's technical support staff for re-mailing the final Office action, and the period for response will be re-set to run from the mailing date thereof.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 4

Milord Keshishzadeh, Esq.
Milord & Associates
2029 Centruy Park East, Suite 1700
Los Angeles , CA 90067

Mailed

APR 1 4 2000

Director's Office
Group 2700

In re Application of
Alon Nachom
Application No.: 09/487,354
Filed: January 18, 2000
For: COMMUNICATION ENHANCEMENT MEANS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to treat the above-identified application as special and advance the examination thereof, filed January 18, 2000, which is treated as a petition to make the above-identified application special under M.P.E.P. § 708.02(VIII).

A grantable petition to make special under 37 C.F.R. § 1.102 and 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.

The petition lacks requirements (b), (c), (d), and (e).

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** from the date of this decision.

The application is being forwarded to the Technology Center's Central Files and will await action in its regular turn.

Kenneth A. Wieder

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
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Paper No. 5

Mailed

MAY 4 2000

Director's Office
Group 2700

Milord Keshishzadeh, Esq.
Milord & Associates
2029 Centruy Park East, Suite 1700
Los Angeles , CA 90067

In re Application of:
Alon Nachom
Application No.: 09/487,354
Filed: January 18, 2000
For: REVENUE GENERATION METHOD FOR USE WITH VOICE NETWORK ACCESS PROVIDER SYSTEM AND METHOD

CORRECTED DECISION ON PETITION TO MAKE SPECIAL

This is a corrected decision on the petition under M.P.E.P. § 708.02 (VIII) to make the above-identified application special, filed January 18, 2000.

A grantable petition to make special in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

For the above stated reasons, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 26

THOMAS M. COESTER, ESQ.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of
Nachom
Application No. 09/487,354
Filed: January 18, 2000
Attorney Docket No.NAC99-001P
For: COMMUNICATION ENHANCEMENT MEANS

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(a), filed May 6, 2003. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on August 12, 2002, which set forth a 3 month period for reply. The Office has no record of receiving a reply. Thus, the Office contended that this application became abandoned on November 13, 2002. A Notice of Abandonment was mailed on March 7, 2003.

Petitioner asserts that a timely and proper response to the August 12, 2002 non-final Office action was mailed to the Office on February 12, 2003. The original papers filed are not of record in the file and cannot be located. Petitioner has provided copies off all papers allegedly filed on February 12, 2003. The copy of the itemized transmittal form lists an amendment, an extension of time request, a power of attorney, a fee transmittal form and fee, and return receipt postcard. The transmittal form contains a proper certificate of mailing citing a February 12, 2003 date of deposit. The petition for extension of time and the amendment both have their own February 12, 2003 certificate of mailing. In addition, it is noted that a check for $639 was received in the Office on February 19, 2003 and negotiated on February 21, 2003. The copy of the original fee transmittal form states that a check for $639 was enclosed.

Under 37 CFR § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized transmittal letter, the amendment, and the petition for extension of time each bear a proper certificate of mailing, dated February 12, 2003, in compliance with the requirements of 37 CFR § 1.8(a)(1) as set forth above. In addition, the person signing the certificates, Susan Ocegueda, had reasonable basis to expect that the correspondence would be mailed on February 12, 2003. Ms. Ocegueda has provided a statement regarding her deposit of the mailing in the Wilshire Boulevard USPS mail box on February 12, 2003.

Accordingly, the petition to withdraw the holding of abandonment is granted. As a petition under 37 CFR 1.181 is feeless, the $55 fee submitted with the instant petition will be credited to petitioner's deposit account no. 02-2666.

The application file will be forwarded to the Technology Center 3600's technical support staff for entry of the February 12, 2003 amendment, extension of time, and power of attorney. Thereafter, the application file will be forwarded to the examiner for action in due course.

Telephone inquiries pertaining to this matter may 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
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JUN 25 2007

OFFICE OF PETITIONS

FRANK PIETRANTONIO
COOLEY GODWARD, LLP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE – RESTON TOWN CENTER
RESTON, VA 20190

In re Application of	:	
William Geoghegan, et al.	:	
Application No. 09/487,361	:	DECISION ON PETITION
Filed: January 19, 2000	:	TO WITHDRAW
Attorney Docket No. SYNC-001/01US	:	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 November 13, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cooley Godward, LLP has been revoked by the assignee of the patent application on December 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GUY GOSNELL
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

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GUNN, LEE & HANOR, P.C.
700 NORTH ST. MARY'S STREET
SUITE 1500
SAN ANTONIO, TX 78205-3596

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JUN 29 2005

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Leonard H. Lopez Jr. :
Application No. 09/487,392 :
Filed: January 18, 2000 :
Attorney Docket No. 1036.1140 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 November 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted on May 24, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasure check in due course.

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 future correspondence solely to the address of record.

Receipt is acknowledged of the Amendment filed May 24, 2005, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 3600, Art Unit 3625 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Charles W. Hanor
750 Rittiman Road
San Antonio, TX 78209

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GUNN, LEE & HANOR, P.C.
700 NORTH ST. MARY'S STREET
SUITE 1500
SAN ANTONIO, TX 78205-3596

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Leonard H. Lopez Jr. :
Application No. 09/487,392 : ON PETITION
Filed: January 18, 2000 :
Attorney Docket No. 1036.1140 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 final Office action mailed November 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted on May 24, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasure check in due course.

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 future correspondence solely to the address of record.

Receipt is acknowledged of the Amendment filed May 24, 2005, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 3600, Art Unit 3625 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Charles W. Hanor
750 Rittiman Road
San Antonio, TX 78209

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-5-09

Paper No.: _____

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 04/487586 Patent No.: 6934053

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check figs.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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: Figures in the COC are the correct Figures and should replace the figures in the issued patent which were incorrectly used from a different application to replace the original and subsequently amended figures.

/Edward L. Coles/ 2625

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Mitsuaki Amemiya	:	
Application No. 09/487,718	:	ON PETITION
Filed: January 19, 2000	:	
Attorney Docket No. 35.C14183	:	

This is a decision on the petition, filed July 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 January 26, 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 1765 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 : August 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mitsuaki Amemiya
Application No. : 09/487,718
Filed : January 19, 2000

The above-identified application has been assigned Patent No. 6,923,858 and an issue date of August 2, 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 August 2, 2005:

> "All reference to Patent No. 6,923,858 to MITSUAKI AMEMIYA of JAPAN for APPARATUS AND PROCESS FOR PRODUCING CRYSTAL ARTICLE, AND THERMOCOUPLE USED THEREIN appearing in the Official Gazette of August 2, 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Paper No. 18

WINSTON & STRAWN
200 PARK AVENUE
NEW YORK, NY 10166

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Gorodetsky et al.
Application No.: 09/487,790
Filing Date: January 20, 2000
Attorney Docket No.: 25129

ON PETITION

This decision concerns the January 29, 2004 "Petition to Revive under 37 CFR 1.137(b)."

The petition is **GRANTED.**

On August 14, 2002, a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" ("1st Notice to Comply") was mailed, setting forth a 1-month shortened statutory period for submitting a computer-readable form (CRF) copy of the sequence listing of the amino acid sequences disclosed in the application.

The CRF copy of the sequence listing filed on October 10, 2002 along with a request for a 1-month extension of time and the extension-of-time fee did not comply with the sequence rules, as indicated in the January 28, 2003 2nd Notice to Comply.

A substitute CRF copy of the sequence listing was not filed on or before February 14, 2003, and no further extension of time was obtained. The application became abandoned on October 15, 2002.

The instant petition is accompanied by a substitute CRF copy of the sequence listing which has been accepted, and a statement that the sequence listing in the CRF copy is identical to that in the paper copy originally submitted with the application. The petition also authorizes the USPTO to charge the $665 petition fee (small entity) to Deposit Account No. 50-1407, and states in essence that the entire delay in submitting a proper CRF copy of the sequence listing from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The associate power of attorney and the new correspondence address have been entered and made of record.

The file is being returned to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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WINSTON & STRAWN, LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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In re Patent No. 7,122,620 :
Issue Date: October 17, 2006 :
Application No. 09/487,790 : DECISION ON PETITION
Filed: January 20, 2000 :
Patentee(s): Raphael Gorodetsky, et. al. :

This is a decision on the petition under 37 CFR 1.182 filed on April 4, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **dismissed**.

Petitioner requests issuance of a Certificate of Correction in the name of "Hadasit Medical Research Services and Development Ltd.." However, Office PALM computer database assignment records do not reflect that an assignment in the name of "Hadasit Medical Research Services and **Development Ltd.**" was ever recorded.

37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee, but ***prior to issuance of a patent***. Since there is no assignment recorded with the Patent and Trademark Office, prior to issuance that shows "Hadasit Medical Research Services and **Development Ltd.**", as the assignee, a Certificate of Correction would not be in order.

On the other hand, petitioner is entitled to receive a Certificate of Correction in the name "Hadasit Medical Research Services and **Development Company Ltd.**, Jerusalem, Israel" as recorded in the Patent and Trademark Office at reel number 010535 and frame number 0613, provided that a renewed petition and a corrected Certificate of Correction form PTO/SB/44 are submitted. No further fees are required for the renewed petition.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WINSTON & STRAWN, LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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In re Patent No. 7,122,620	:	
Issue Date: October 17, 2006	:	
Application No. 09/487,790	:	ON PETITION
Filed: January 20, 2000	:	
Patentee(s): Raphael Gorodetsky, et. al.	:	

This is a decision on the renewed petition under 37 CFR 1.182 filed February 5, 2008, which is being treated as a request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the requirements of 37 CFR 3.81 have been satisfied, the request is **GRANTED**.

A Certificate of Correction in the name of "Hadasit Medical Research Services Development Company Ltd." was issued on May 20, 2008. Therefore, this patent file is being referred to Files Repository.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING
101 FEDERAL STREET
BOSTON MA 02110

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
Roy A. Gravel et al
Application No. 09/487,841
Filed: January 19, 2000
Attorney Docket No. 50004/003004

DECISION DISMISSING PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed May 31, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is **McGill University, Quebec, Canada** and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to **McGill University, Quebec, Canada.**

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* Official Gazette of June 22, 2004

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **McGill University** has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that **McGill University** was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth McGill University, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters

Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

SEP 14 2001

FOLEY & LARDNER
3000 K STREET, N.W. SUITE 500
WASHINGTON HARBOUR
WASHINGTON , DC 20007-5109

In re Application of Robert J. Levy et al Serial No.: 09/487,851 Filed: January 18, 2000 Attorney Docket No.: 041712/0154	PETITION DECISION

This letter is in response to applicant's petition under 37 CFR 1.103(a), received August 24, 2001, seeking suspension of action in this application for a period of six months.

A review of the file history shows that applicants responded to the last Office action on August 21, 2001, and that the response is a complete response.

Applicants seek suspension of action due to the need to complete experiments to demonstrate the enabling quality of the specification which experiments should be completed by early 2002 and may result in allowance of the application when presented..

Applicants' petition is **GRANTED**. Action on this application is suspended for six months from the date of mailing of this decision. **At the end of the period of suspension, or earlier if desired, applicant is requested to contact the examiner in writing or by facsimile transmission requesting resumption of prosecution in this application.**

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 21, 2007

TO SPE OF : ART UNIT 36292

SUBJECT : Request for Certificate of Correction for Appl. No. 09/487944 patent no.7184963

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Eric W. Stamber — **SPE**

3622 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH A WALKOWSKI
TRASK BRITT & ROSSA
525 SOUTH 300 EAST
P O BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED
OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of
Charles H. Dennison et al.
Application No. 09/488,099
Filed: January 18, 2000
Attorney Docket No. 3255.IUS

: DECISION GRANTING PETITION

This is a decision on the petition under 37 1.183, filed May 31, 2005, which is being treated as a request under 37 CFR 1.183 to suspend 37 CFR 1.172 and 1.67 where they require execution of a supplemental reissue declaration by all of the inventors.[1]

The petition is GRANTED.

The original patent named Dennison and Blalock as joint inventors.

The reissue application papers were executed by a joint reissue declaration that was signed by both inventors and filed August 4, 2000. In view of the execution of the original reissue declaration by both joint inventors, the extended prosecution to date, and the showing that diligent efforts were made to obtain the signature of Dennison, under the extraordinary circumstances of this reissue application, justice would be served by suspending the regulations to the extent they require the execution of supplemental reissue declarations by joint inventor Dennison.

The petition fee is set at $400 not $130 as was indicated in the petition. Thus, petitioner's deposit account has been charged in the amount of $270.00 to make up the difference between the amount submitted with the petition and that which is due.

This matter is being referred to Technology Center AU 2822.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] A reissue declaration must satisfy 37 CFR 1.175, and 37 CFR 1.63 (37 CFR 1.175(a); MPEP 1414), and be signed by the inventors. 37 CFR 1.172. When an inventor who executed an original declaration under 37 CFR 1.63 (as in the parent reissue application) refuses to execute a required supplemental declaration (as in the instant CPA reissue application), the requirement may be waived under 37 CFR 1.183. See MPEP 603.01.

JBM/MC3/SMF

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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JAN 25 2002
OFFICE OF PETITIONS

In re Application of
Stark et al.
Application No. 09/488,103
Filed: January 20, 2000
Attorney Docket No. 7453-0006-00
(Old docket 00.1817.103)

JAN 10 2002

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 24, 2001, to revive the above-identified application. The petition has only recently been forwarded to the Office of Petitions.

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 April 13, 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 June 14, 2000.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). The fee of $1240 will be charged to deposit account no. 05-0670.

A copy of this decision is being mailed to Kirsten Anderson, the party who submitted the petition. All future correspondence will be mailed solely to the address listed above.

The file is now being forwarded to Technology Center 1600 **to await a response (including payment of the appropriate amount for an extension of time) to the final Office action mailed September 21, 2001.**

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Kirsten Anderson
Elan Holdings, Inc.
1300 Gould Drive
Gainesville, GA 30504

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)
6257640	2001-07-10	09488207	2000-01-19	AMERMOT.013A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Helena Tummers/	Date (YYYY-MM-DD)	2010-05-27
Name	Helena Tummers, CFO of 89908, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	016050	Frame Number	0403
Enter Reel and Frame Number		Remove	
Reel Number	010992	Frame Number	0304
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6257640
Issue Date: July 10,2001
Application No. 09488207
Filed: January 19,2000
Attorney Docket No. AMERMOT.013A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2010 .
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-15-04

Paper No.: 22

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: 6433419

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.

Please check Inventors + claims

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:

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2827
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. 23

Thomas Headley
Gardere , Wynne, & SEWELL, L.L.P.
1000 Louisiana
Suite 3400
Houson TX 77002-5007

COPY MAILED

MAR 2 6 2002

OFFICE OF PETITIONS

In re Application of
Stephen J. Elledge and Yolanda Sanchez
Application No. 09/488,364
Filed: January 12, 2000
Attorney Docket No. 120541-1003
Title: MAMMALIAN CHECKPOINT
GENES AND PROTEINS

DECISION ON PETITION

This is a decision on the petition filed on December 12, 2001, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The above-identified application matured into patent number 6,307,015 on October 23, 2001. The petitioner states that "the above-identified application became abandoned for failure to prosecute because Applicant's representative unintentionally failed to file a reply to the Notice of Allowance"[2], but such is not the case. On May 29, 2001, a Notice of Allowance and Issue Fee Due was mailed to petitioner, setting a three-month period for reply. On August 23, 2001, the issue fee was received in a timely manner. Hence, this application was never abandoned.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 Petition, page 1.

Petitioner further states that a divisional application was filed (application number 10/020,038, filed on December 12, 2001), claiming priority to 09/488,364. The instant petition was filed so as to establish continuity between the two applications. However, as application number 10/020,038 was filed after 09/488,364 had already matured into patent number 6,307,015, **continuity cannot be established**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Receipt of the associate power of attorney and change of address is acknowledged.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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DEC 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Toru Morita	:	
Application No. 09/488,373	:	DECISION GRANTING PETITION
Filed: January 20, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SCEI 16.895 (100809-16084)	:	

This is a decision on the petition, filed November 29, 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 8, 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 2615 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\Dec10\488373.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). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

UNITED STATES 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 : December 6, 2006

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 09/488,373**

Applicant(s) : Toru Morita
Application No. : 09/488,373
Filed : January 20, 2000

The above-identified application has been assigned Patent No. 7,151,971 and an issue date of December 19, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 19, 2006:

"All reference to Patent No. 7,151,971 to Toru Morita of Pennsylvania for METHOD FOR GENERATING PLAYBACK SOUND, ELECTRONIC DEVICE, AND ENTERTAINMENT SYSTEM FOR GENERATING PLAYBACK SOUND appearing in the Official Gazette of December 19, 2006 should be deleted since no patent was granted."

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)

UNITED STATES 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 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ERIC W. CERNYAR, P.C.
10401 FOX HOLLOW
SAN ANTONIO TX 78217

In re Application of
David M. Tumey, et al.
Application No. 09/488,390
Filed: January 19, 2000
For: **ANIMATED TOY UTILIZING ARTIFICAL INTELLIGENCE AND FINGERPRINT VERIFICATION**

DECISION ON REQUEST TO ACCEPT MODEL OR EXHIBIT INTO THE RECORD

This is a decision on the petition filed March 19, 2005, pursuant to 37 C.F.R. §1.91, requesting acceptance of a Model or Exhibit

Petitioner states that in order to comply with the diligence requirements of 37 C.F.R. §1.131 in an effort to swear behind a reference, applicants must submit evidence in the form of executable software modules on CD, which evidence creation dates. In addition, a second CD establishes evidence of actual reduction to practice.

37 C.F.R.§1.91 Models or exhibits not generally admitted as part of application or patent, states in part:

(a) A model or exhibit will not be admitted as part of the record of an application unless it:
  (1) Substantially conforms to the requirements of § 1.52 or § 1.84;
  (2) Is specifically required by the Office; or
  (3) Is filed with a petition under this section including:
    (i) The fee set forth in § 1.17(h); and
    (ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.

(c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84. [emphasis added]

Applicants have paid the required petition fee and provided an explanation of why entry is necessary. In addition, given that the evidence on the first CD is executable software modules whereby executable modules do not lend themselves for depiction in a photograph, petitioner's request to waive the requirement of 37 C.F.R. §1.91, specifically 37 C.F.R. §1.91(c) wherein the model must be accompanied by photographs, is accepted.

Applicants have satisfied the requirements set forth in 37 C.F.R. §1.91 above for the inclusion of a model or exhibit as part of the application record.

Therefore, the petition is GRANTED.

Dwayne D. Bost
Special Program Examiner
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 20231

May 3, 2002

Michael J. Striker
103 East Neck Road
Huntington, NY 11743

In re application of:
Bernhard Lucas DECISION ON PETITION
Serial No.: 09/488,398
Filed: January 20, 2000

For: CIRCUIT DEVICE WITH A CONTACT ELEMENT FOR ELECTRICALLY CONNECTING A WAVE GUIDE IN A NEARLY STRESS-FREE MANNER

This is a decision on the petition received on September 17, 200l, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed March 21, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned May 23, 2000. A notice of abandonment was mailed on July 31, 200l.

On September 17, 2001, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed March 21, 2000.

The petition is hereby GRANTED.

The necessary surcharge fee to complete the application will be charged to deposit account 19-4675.

The application has been completed for release to Technology Center 2816.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Law Office of Louis Woo
717 North Fayette Street
Alexandria, VA 22314

MAILED

FEB 04 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Kesayoshi Iguchi et al
Application No. 09/488,527
Filed: January 21, 2000
For: METHOD OF PROCESSING CUSTOMER'S ORDERS AND A CUSTOMER'S ORDER PROCESSING APPARATUS

DECISION ON PETITION TO RESET A PERIOD FOR REPLY

This is in reply to the Petition to Reset a Period for Reply Due to Late Receipt of an Office action, received in the Patent and Trademark Office on January 16, 2003. There is no fee required for this petition.

The petition is **GRANTED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

A review of the file record reveals that an Office action was mailed to the address of record on December 10,2002. Applicant has provided a copy of the Office action bearing a stamped date of receipt of January 11,2003. This is sufficient evidence to show that the Office action was not actually received until January 11, 2003. Applicant's petition meets all of the remaining elements (A)–(C) outlined above. Therefore, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner to reset the period for reply to the Office action to run 2 months from the Office action receipt date of January 11, 2003.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

Kjd:1/29/03

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.
09/488,527	01/21/2000	Kesayoshi Iguchi	0102/0095	4569

21395 7590 05/12/2008
LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA, VA 22314

EXAMINER
RUDY, ANDREW J

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
05/12/2008	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

LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

MAILED
FROM DIRECTORS OFFICE

MAY 09 2008

TECHNOLOGY CENTER 3600

In re Application of:
Kesayoshi IGUCHI et al.
Application No. 09/488,527
Filed: January 21, 2000
For: **A METHOD OF PROCESSING CUSTOMER'S ORDERS AND A CUSTOMER'S ORDER PROCESSING APPARATUS**

DECISION ON PETITION FILED UNDER 37 C.F.R. 1.181

This decision is in response to the petition filed on May 30, 2006 entitled "Petition Filed Pursuant to 37 C.F.R. 1.181(a) (3)."

The petition is **DISMISSED as MOOT**.

File History

(1) Application No. 09/488,527 was filed on January 21, 2000. Claims 1-31 were presented for prosecution.

(2) A non-final office action was mailed on October 23, 2001.

(3) An amendment was filed on January 10, 2002.

(4) A final office action was mailed on February 27, 2002. Due to a typographical error, it was re-mailed on April 11, 2002.

(5) An amendment was filed on April 26, 2002.

(6) An advisory action was mailed on Jun 14, 2002.

(7) A Notice of Appeal was filed on August 8, 2002, and an Appeal Brief was filed on September 30, 2002.

(8) A non-final office action was mailed on December 10, 2002 reopening prosecution.

(9) A second Notice of Appeal was filed on March 4, 2003; a second Appeal Brief was filed on May 2, 2003, and a Supplemental Brief on July 22, 2003.

(10) A non-final office action was mailed on January 26, 2006 reopening prosecution.

(11) A third notice of Notice of Appeal was filed on April 24, 2006, and a third Appeal Brief was filed on May 30, 2006.

The Instant Petition

The Instant Petition requests the Director, "...to invoke his supervisory authority to prevent the examiner in charge of this case to further reopen prosecution of this case by then sending out yet another Office Action, so that the appeal of the rejections by the examiner may proceed to the Board of Appeals for a decision."

Decision

A review of the file reveals that an Examiner's Answer was mailed on August 1, 2006 in response to said third Appeal Brief. Furthermore, Application 09/488,527 was received from the Technology Center at the Board of Patent Appeals and Interferences on September 14, 2007 and has been assigned Appeal No.: 2008-0426.

The Instant Petition is **DISMISSED as moot**.

Any questions regarding this decision should be directed to Matthew S. Gart, Supervisory Patent Examiner, at (571) 272-3955.

Katherine Matecki

for Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/msg: 05/07/08

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

Paper No. 4

MAIL

APR 15 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: :
Shiann-An Chia, et al. :
Application No.: 09/488,568
Filed: January 21, 2000
For: A METHOD FOR INTERFACING A PRIVATE BRANCH EXCHANGE WITH A WIRELESS COMMUNICATIONS NETWORK AND ALSO WITH THE PUBLIC SWITCHED TELEPHONE NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed March 14, 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 attorneys of record have been withdrawn, leaving no attorneys remaining in the application.

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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Paul Gardon
Avaya, Inc.
101 Crawfords Corner Road
Holmdel, New Jersey 07733-4504

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

Sam Pasternack
Choate Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109-2891

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Alexander Otto, et al.	:	
Application No. 09/488,742	:	ON PETITION
Filed: January 20, 2000	:	
Attorney Docket No. 0019696-0154	:	

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 non-final Office action mailed September 25, 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 October 26, 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). Since the $1960.00 extension of time submitted with the response on April 11, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's 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 37CFR 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.

BEST AVAILABLE COPY

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2800, Art Unit 2832.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

BEST AVAILABLE COPY

Doc Code:

PTO/SB/66 (10-05)
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.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))	Docket Number (Optional) PH10091A-CA

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,377,895 Application Number 09/488,771

Issue Date April 23, 2002 Filing Date January 21, 2000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above-identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____; original application number _____, original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and trademark Office on the date shown below.

November 15, 2006
Date

Charles E. Bell
Signature

Charles E. Bell, Esq.
Typed or printed name of person signing Certificate

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benfit 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 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/66 (10-05)
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.

1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☑ $ 900	3 1/2 yr fee	(1551)	☐ $ _____	3 1/2 yr fee	(2551)
☐ $ _____	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 900

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1640

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____ .

☒ Please charge Deposit Account No. 08-1935 the sum of $ 2,540 . A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 08-1935 . A duplicate copy of this authorization is attached.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

7. OVERPAYMENT

As to any overpayment made please

☒ Credit to Deposit Account No. **08-1935** .

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Charles E. Bell

Signature(s) of Petitioner(s)

November 15, 2006

Date

Charles E. Bell, Esq. - Customer No. 23405

Typed or printed name(s)

48,128

Registration Number, if applicable

(518) 452-5600

Telephone Number

Heslin Rothenberg Farley & Mesiti P.C.

Address

5 Columbia Circle, Albany, New York 12203

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES:

☐ Maintenance Fee payment

☐ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

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)
6,629,395	2003-10-07	09/488,895	2000-01-21	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Arlen L. Olsen/	Date (YYYY-MM-DD)	2008-06-18
Name	Arlen L. Olsen	Registration Number	37543

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. 6629395
Issue Date: October 7,2003
Application No. 09488895
Filed: January 21,2000
Attorney Docket No. KARI-2798

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 18,2008 ,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 18,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

EDELL, SHAPIRO, & FINNAN, LLC
1901 RESEARCH BOULEVARD, SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/22/2010

Applicant	: William J. Baer	: DECISION ON REQUEST FOR
Patent Number	: 7613993	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/488,969	: OF WYETH
Filed	: 01/21/2000	:
		:

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, DC 20231
www.uspto.gov

Paper No. 18

J. Warren Lytle, Jr.
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington D.C. 20037

MAILED

OCT 0 8 2003

Technology Center 2100

In re Application of: Baer Application No. 09/488,976 Attorney Docket No. STL000014US1/A8486 Filed: January 21, 2000 For: METHOD AND SYSTEM FOR ADDING USER-PROVIDED CONTENT TO A CONTENT OBJECT STORED IN A DATA REPOSITORY	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181(a)

This is a decision on the petition filed August 28, 2003 to withdraw the holding of abandonment under 37 CFR §1.181(a). The petition is being considered under 37 CFR §1.8 as requesting the acceptance of correspondence as timely filed. The Notice of Abandonment was mailed July 1, 2003.

The practitioner has provided a copy of the originally submitted amendment along with a copy of the post card receipt with a stamped date of February 7, 2003.

A copy of the USPTO stamp on a returned post card serves as *prima facie* evidence of receipt in the USPTO as of the date stamped thereon (see MPEP §503). Therefore, petitioner's evidence establishes that a timely response was, in fact, filed on February 7, 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 for further processing of the filed amendment and consideration by the examiner of record.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

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)
6449627	2002-09-10	09489090	2000-01-21	STL000019US1

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	/Stuart B. Shapiro /	Date (YYYY-MM-DD)	2007-06-05
Name	Stuart B. Shaprio	Registration Number	40169

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. 6449627
Issue Date: September 10,2002
Application No. 09489090
Filed: January 21,2000
Attorney Docket No. STL000019US1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 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 June 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

RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

COPY MAILED
DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Frank A. Doljack	:	
Application No. 09/489,171	:	ON PETITION
Filing or 371(c) Date: 01/21/2000	:	
Title of Invention: VERIFICATION	:	
OF AUTHENTICITY OF GOODS	:	
BY USE OF RANDOM NUMBERS	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 25, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final office action, mailed February 7, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed an Amendment on August 7, 2006; however, the amendment was non-compliant in that a complete listing of the claims was not presented. No complete and proper reply having been received, the application became abandoned on May 8, 2006. A Notice of Abandonment was mailed August 22, 2006.

Applicant files the instant petition and Amendment in response to the Office action. The Amendment has been approved by the Examiner. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2137 for processing of the Amendment filed with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Office

COPY MAILED

MAY 0 1 2006

Director's Office
Office of Patent Publication

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

In re Application of	:	
FIELD, SCOTT A.	:	
Application No. 09/489,192	:	**DECISION ON PETITION**
Filed: January 20, 2000	:	
Attorney Docket No. MSI-407US	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on April 25, 2006.

The petition is **DISMISSED.** Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition for Withdrawal of Holding of Abandonment."

The application was held abandoned for applicant's failure to timely file corrected drawings as required in the Notice of Allowability, mailed September 7, 2005.

Petitioner states that the applicant timely filed Replacement Drawing Sheet 2 in response to the Office Action Date 11/28/2003. The Replacement Drawings Sheet 2 was received in the USPTO on 3/24/2004. Also that the applicant's representative contacted the PTO on 9/15/2005 with regards to the acceptance of Replacement Drawing Sheet 2 filed 3/24/2004. And that the PTO corrected their records and made an entry in the "Transaction History" on PAIR indicating "09-15-20005 Correction – Drawing Not Required.

Applicant is advised that when confronted with this situation the applicant should have timely replied in writing (see 37 CFR § 1.2) to traverse such a requirement much as was done in the petition. Applicant had the option to contact the examiner in regards to the Notice of Allowability and the Notice Of Draftsperson's Patent Drawing Review, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement or file a petition under 37 CFR 1.181to the Director traversing the drawing requirement.

37 CFR § 1.2 Business to be transacted in writing, states:

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Petitioner should seek relief by the filing a Petition to Revive An Abandoned Application under 37 CFR § 1.137.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application.
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner For Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires relating to this decision may be directed to the undersigned at 703-308-9250.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICH BUCHER
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
SCOTT A. FIELD	:	
Application No. 09/489,192	:	DECISION ON PETITION
Filed: January 20, 2000	:	
Attorney Docket No. MSI-407US	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 22, 2006, 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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 7, 2005, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 8, 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 items (1) and (3).**

Petitioner states that the Corrected Drawings required on the Notice of Allowability were timely filed on March 24, 2004 as "Replacement Drawing Sheet 2" in response to the Office Action dated November 28, 2003. Applicant's representative contacted the USPTO on September 15, 2005 and had the USPTO correct their records and make an entry in the Transaction History in PAIR for the application indicating "9-15-2005 Correction – Drawing Not Required."

This argument is not persuasive. USPTO does not dispute that applicant filed a drawing correction on March 24, 2004. However, these drawings filed on March 24, 2004 are not responsive to the requirement set forth in the Notice of Allowability.

The Notice of Allowability mailed on September 7, 2005 set forth the requirement that CORRECTED DRAWINGS (as "replacement sheets") must be submitted including changes required in the attached Notice of Draftsperson's Patent Drawing Review (PTO-948). The Notice of Draftsperson's Patent Drawing Review (PTO-948) was mailed as an attachment to the Notice of Allowability on September 7, 2005 and clearly states that the drawing(s) filed on March 24, 2004 was objected to by the draftsperson; thereby necessitating the requirement in the Notice of Allowability to supply a correction to the drawings filed on March 24, 2004.

No written communication was filed in the application to traverse any requirement found in the Notice of Allowability until the petition to withdraw the abandonment was filed on April 25, 2006[1]. The drawings filed on March 24, 2004 are not a reply in compliance to the requirements set forth in the Notice of Draftsperson's Patent Drawing Review (PTO-948) and the Notice of Allowability mailed on September 7, 2005.

The petition states that on September 15, 2005, applicant's representative contacted the USPTO and had cause an entry into the transaction history in PAIR to indicate "Correction – Drawing NOT Required" to be entered into the electronic transaction history for the application. This egregious action caused an incorrect entry to be made into the file transaction history. Petitioner and/or applicant should refrain from such actions. All business with the USPTO should be transacted in writing. If applicant disagrees with a requirement, applicant should timely reply in writing (see 37 CFR 1.2) to traverse any objectionable requirement(s). The action of the USPTO 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.

Conclusion

With regard to item (1), petitioner has not submitted the required reply in terms of Corrected Drawings in compliance with the Notice of Draftsperson's Patent Drawing Review (PTO-948) and Notice of Allowability mailed on September 7, 2005.

With regard to item (2), the petition fee of $500 has been accepted.

With regard to item (3), there is no satisfactory showing that the delay in filing the required reply meets the "unavoidable" standard pursuant to 37 CFR 1.137(a).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned

[1] The petition to withdraw the holding of abandonment filed on April 25, 2006 was dismissed on May 1, 2006. In response, the instant petition to revive under 37 CFR 1.137(a) was filed on May 22, 2006.

application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,500 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

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

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Scott A. Field	:	
Application No. 09/489,192	:	ON PETITION
Filed: January 20, 2000	:	
Attorney Docket No. MSI-407US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a corrected drawing figure in response to the Notice of Allowance mailed September 7, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a replacement drawing figure; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the replacement drawing sheet is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of the 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 Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/10/06

Paper No.: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 6,545,003

(09/489,271)

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

Magdalene Talley
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 116

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:

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SPE — **Art Unit** 1624

Substitute for form 1449A/PTO	ATTORNEY'S DKT NO. 002010-533	APPLICATION NO. 09/489,271
INFORMATION DISCLOSURE STATEMENT BY APPLICANT	APPLICANT FRANCINE GRANT, et al.	
	FILING DATE January 21, 2000	GROUP 1624

U.S. PATENT DOCUMENTS

Examiner Initials	U.S. Patent Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication (MM-DD-YYYY)
SEW	4,018,913		Okamoto, et al.	04-19-1977
	4,018,915		Okamoto, et al.	04-19-1977
	4,055,651		Okamoto, et al.	10-25-1977
	4,055,636		Okamoto, et al.	10-25-1977
	4,041,156		Okamoto, et al.	08-09-1977
	4,046,876		Okamoto, et al.	09-06-1977
	4,070,457		Okamoto, et al.	01-24-1978
	4,036,955		Okamoto, et al.	07-19-1977
	4,073,914		Kikumoto, et al.	02-14-1978
	4,096,255		Kikumoto, et al.	06-20-1978
SEW	4,104,392		Okamoto, et al.	08-01-1978

FOREIGN PATENT DOCUMENTS

Examiner Initials	Foreign Patent Document Number	Kind Code (if known)	Country	Date of Publication (MM-DD-YYYY)	Translation Yes	Translation no
SEW	92/16549		PCT	10-01-1992		
	93/12809		PCT	07-08-1993		
	96/01644		PCT	01-25-1996		
	96/22966		PCT	08-01-1996		
	98/53817		PCT	12-03-1998		
	98/33783		PCT	08-06-1998		
	99/06431		PCT	02-11-1999		
	99/06432		PCT	02-11-1999		
	99/06433		PCT	02-11-1999		
	99/06390		PCT	02-11-1999		
	99/06391		PCT	02-11-1999		
	99/10312		PCT	03-04-1999		
	99/10313		PCT	03-04-1999		
	99/37618		PCT	07-29-1999		
	2,241,149		Canada	07-03-1977		
	2,259,224		Canada	01-08-1978		
	0 147 211		Europe	07-03-1993		
	0 288 176		Europe	10-26-1988		
	0 526 348		Europe (with abstract)	02-03-1993		X
	0 535 521		Europe	04-07-1993		
	195 48 709		Germany (see CA 2,241,149 for English equivalent)	07-03-1997		X
	196 54 483		Germany (see CA 2,259,224 for English equivalent)	01-02-1998		X
SEW	26 55 636		Germany (all listed US patents #1-11 are English equivalents)	06-23-1977		X

Substitute for form 1449A/PTO	ATTORNEY'S DKT NO. 002010-533	APPLICATION NO. 09/489,271
INFORMATION DISCLOSURE STATEMENT BY APPLICANT	APPLICANT FRANCINE GRANT, et al.	
	FILING DATE January 21, 2000	GROUP 1624

FOREIGN PATENT DOCUMENTS						

NON PATENT LITERATURE DOCUMENTS	
Examiner Initials	Include name of author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
SW	ADVANI, S.B., et al. *J. of Pharm. Sci.* 57(10): 1693-1696 (1968).
	GORDEEV, M.F. *Biotech. and Bioengineering*. 61(1): 13-16 (1998).
	HENKE, B.R., et al. *J. Med. Chem.* 41(25): 5020-5036 (1998).
	LAZER, E.S., et al. *J. Med. Chem.* 37(7): 913-923 (1994).
	MA, D., et al. *J. Am. Chem. Soc.* 120(48): 12459-12467 (1998).
SW	TERANISHI, K., et al. "Synthesis and chemiluminescence of coelenterazine (Oplophus luciferin) analogs." *Bull. Chem. Soc. Jpn.* 63(11): 3132-3140 (1990).
Examiner Signature	Date Considered 3/10/08

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. SEND TO: Assistant Commissioner for Patents, Washington, D.C. 20231.

MODIFIED PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	6,545,003
APPLICATION NO.	:	09/489,271
DATED	:	4/8/2003
INVENTOR(S)	:	Grant, Francine S., et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ON THE FRONT OF THE PATENT:

In References Cited section under U.S. Patent Documents please add:

U.S. Patent Documents

--4,018,913	4/1977	Okamoto, et al.
4,018,915	4/1977	Okamoto, et al.
4,055,651	10/1977	Okamoto, et al.
4,055,636	10/1977	Okamoto, et al.
4,041,156	8/1977	Okamoto, et al.
4,046,876	9/1977	Okamoto, et al.
4,070,457	1/1978	Okamoto, et al.
4,036,955	7/1977	Okamoto, et al.
4,073,914	2/1978	Kikumoto, et al.
4,096,255	6/1978	Kikumoto, et al.
4,104,392	8/1978	Okamoto, et al.--

ON THE FRONT OF THE PATENT:

In Reference Cited section under Foreign Patent Documents please add:

Foreign Patent Documents

--WO	92/16549	10/1992
WO	93/12809	7/1993
WO	96/22966	8/1996
WO	99/06431	2/1999
WO	99/06432	2/1999
WO	99/06433	2/1999
WO	99/06391	2/1999
WO	99/10313	3/1999
WO	99/37618	7/1999
CA	2,241,149	7/1977
CA	2,259,224	1/1978
EP	0288176	10/1988
EP	0526348	2/1993
DE	19548709	7/1997
DE	19654483	1/1998
DE	2655636	6/1977--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Lorna L. Tanner
Foley & Lardner LLP
1530 Page Mill Road
Palo Alto, California 94304-1125

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Patent
Attorney's Docket No. 002010-533

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	
FRANCINE GRANT, et al.	)	Group Art Unit: 1624
	)	
Application No.: 09/489,271	)	Examiner: M. Liu
	)	
Filed: January 21, 2000	)	
	)	
For: FUSED RING HETEROARYL AND HETEROCYCLIC COMPOUNDS WHICH INHIBIT LEUKOCYTE ADHESION MEDIATED BY VLA-4	)	

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In accordance with the duty of disclosure as set forth in 37 C.F.R. § 1.56, Applicants hereby submit the following information in conformance with 37 C.F.R. §§ 1.97 and 1.98. Pursuant to 37 C.F.R. § 1.98, a copy of each of the documents cited is enclosed.

1. U.S. Patent No. 4,018,913, issued April 19, 1977, to Okamoto, et al
2. U.S. Patent No. 4,018,915, issued April 19, 1977, to Okamoto, et al.
3. U.S. Patent No. 4,055,651, issued October 25, 1977, to Okamoto, et al.
4. U.S. Patent No. 4,055,636, issued October 25, 1977, to Okamoto, et al.
5. U.S. Patent No. 4,041,156, issued August 9, 1977, to Okamoto, et al.
6. U.S. Patent No. 4,046,876, issued September 6, 1977, to Okamoto, et al.
7. U.S. Patent No. 4,070,457, issued January 24, 1978, to Okamoto, et al.
8. U.S. Patent No. 4,036,955, issued July 19, 1977, to Okamoto, et al.
9. U.S. Patent No. 4,073,914, issued February 14, 1978, to Kikumoto, et al.
10. U.S. Patent No. 4,096,255, issued June 20, 1978, to Kikumoto, et al.

11. U.S. Patent No. 4,104,392, issued August 1, 1978, to Okamoto, et al.

12. CA 2,241,149, published July 3, 1977.

13. CA 2,259, 224, published January 8, 1978.

14. Teranishi, K., et al. "Synthesis and chemiluminescence of coelenterazine (Oplophus luciferin) analogs." *Bull. Chem. Soc. Jpn.* 63(11): 3132-3140 (1990).

The following documents were cited in the International Search Reports for related International Patent Application No. PCT/US00/01540 and International Patent Application No. PCT/US00/01686. Copies of the search reports are enclosed for the convenience of the Examiner.

15. International Publication No. WO 99/06390, published February 11, 1999.
16. International Publication No. WO 99/06391, published February 11, 1999.
17. International Publication No. WO 99/10312, published March 4, 1999.
18. International Publication No. WO 99/10313, published March 4, 1999.
19. International Publication No. WO 99/37618, published July 29, 1999.
20. EP 0 288 176 A, published October 26, 1988.
21. DE 195 48 709 A, July 3, 1997 (see #12 for abstract in English).
22. DE 196 54 483 A, published January 2, 1998 (see #13 for abstract in English).

The following additional documents were cited in the International Search Report for related International Patent Application No. PCT/US00/01536. A copy of the search report is enclosed for the convenience of the Examiner.

23. International Publication No. WO 98/53817, published December 3, 1998.
24. International Publication No. WO 98/33783, published August 6, 1998.
25. EP 0 147 211, published July 3, 1985.
26. EP 0 535 521, published April 7, 1993.
27. Advani, S.B., et al. *J. of Pharm. Sci.* 57(10): 1693-1696 (1968).
28. Gordeev, M.F. *Biotech. and Bioengineering*. 61(1): 13-16 (1998).
29. Henke, B.R., et al. *J. Med. Chem.* 41(25): 5020-5036 (1998).

30. Lazer, E.S., et al. *J. Med. Chem.* 37(7): 913-923 (1994).

31. Ma, D., et al. *J. Am. Chem. Soc.* 120(48): 12459-12467 (1998).

The following additional documents were cited in the International Search Report for related International Patent Application No. PCT/US00/01603. A copy of the search report is enclosed for the convenience of the Examiner.

32. International Publication No. WO 92/16549, published October 1, 1992.

33. International Publication No. WO 96/01644, published January 25, 1996.

34. International Publication No. WO 96/22966, published August 1, 1996.

35. International Publication No. WO 99/06431, published February 11, 1999.

36. EP 0 526 348, published February 3, 1993.

37. DE 26 55 636, published June 23, 1977 (see #1-11 for English equivalents).

The following additional documents were noted in the International Preliminary Examination Report and Written Opinion for related International Patent Application No. PCT/US00/01603.

38. International Publication No. WO 93/12809, published July 8, 1993.

39. International Publication No. WO 99/06432, published February 11, 1999.

40. International Publication No. WO 99/06433, published February 11, 1999.

A fee in the amount of $180.00 (126) is enclosed in conformance with 37 C.F.R. § 1.97(c).

By citing the above references, Applicants do not acquiesce or admit that any of these documents are "prior art" under 35 U.S.C. Applicants specifically reserve the right, where appropriate, to antedate any of the cited documents by an appropriate showing under 37 C.F.R. §1.131, §1.604, §1.608 or any other suitable means.

Receipt of the following is hereby acknowledged by the stamp below.

Title: FUSED RING HETEROARYL AND HETEROCYCLIC COMPOUNDS WHICH INHIBIT LEUKOCYTE ADHESION MEDIATED BY VLA-4
Inventor(s): Francine S. GRANT, et al. Dkt. No. 342837-1650
Patent No.: 6,545,003 THR

- Certificate of Correction Transmittal (2 pgs.)
- Request for Certificate of Correction (3 pgs.)
- PTO/SB/44 Form (2 pgs.)
- [illegible]
- Return Postcard

Date Filed: 10/3/06
Attorney Initials: THR

OIPE IAP6
OCT 10 2006
PATENT & TRADEMARK OFFICE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/17/2007 **Paper No.**: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 6,545,003

(09/489,271)

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 116

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:

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SPE **Art Unit** 1624

Patent
Attorney's Docket No. 002010-533

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	
FRANCINE GRANT, et al.	)	Group Art Unit: 1624
	)	
Application No.: 09/489,271	)	Examiner: M. Liu
	)	
Filed: January 21, 2000	)	
	)	
For: FUSED RING HETEROARYL AND HETEROCYCLIC COMPOUNDS WHICH INHIBIT LEUKOCYTE ADHESION MEDIATED BY VLA-4	)	

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

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1. U.S. Patent No. 4,018,913, issued April 19, 1977, to Okamoto, et al
2. U.S. Patent No. 4,018,915, issued April 19, 1977, to Okamoto, et al.
3. U.S. Patent No. 4,055,651, issued October 25, 1977, to Okamoto, et al.
4. U.S. Patent No. 4,055,636, issued October 25, 1977, to Okamoto, et al.
5. U.S. Patent No. 4,041,156, issued August 9, 1977, to Okamoto, et al.
6. U.S. Patent No. 4,046,876, issued September 6, 1977, to Okamoto, et al.
7. U.S. Patent No. 4,070,457, issued January 24, 1978, to Okamoto, et al.
8. U.S. Patent No. 4,036,955, issued July 19, 1977, to Okamoto, et al.
9. U.S. Patent No. 4,073,914, issued February 14, 1978, to Kikumoto, et al.
10. U.S. Patent No. 4,096,255, issued June 20, 1978, to Kikumoto, et al.

11. U.S. Patent No. 4,104,392, issued August 1, 1978, to Okamoto, et al.

12. CA 2,241,149, published July 3, 1977.

13. CA 2,259, 224, published January 8, 1978.

14. Teranishi, K., et al. "Synthesis and chemiluminescence of coelenterazine (Oplophus luciferin) analogs." *Bull. Chem. Soc. Jpn.* 63(11): 3132-3140 (1990).

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17. International Publication No. WO 99/10312, published March 4, 1999.
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19. International Publication No. WO 99/37618, published July 29, 1999.
20. EP 0 288 176 A, published October 26, 1988.
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26. EP 0 535 521, published April 7, 1993.
27. Advani, S.B., et al. *J. of Pharm. Sci.* 57(10): 1693-1696 (1968).
28. Gordeev, M.F. *Biotech. and Bioengineering*. 61(1): 13-16 (1998).
29. Henke, B.R., et al. *J. Med. Chem.* 41(25): 5020-5036 (1998).

30. Lazer, E.S., et al. *J. Med. Chem.* 37(7): 913-923 (1994).
31. Ma, D., et al. *J. Am. Chem. Soc.* 120(48): 12459-12467 (1998).

The following additional documents were cited in the International Search Report for related International Patent Application No. PCT/US00/01603. A copy of the search report is enclosed for the convenience of the Examiner.

32. International Publication No. WO 92/16549, published October 1, 1992.
33. International Publication No. WO 96/01644, published January 25, 1996.
34. International Publication No. WO 96/22966, published August 1, 1996.
35. International Publication No. WO 99/06431, published February 11, 1999.
36. EP 0 526 348, published February 3, 1993.
37. DE 26 55 636, published June 23, 1977 (see #1-11 for English equivalents).

The following additional documents were noted in the International Preliminary Examination Report and Written Opinion for related International Patent Application No. PCT/US00/01603.

38. International Publication No. WO 93/12809, published July 8, 1993.
39. International Publication No. WO 99/06432, published February 11, 1999.
40. International Publication No. WO 99/06433, published February 11, 1999.

A fee in the amount of $180.00 (126) is enclosed in conformance with 37 C.F.R. § 1.97(c).

By citing the above references, Applicants do not acquiesce or admit that any of these documents are "prior art" under 35 U.S.C. Applicants specifically reserve the right, where appropriate, to antedate any of the cited documents by an appropriate showing under 37 C.F.R. §1.131, §1.604, §1.608 or any other suitable means.

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

ATTORNEY'S DKT NO. 002010-533	APPLICATION NO. 09/489,271
APPLICANT FRANCINE GRANT, et al.	
FILING DATE January 21, 2000	GROUP 1624

U.S. PATENT DOCUMENTS

Examiner Initials	U.S. Patent Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication (MM-DD-YYYY)
	4,018,913		Okamoto, et al.	04-19-1977
	4,018,915		Okamoto, et al.	04-19-1977
	4,055,651		Okamoto, et al.	10-25-1977
	4,055,636		Okamoto, et al.	10-25-1977
	4,041,156		Okamoto, et al.	08-09-1977
	4,046,876		Okamoto, et al.	09-06-1977
	4,070,457		Okamoto, et al.	01-24-1978
	4,036,955		Okamoto, et al.	07-19-1977
	4,073,914		Kikumoto, et al.	02-14-1978
	4,096,255		Kikumoto, et al.	06-20-1978
	4,104,392		Okamoto, et al.	08-01-1978

FOREIGN PATENT DOCUMENTS

Examiner Initials	Foreign Patent Document Number	Kind Code (if known)	Country	Date of Publication (MM-DD-YYYY)	Translation Yes	Translation no
	92/16549		PCT	10-01-1992		
	93/12809		PCT	07-08-1993		
	96/01644		PCT	01-25-1996		
	96/22966		PCT	08-01-1996		
	98/53817		PCT	12-03-1998		
	98/33783		PCT	08-06-1998		
	99/06431		PCT	02-11-1999		
	99/06432		PCT	02-11-1999		
	99/06433		PCT	02-11-1999		
	99/06390		PCT	02-11-1999		
	99/06391		PCT	02-11-1999		
	99/10312		PCT	03-04-1999		
	99/10313		PCT	03-04-1999		
	99/37618		PCT	07-29-1999		
	2,241,149		Canada	07-03-1977		
	2,259,224		Canada	01-08-1978		
	0 147 211		Europe	07-03-1993		
	0 288 176		Europe	10-26-1988		
	0 526 348		Europe (with abstract)	02-03-1993		X
	0 535 521		Europe	04-07-1993		
	195 48 709		Germany (see CA 2,241,149 for English equivalent)	07-03-1997		X
	196 54 483		Germany (see CA 2,259,224 for English equivalent)	01-02-1998		X
	26 55 636		Germany (all listed US patents #1-11 are English equivalents)	06-23-1977		X

Substitute for form 1449A/PTO	ATTORNEY'S DKT NO. 002010-533	APPLICATION NO. 09/489,271
INFORMATION DISCLOSURE STATEMENT BY APPLICANT	APPLICANT FRANCINE GRANT, et al.	
	FILING DATE January 21, 2000	GROUP 1624

FOREIGN PATENT DOCUMENTS						

NON PATENT LITERATURE DOCUMENTS	
Examiner Initials	Include name of author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
	ADVANI, S.B., et al. *J. of Pharm. Sci.* 57(10): 1693-1696 (1968).
	GORDEEV, M.F. *Biotech. and Bioengineering*. 61(1): 13-16 (1998).
	HENKE, B.R., et al. *J. Med. Chem.* 41(25): 5020-5036 (1998).
	LAZER, E.S., et al. *J. Med. Chem.* 37(7): 913-923 (1994).
	MA, D., et al. *J. Am. Chem. Soc.* 120(48): 12459-12467 (1998).
	TERANISHI, K., et al. "Synthesis and chemiluminescence of coelenterazine (Oplophus luciferin) analogs." *Bull. Chem. Soc. Jpn.* 63(11): 3132-3140 (1990).
Examiner Signature	Date Considered 5/15/08

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. SEND TO: Assistant Commissioner for Patents, Washington, D.C. 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APR 6 2001

Paper No. 8

R. Michael Ananian
FLEHR HOHBACH TEST ALBRITTON
AND HERBERT LLP
Four Embarcadero Center #3400
San Francisco, CA 94111

In re Application of:	:	
Krieger *et al.*	:	
Application No. 09/489,293	:	DECISION ON REQUEST TO
Filed: January 21, 2000	:	WITHDRAW FROM RECORD
Attorney Docket No. A-67845	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 12, 2001.

The request is **APPROVED** to the extent set forth below.

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 which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by R. Michael Ananian with no clear indication that he is signing on behalf of the other attorneys of record, and there is no outstanding Office action for which a response is necessary.

Accordingly, the request is approved for withdrawal of R. Michael Ananian. The remainder of the attorneys listed on the Power of Attorney filed August 18, 2000 remain of record. Telephone calls to R. Michael Ananian failed to resolve the issue of whether the withdrawal was signed on behalf of all the attorneys of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: James A. Sheridan
Thomason Moser & Patterson LLP
4149-B El Camino Way
Palo Alto, CA 94306-4036

enclosure: copy of Request for Withdrawal as Attorney or Agent for James A. Sheridan

2834

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT		
	Application Number	09/489,293
	Filing Date	January 21, 2000
	First Named Inventor	Krieger
	Title: Hydrodynamic Spindle Motor Sealing Technique	
	Attorney Docket Number	A-67845

OIPE JC109 JAN 1 2 2001 PATENT & TRADEMARK OFFICE

Certificate of Mailing: I hereby certify that this correspondence is being deposited in the United States Mail, postage prepaid, in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231 on January 5, 2001.

By _____
Aurelia Caparas

To: Assistant Commissioner for Patents
Washington, D.C. 20231

On behalf of Flehr Hohbach Test Albritton & Herbert LLP ("The Firm") I hereby apply for withdrawal of The Firm as attorney or agent for the above identified application. The reasons for this request are:

At the request of the Applicant or its authorized representative, The Firm transferred prosecution responsibility and the entire prosecution file for this application to new patent counsel, namely:

James A. Sheridan
Thomason Moser & Patterson LLP
4149-B El Camino Way
Palo Alto, California 94306-4036

A letter of the form attached hereto was used to transfer the files. This letter required that the Thomason Moser & Patterson LLP file a Revocation of Power of Attorney for The Firm. The undersigned counsel believes that the Thomason Moser & Patterson LLP Firm will imminently file a Revocation of Power of Attorney in this application. As The Firm is no longer responsible for this application, The Firm should be allowed to withdraw as counsel of record.

RECEIVED
JAN 2 4 2001
TECHNOLOGY CENTER 2800

1. ☐ The correspondence address is NOT affected by this withdrawal
2. ☒ Change the correspondence address and direct all future correspondence to:

James A. Sheridan
Thomason Moser & Patterson LLP
4149-B El Camino Way
Palo Alto, California 94306-4036

RECEIVED
JAN 1 7 2001
TECHNOLOGY CENTER 2800

This request is enclosed in triplicate	
Firm:	Flehr Hohbach Test Albritton & Herbert LLP Four Embarcadero Center #3400 San Francisco, CA 94111
Name	R. Michael Ananian, Reg. No. 35,050
Signature	R. Michael Ananian
Date	January 5, 2001.

Note: Withdrawal is effective when approved rather than when received.
Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension or possible extension period, the request to withdraw is normally disapproved.

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: MAR 11 2003

td
Paper Number 18

In re application of
Hong Shih et al.
Serial No. 09/489,356
Filed: January 21, 2000
For: COATING BORON CARBIDE ON ALUMINUM

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 5, 2002.

On April 25, 2002, a non-final office action was mailed to applicant rejecting all of the claims under 35 USC 103. A reply to the office action was filed by applicants on July 16, 2002. In the reply, applicants made several amendments to the claims and presented new claims. A final office action was mailed by the office on December 5, 2002 containing new grounds of rejection. Applicants filed an after final amendment on December 18, 2002 and made a request to have the finality of the December 5, 2002 office action withdrawn. This request was not addressed in the advisory action mailed January 6, 2003.

On January 17, 2003 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the December 5, 2002 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that because claims 1 and 13 were not amended by applicants in the response filed July 16, 2002, the new grounds of rejection were clearly not necessitated by applicant's amendments to the claims. This is clearly the case and the argument is persuasive. The finality of the office action was in fact improper.

Accordingly, the petition for withdrawal of finality is **GRANTED.** Because the finality has been withdrawn, the amendment filed on December 18, 2002 will be treated as an amendment under 1.111 and will be entered. The examiner will consider the claims in light of said amendment and prepare a new non-final office action.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 24

HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

COPY MAILED

JUN 1 4 2004

OFFICE OF PETITIONS

In re Application of	:
Vanessa Hsei et al	:
Application No. 09/489,394	: DECISION ON PETITION
Filed: January 21, 2000	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. P1085R6	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed November 10, 2003 and supplemented on May 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 § 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** as moot.

The instant application was filed on January 21, 2000. A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. See MPEP Section 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the $1,330 fee submitted for the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is unnecessary and will be credited to Deposit Account No. 08-1641 as authorized.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center Art Unit 1642 for processing the amendment filed with the instant petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6-14-04 | 2 Serial/Patent # 09/489394

3. Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition		11-10-03	$ 1370
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1370

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 08--1641

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

Pet dismissed as moot

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Pets. Exm'r

SIGNATURE: Karen Creasy PHONE: 305-8859

OFFICE: DAC for Patents

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 6/14/04

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)

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ARTZ & ARTZ P.C.
John S. Artz
28333 Telegraph Road Suite 250
Southfield, MI 48034

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JUL 28 2003

Director's Office
Group 3700

Paper No. 11

In re Application of
KILLION, DAVID L.
Application No.: 09/489,525
Filed: January 21, 2000

DECISION ON PETITION

This is a decision on the petition filed March 5, 2003 to review the holding of abandonment, mailed October 18, 2001.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED.

> The showing required to establish nonreceipt 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; and (2) 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 MPEP 711.03(c)II.

The instant petition does not comply with item (1) above. Practitioner did not provide a statement attesting to the fact that a search of the file jacket and docket records were made in confirming the Office communication was not received

The petition fee is not required. The $130 petition fee is being credited to deposit account no. 50-0476.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Alternatively, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137. The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Richard A. Bertsch, Director
Technology Center 3700

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

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600 SUPERIOR AVENUE E
2100 BANK ONE CENTER
CLEVELAND, OHIO 44114

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NOV 08 2005

Director's Office
Group 3700

Paper No. 14

In re Application of
KILLION, DAVID L.
Appl No.: 09/489,525
Filed: January 21, 2000
For: IMPROVED ENERGY EFFICIENT FLUID PUMP
Attorney Docket Number: SIMP 0134 PUS

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed October 18, 2001 for failure to timely reply to the office action mailed June 15, 2001. A first petition was filed March 5, 2002, which was dismissed because the petition lacked a statement that a thorough search of the file jacket and docket reports indicated that the office action was not received. Petitioner has filed a renewed petition on September 29, 2003 with a copy of the first petition and additional statements. The request is treated as a petition to withdraw of the holding of abandonment pursuant to 37 CFR 1.181 based on non-receipt of the office action. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed October 18, 2001 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to remail the office action. The statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied office action.

Richard A. Bertsch, Director
Technology Center 3700

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 19

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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JAN 2 9 2004

OFFICE OF PETITIONS

In re Application of
William J. Baer et al
Application No. 09/489,561
Filed: January 21, 2000
Attorney Docket No. STL000025US1

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed January 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 2122 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).

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Paper No.

SEAGATE TECHNOLOGY
c/o MOFO SF
425 MARKET ST.
SAN FRANCISCO, CA 94105

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AUG 1 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Donald MacLeod, Robert Pelstring	:	DECISION ACCORDING
Marten Byl, Jeffry LeBlanc,	:	STATUS
Tan Pham, Robert Nottingham and	:	UNDER 37 CFR 1.47(a)
Michael Whittome	:	
Application No. 09/489,594	:	
Filed: January 21, 2000	:	
Atty Docket No. A-67848/JAS/WEN	:	

This is a decision on the petition under 1.47(a) filed September 2, 2003 (and resubmitted February 16, 2005). The petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on January 21, 2000, with an unexecuted declaration. Prior to a Notice to File Missing Parts of Application requiring an executed oath or declaration and late surcharge being mailed, on September 2, 2003, applicants filed the instant petition. The late surcharge has been charged to Deposit Account No. 19-1036, as authorized. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Marten Byl refuses to join in the application.

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.

By declaration of facts of Sr. Legal Secretary Carolyn Radmanovich, and supporting documentary evidence, petitioner has shown that the non-signing inventor has, by his conduct, refused to join in the filing of the above-identified application after having been presented with the application papers. The evidence reveals 2 mailings of the papers to inventor Byl. The evidence supports a conclusion that inventor Byl declined to claim the latter mailing from the Post Office. The petition includes payment of the petition fee and a statement of the last known address of inventor Byl.

The declaration filed September 2, 2003, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the Revocation of Power of Attorney and Change of Correspondence Address filed February 16, 2005 is acknowledged and made of record.

The Publishing Division has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 7

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAIL

NOV 25 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
GETSIN et al.
Application No. 09/489,601
Filed: January 20, 2000
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR A BUSINESS LAYER COMPONENT IN A MULTIMEDIA SYNCHRONIZATION FRAMEWORK

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 16, 2000 under 37 CFR §1.102(d) to make the application special, which is being treated as a request for reconsideration.

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 a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the claims are not already of record.

The petitioner fails to provide sufficient fee. The deposit account provided in the petition filed May 16, 2000 is not active. Accordingly, the petition is **DENIED.**

The application is being returned to TC 2600 central files repository to await action in its regular turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DTW Nov-08

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 13 2008

OFFICE OF PETITIONS

In re Patent No. 6445800	:	
Issue Date: 09/03/2002	:	
Application Number: 09/489774	:	ON PETITION
Filing Date: 01/24/2000	:	
Attorney Docket Number:	:	
277897US6DIV	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.181(A)(2)," filed on June 23, 2008, which is treated as a petition under 37 CFR 1.182, and 37 CFR 1.183, requesting that a a terminal disclaimer recorded in prior-filed Application No. 07/600,818, filed on October 22, 1990, which issued as U.S. Patent No. 5,640,458, on June 17, 1997, be withdrawn or nullified with regard its effect on the term of instant patent.

The petition is **dismissed**.

Petitioner requests that the Director nullify any effect of the terminal disclaimer filed on June 13, 1994, in the above-referenced, prior-filed application, No. 07/600,818 (hereinafter "the '818 application") on the subject patent, No. 6,445,800 (hereinafter "the '800 patent"), which issued from Application No. 09/489,774 (hereinafter "the '774 application").

It is noted that petitioner states:

> Initially, Patentee respectfully request that 37 C.F.R. § 1.182(f) be suspended. Rule 182(f) indicates that a petition not filed within two months of the action or notice from which relief is sought may be dismissed as untimely. However, under 37 C.F.R. § 1.183, the Director, or the Director's designee, may suspend or waive a Rule in the event of extraordinary circumstances or when justice requires. Patentee submits that the present situation is such a case.

Petitioner's argument has been, considered, but is not persuasive.

Preliminarily, it is noted that MPEP 1490 states

> While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed **before the patent issues**. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).
>
> The mechanisms to correct a patent – Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) – are **not** available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. **As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public**, particularly where the public interest is not protected in some manner – e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
>
> (emphasis added)

As such, petitioner must show why the terminal disclaimer filed in the '818 application, to which the subject application claims benefit under 35 U.S.C. § 120, should not be given full effect in the '800 patent which issued from the '774 application.

At the outset, a decision is being issued in Patent No. 5,640,458 (hereinafter "the '458 patent"), concerning the petition to withdraw the terminal disclaimer. The reasons why the terminal disclaimer will not be withdrawn or nullified in the '818 application have been explained in the decision issued in the '458 patent. As such, the sole issue at hand is whether the effect of the terminal disclaimer filed in the '818 application

can be nullified or withdrawn with regard to the '800 patent, which issued from the '774 application, an application claiming benefit under 35 U.S.C. § 120 to the '818 application.

The terminal disclaimer filed on June 13, 1994, in the '818 application states that petitioner "hereby disclaims the terminal twenty-six (26) months of any patent granted on said Application Serial No. 07/600,818 or on any application which is entitled to the benefit of the filing date of said Application No. Serial No. 07/600,818 under 35 U.S.C. 120."

Accordingly, in claiming the benefit under 35 U.S.C. 120 of the '818 application in the '774 application, petitioner acquiesced to any and all limitations on the patent term of any patent issuing from the '774 application, as imposed by the terminal disclaimer filed in the '818 application.

As stated above, as a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner – e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).

As discussed in the decision on petition in the '458 patent, the balance of equities does not merit the Director overruling the well-settled public policy precluding restoration to the patent owner of something that has been freely dedicated to the public in favor of correcting, after issuance of the patent and an extended period of delay. The showing of record is that petitioner did not file the petition to withdraw the terminal disclaimer in the '818 application until an extended period after the '458 patent had issued, and has not provided an adequate explanation of neither the delay in filing the petition, nor a sufficient reason why the Director should grant the requested relief under 37 CFR 1.182.

Further, considered under 37 CFR 1.183, petitioner's argument is not well taken. As stated previously, 37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

The facts presented on the record do not establish an extraordinary situation. Petitioners have not established any special circumstances or equities that would require suspension of the rules in the interests of justice. It is noted that petitioner has not identified a particular rule the waiver of which would provide the relief requested.

Lastly, 35 U.S.C. § 120 states that an application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. Accordingly, to the extent that the term of the '800 patent is limited by the terminal disclaimer filed in the '818 application, and the subject patent claims benefit of the '818 application under 35 U.S.C. 120, the claim of benefit is statutory. Accordingly, the USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

As such, to the extent that the '458 patent which issued from the '818 application, to which the subject application claims benefit under 35 U.S.C. 120, is subject to the terminal disclaimer at issue, any patent which issued from an continuing application filed under 35 U.S.C. 120, which claims the benefit of the '818 application, is, by statute, subject to all of the limitations which apply to the '818 application, the '458 patent, and any applications for patent claiming benefit under 35 U.S.C. § 120 thereto.

Accordingly, the petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 inquires should be directed to the undersigned at 571.272.3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 15

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Shinjyu An Intellectual Property Firm
C/O Shinjyu Global IP Counselors LLP
1233 Twentieth Street NW Suite 700
Washington DC 20036-2680

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MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Takahashi, et al. :
Application No. 09/490,038 : DECISION ON PETITION
Filed: January 24, 2000 :
Attorney Docket No. US000034

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper reply to the final Office action mailed February 13, 2002. A shortened statutory period of three-months was set forth for a reply. Petitioner filed a response on May 13, 2002, that was not entered because it did not *prima facie* place the application in condition for allowance. No other responses were received within the allowable period, and the above-cited application became abandoned on April 14, 2002. The instant petition was filed before a Notice of Abandonment could be sent.

The Request for Continued Examination, filed February 24, 2003, is noted.

Deposit account 19-2042 will be assessed $750.00 for the Request for Continued Examination filing fee.

The application file is being forwarded to Technology Center 1600 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-06

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

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JAN 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Richard Schmidt	:	
Application No. 09/490,175	:	DECISION ON PETITION
Filed: 22 January, 2000	:	
Atty. Docket No. P-8824	:	
	:	

This is a decision on the petition filed on 14 October, 2005 (certificate of transmission date 9 June, 2003), under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 17 September, 2002, for failure to timely the issue fee, as required by the Notice of Allowance and Fee(s) Due, and corrected drawings, as required by the Notice of Allowance, both mailed on 14 June, 2002, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 22 October, 2002.

Petitioner has submitted both authorization to charge the issue fee and corrected drawings.

As petitioner has shown that the petition was filed on 9 June, 2003, the petition and issue fee(s) in effect at that time, $1,280.00 each, will be charged to counsel's deposit account, No. 13-2546.

This application is being referred to the Publishing Division for processing into a patent.

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
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Alexandria, VA 22313-1450
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GENERAL INSTRUMENT CORPORATION DBA THE BROADBAND
COMMUNICATIONS SECTOR OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. Masucci	:	
Application No. 09/490,189	:	ON PETITION
Filed: January 24, 2000	:	
Attorney Docket No. 2736.1002000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2005, to revive the above-identified application.

In response to the Notice of Allowance mailed January 13, 2005, petitioner hereby submits $1,500 for the petition to revive fee, $1,400 for payment of the issue fee and the statement of unintentional delay. As authorized, the above fees have been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (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
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Paper No. 13

JOHN A. CHINONCHIO, ESQUIRE
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1101 MARKET STREET, SUITE 2600
PHILADELPHIA PA 19107

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JUN 2 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Glenn Bostock
Application No.09/490,268
Filed: January 24, 2000
Title of Invention: Wall Paneling Assembly and System

This is a decision on the petition filed January 12, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file an appeal brief in triplicate and submit the accompanying fee. Applicant filed a Notice of Appeal on July 16, 2001. Pursuant to 37 CFR 1.192(a) Applicant was required to file an Appeal brief two months from July 16, 2001. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 17, 2001. A Notice of Abandonment was mailed on August 14, 2001.[1]

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

[1]It should be noted the August 14, 2001 Notice of Abandonment was mailed prematurely.

(1) the required reply,[2]
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

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 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

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.[3] However, " The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case

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[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.

[3] 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).

basis, taking all of the facts and circumstances into account."[4] Nonawareness of the content of, or misunderstanding of PTO statues, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[5] The statue requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

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.[6]

Application of the unavoidable standard to the present facts

In the present case, petitioner argues continued prosecution in the above-identified application was unavoidably delayed due to the neglect and inaction of his previous attorney Joseph Molasky. Petitioner contends despite calls to attorney Molasky, he did not discover the above-identified application was abandoned until December 11, 2003 when present counsel informed him of the status. Petitioner insist he was mislead by attorney Molasky in the October 17, 2001 letter which failed to mention an Advisory Action had been mailed on August 2, 2001 and a Notice of Abandonment was mailed on August 14, 2001. The fact that neither the Advisory Action or the Notice of Abandonment were mentioned leads Petitioner to conclude this information was deliberately withheld. Ultimately petitioner argues the actions or lack of actions of former attorney Molasky should not be imputed on petitioner because petitioner demonstrated diligence, petitioner had no knowledge his attorney could not be trusted with the prosecution of the application and petitioner was "continually and apparently

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[4] Smith v. Mossinghoff, 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982).

[5] Id., 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

[6] 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

deliberately misled" as to the status of the application. Petitioner insist contrary to established precedence, he should not be bound by the actions or inactions of his representative. See In re Application of Robert Lonardo, 17USPQ2D (BNA) 1455.

The showing of record has been considered, but is not persuasive. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[7] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[8] Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[9]

An adequate showing of unavoidable delay must include a showing from Attorney Molasky as to why action was not taken to prevent the application from becoming abandoned while the application was under Molasky's control. Petitioner should send a letter (accompanied by a copy of this decision) to Molasky by registered or certified mail, return receipt requested, indicating to Molasky that the USPTO is requesting his assistance in determining the circumstances surrounding the abandonment of this application, and is specifically requesting Molasky to provide a statement determining the circumstances surrounding the abandonment of this application, and is specifically requesting Molasky to provide a statement as to: (1) why an appeal in triplicate , appeal fee and any required extensions of time were not filed (2) when Molasky received the Advisory Action mailed August 2, 2001 and Notice of Abandonment which was mailed on August 14, 2001, and (3) what actions Molasky subsequently took upon learning that the application was abandoned. Such statements should be accompanied by copies of any documents (*e.g.* correspondence between petitioner and counsel) relevant to the outstanding Office action. In the event that Molasky fails to provide a statement within a period (*e.g.*, within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to Molasky with any renewed petition under 37 CFR 1.137(a).

In addition to the above, petitioner needs to provide more detailed information to establish applicant acted diligently to prevent the application from going abandoned and since abandonment has acted as diligently as a reasonably prudent person would treat his most important business. What action if any beyond phone calls were made between October 2001 until June 2002. It appears that applicant did question the attorney's ability to prosecute the application at least as early as of June 2002.

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[7] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[8] 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).

[9] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Petitioner has not explained why petitioner continued to be represented by Molasky after petitioner lost confidence in attorney's representation. Nor has petitioner explained why he did not revoke his power of attorney to Molasky and appoint a new attorney until the filing of this petition on January 12, 2004. Once it was determined Molasky was not handling the application as petitioner desired, it is then petitioner's responsibility to either timely seek other counsel or prosecute the application on his own behalf. Beyond keeping a phone journal what did petitioner do to ascertain the status of the application.

Petitioner contends he did not discover the status of the application until December 2003. However, petitioner has not provided an explanation as to why he or any subsequent legal representative did not contact the USPTO directly to determine the status of the application.

In sum, petitioner has failed to provide sufficient evidence, to establish a finding of unavoidable delay.

Alternative Venue

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 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 delivery 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 should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

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OFFICE OF PETITIONS

In re Application of
Glenn Bostock
Application No. 09/490,268
Filed: January 24, 2000
Attorney Docket No. 720a

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file an appeal brief in triplicate and submit the accompanying fee. Applicant filed a Notice of Appeal on July 16, 2001. Pursuant to 37 CFR 1.192(a) Applicant was required to file an Appeal brief two months from July 16, 2001. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 17, 2001. A Notice of Abandonment was mailed on August 14, 2001. A petition filed under 37 CFR 1.137(a) was dismissed on June 24, 2004.

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 amendment submitted on August 16, 2004 will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **February 07, 2008**

TO SPE OF : ART UNIT **2132**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/490,354** Patent No.: **7093130 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: _____

GILBERTO BARRON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

AU2132

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Steven M. Golden et al	:	
Application No. 09/490,362	:	ON PETITION
Filed: January 24, 2000	:	
Attorney Docket No. 2166	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 take appropriate action in a timely manner after the decision of June 29, 2006, by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated; *see* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 30, 2006. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (4).

As to item (1), the Examiner has indicated that the filing of the terminal disclaimer to obviate the obviousness-type double patenting rejection would not at this time *prima facie* place this application in condition for allowance since a further search and examination of the application would be required. Accordingly, the reply required must be either a request for continued examination under 37 CFR 1.114 or the filing of a continuing application under the provisions of 37 CFR 1.53(b). If the reply is the filing of a continuing application, the renewed petition under 37 CFR 1.137(b) should so indicate and state that this application is to be expressly abandoned as of the filing date granted to the continuing application.

Turning next to item (4) above, a terminal disclaimer (and fee) is required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order. The reason being that utility and plant applications issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreements Act (URAA)). See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of abandonment. The requirement for a terminal disclaimer for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public. Accordingly, the filing of a terminal disclaimer pursuant to the provisions of 37 CFR 1.137(d) is required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIRO, SCAVONE, HALLER & NIRO
181 W. MADISON, SUITE 4600
CHICAGO, IL 60602

COPY MAILED

MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven M. Golden et al	:	
Application No. 09/490,362	:	ON PETITION
Filed: January 24, 2000	:	
Attorney Docket No. 2166	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

As noted in the decision mailed March 2, 2006, this application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 29, 2006, by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated; *see* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 30, 2006. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the requirements for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely take appropriate action in a timely manner after the Board decision of June 29, 2006 is accepted as having been unintentionally delayed.

The terminal disclaimer filed on May 1, 2007 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

As authorized, the $790 fee for the Request for Continued Examination will be charged to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries concerning the status or examination of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3622 for processing the Request for Continued Examination filed March 15, 2007 and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

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

Paper No. 21

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD, IL 61101

COPY MAILED
AUG 0 3 2004
OFFICE OF PETITIONS

In re Application of :
Thomas Norton Koerble et al :
Application No. 09/490,370 : ON PETITION
Filed: January 24, 2000 :
For: HAND HELD SAW MILL :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 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 above-identified application became abandoned on September 19, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 3724.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

PATTI & BRILL
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

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AUG 1 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Gnesda et al.	:	
Application No. 09/490,605	:	ON PETITION
Filed: January 25, 2000	:	
Attorney Docket No. Luc-338/Gnesda 3-9-4	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 8, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 9, 2002. A Notice of Abandonment was mailed on September 25, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** 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

In re Patent No. 6687316
Issue Date: February 3,2004
Application No. 09490621
Filed: January 25,2000
Attorney Docket No. 99CR004/KE

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 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 March 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.

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)
6687316	2004-02-03	09490621	2000-01-25	99CR004/KE

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	//keppele//	Date (YYYY-MM-DD)	2008-03-11
Name	Kyle Eppele	Registration Number	34155

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.

23 FEB 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

Law Office of Charles Guenzer
PO Box 60729
Palo Alto, CA 94306

In re Application of Martinez, Celso, Jr. Application No.: 09/490,740 PCT No.: PCT/BR98/00053 Int. Filing Date: 28 July 1998 Priority Date: 29 July 1997 Attorney Docket No.: 3815.01 For: A ROOF WATERPROOFING SYSTEM CONSISTING OF AN ORGANIC RESIN PROTECTED BY AN ALUMINUM-COPOLYMER COMPOSITE FOIL	RECONSTRUCTION OF APPLICATION UNDER 37 CFR 1.251 AND PETITIONS UNDER 37 CFR 1.181

This decision is in response to applicant's "Communication," filed with the United States Patent and Trademark Office on 26 September 2003 forwarding copies of application papers for the purpose of reconstructing the above captioned application file and applicant's petition under 37 CFR 1.181 to treat application 09/490,740 as a national stage of PCT/BR98/00053 and applicant's petition under 37 CFR 1.181 filed 13 February 2004. No petition fee is due.

BACKGROUND

On 28 July 1998, applicant filed international application PCT/BR98/00053 claiming a priority date of 29 July 1997. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 February 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 February 1999, prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2000 (29 January 2000 was a Saturday).

On 26 September 2003, applicant submitted the instant communication enclosing copies of correspondence that applicant claims to have earlier submitted to the Office along with postcard receipts, to facilitate reconstruction of the file.

DISCUSSION

RECONSTRUCTION UNDER 1.251

Applicant has enclosed a copy of "Reconstruction of File Under 37 CFR §1.251," and a date stamped postcard receipt listing the reconstruction response, a summary of all correspondence, copies of the correspondence and a Notice Under 37 CFR 1.251. The postcard receipt lists the inventor, title and serial number and is date stamped 19 May 2003. Applicant indicates the set of papers is a copy of the 19 May 2003 submission and the statement is signed by someone registered to practice before the Office.

Under 37 CFR 1.251, when applicant is informed that the file cannot be located, applicant can proceed under one of three subsections. Applicant is proceeding under 37 CFR 1.251(a)(1). It requires that applicant furnish a copy of all correspondence, a list of such correspondence, a statement that the copy is a complete and accurate copy of all correspondence between the Office and the applicant for such application, patent or other proceeding, and state whether applicant is aware of any correspondence for such application, patent or other proceeding that is not among applicant's records.

Applicant has furnished a copy of the correspondence, a listing of the correspondence and has furnished the required statements.

REQUEST TO TREAT APPLICATION AS 35 U.S.C. §371 FILING

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. §371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application.

The transmittal letter filed on 25 January 2000 clearly identified the application as a §371 filing. There were no conflicting instructions. Accordingly, the instant application should have been treated as the national stage application of PCT/BR/00053.

As the instant application proceeded as a filing under 35 U.S.C. §111(a), the Article 34 amendment and preliminary amendment that accompanied the original filing, which amended the application on the basis of the Article 34 amendment, were never entered. As applicant's subsequent amendment of 15 June 2001 amended the specification and claims as originally filed, rather than as amended under Article 34 and by the preliminary amendment, applicant's 15 June 2001 amendment is

considered an instruction to cancel the Article 34 and preliminary amendments. As such, the Article 34 amendment and the preliminary amendment will not be entered.

Since the application was processed under 35 U.S.C. §111, applicant was charged the fees for an application filed under 35 U.S.C. §111 rather than the fees for an application filed under 35 U.S.C. §371. The fees will be corrected. The additional amount equal to the difference between the basic filing fee under 35 U.S.C. §111 and the basic national fee under 35 U.S.C. §371 will be charged to Deposit Account No. 50-0636.

CONCLUSION

For the reasons discussed above, the Reconstruction Under 37 CFR 1.251 and the petitions under 37 CFR 1.181 are **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing as a U.S. national stage application of the international application no. PCT/BR98/00053, in accordance with this decision, to include mailing of a Notification of Acceptance (Form PCT/DO/EO/903) according the application a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of **25 January 2000**. The Article 34 amendment and the preliminary amendment filed 25 January 2000 **SHOULD NOT** be entered. The application should then be forwarded to the reconstruction coordinators in Technology Center 3600 for further processing, including physically entering the 15 June 2001 amendment into the application file and determining whether the accompanying substitute specification was entered and confirming that the claims of record are the allowed claims.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
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

In re Patent No. 6239758
Issue Date: May 29,2001
Application No. 09490794
Filed: January 24,2000
Attorney Docket No. 65973.68658

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 25,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 25,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6239758	2001-05-29	09490794	2000-01-24	9062B-000016/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	/Anthony G. Fussner/	Date (YYYY-MM-DD)	2007-05-25
Name	Anthony G. Fussner	Registration Number	47582

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
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Paper No. 9

Jack I. J'maev
Intellectual Property Development
12616 Lewis Avenue
Chino, CA 91710

COPY MAILED
AUG 22 2002
OFFICE OF PETITIONS

In re Application of	:	
Michael Lynch	:	
Application No. 09/490,903	:	ON PETITION
Filed: January 25, 2000	:	
Attorney Docket No. LYNM-002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37CFR 1.113 in a timely manner to the non-final Office action mailed March 28, 2001, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 29, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2800, Art Unit 2831.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley

Sherry 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
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Michael Lynch
Eco Electrical Systems
7758 Pickering Circle
Reno, NV 89511

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APR 0 9 2009

OFFICE OF PETITIONS

In re Patent of Lynch	:	
Patent No. 6,812,400	:	
Issue Date: November 2, 2004	:	Decision on Petition
Application No. 09/490,903	:	
Filing Date: January 25, 2000	:	
For: Bird Guard	:	

This is a decision on the petition filed December 23, 2008, 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 patent issued November 2, 2004. The last day of the grace period for paying the 3.5 year maintenance fee was Monday, November 3, 2008. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

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 communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080716

DATE : August 27, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7209411

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch
703 308-8390 X122

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

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Paper No. 18

HOWISON, THOMA & ARNOTT, LLP
PO BOX 741715
DALLAS, TX 75374-1715

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of
Philyaw
Application No. 09/491,142
Filed: January 26 2000
Attorney Docket No. PHLY-24,910

ON PETITION

This decision concerns the May 6, 2003 petition under 37 CFR 1.137(a) to revive the above-referenced application. The petition alleges non-receipt of a certain PTO Office action and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application.

The petition is **DISMISSED.**

On May 10, 2002, a non-final Office action was mailed ("5/10/02 Office Action"), setting forth a 3-month shortened statutory reply period. No response was received on or before August 12, 2002 (Monday) and no extension of time under 37 CFR 1.136(a) was obtained. The application was held abandoned as of August 11, 2002.[1]

The instant petition alleges non-receipt of the 5/10/02 Office Action, implying that the application should not be held abandoned.

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[2] The showing required to overcome this presumption consists of:[3]

(1) a statement from the practitioner:
(A) stating that the Office action was not received by the practitioner;
(B) attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

---

[1] Without any extension of time, the reply period ended 8/10/02, a Saturday. 37 CFR 1.7(a) permits submission of a proper response on 8/12/02. Failure to do so renders the application abandoned as of 8/11/02.

[2] 1156 OG 53 (Oct. 25, 1993). The 5/10/02 Office Action was mailed to counsel's current address.

[3] *Id.*

(2) a copy of the docket record where the allegedly non-received Office action would have been docketed had it been received.

The petition lacks items (1)(B) and (2), and is thus dismissed.

The holding of abandonment in this application is not withdrawn.

No petition fee is required for a petition under 37 CFR 1.181.

Finally, receipt with the petition of an "Amendment and Response to Office Action" is acknowledged.

A renewed §1.181 petition (no fee) **must** be filed within **TWO MONTHS** of the mailing date of this decision,[4] and should be 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

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[4] 37 CFR 1.181(f). **The renewed petition should supply new evidence/new argument and not re-iterate any information/argument already contained in the instant petition.**

Should the renewed §1.181 petition indicate that items (1)(B) and (2) cannot be supplied, it will be treated as a petition under 37 CFR 1.137(a). Receipt with the instant petition of a $55 check for the §1.137(a) petition fee is acknowledged, and will be refunded if a renewed §1.181 petition is filed and granted.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 20

HOWISON & ARNOTT, LLP
PO BOX 741715
DALLAS, TX 75374-1715

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of
Philyaw
Application No. 09/491,142
Filed: January 26 2000
Attorney Docket No. PHLY-24,910

ON PETITION

This decision concerns the July 21, 2003 "Renewed Petition for Revival of an Application for Patent Unavoidably Abandoned Pursuant to [37] CFR 1.137(a)" which is being properly treated as a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

The application was held abandoned as of August 11, 2002 for non-response to the May 10, 2002 non-final Office Action. A May 6, 2003 petition to revive, asserting non-receipt of the Office action, was treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. That petition was dismissed on May 14, 2003 for failing to show that this Office action had not been received by counsel for Assignee.

The instant renewed petition includes:

(1) a statement from counsel that the Office action was not received by counsel;
(2) a declaration by counsel's docket clerk that a search of the relevant file jacket and docket records indicates that the Office action was not received; and
(3) a copy of the docket record where the May 10, 2002 non-final Office Action would have been docketed had it been received.

The petition is thus granted. The holding of abandonment in this application is hereby withdrawn.

The $55 submitted with the May 6, 2003 petition, intended as the §1.137(a) petition fee, has been credited to Deposit Account N. 20-0780 as authorized in that petition.

The application file is being returned to Technology Center 2100 for examination of the "Amendment and Response to Office Action" submitted with the May 6, 2003 petition.

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

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WASHINGTON, DC 20231
www.uspto.gov

Paper No. 14

David M. Sigmond
Maxtor Corporation
2190 Miller Drive
Longmont, CO 80501-8696

In re Application of:	:	
Naum V. Gitis, et al.	:	
Application No. 09/491,284	:	DECISION ON PETITION
Filed: January 26, 2000	:	UNDER 37 CFR § 1.144
For: MAGNETIC HEAD SLIDER WITH	:	
RESISTANCE TO DEBRIS	:	
ACCUMULATION	:	

This is a decision on the petition filed December 19, 2000 under 37 CFR § 1.144 (Paper No. 10) requesting withdrawal of the restriction requirement of the Office action mailed on September 11, 2000 (Paper No. 6).

CASE HISTORY

This application was filed on January 26, 2000, with originally presented claims 1-9 and a preliminary amendment amending claims 1, 5, 8 and 9, and adding new claims 10-69.

On September 11, 2000, the examiner mailed an election of species restriction requirement to the applicant (Paper No. 6). The applicant responded on September 26, 2000 electing the claims of Group I with traverse (Paper No. 7). On December 5, 2000, the examiner made a non-final Office action (Paper No. 8) maintaining the election of species restriction requirement and making the restriction requirement Final. On September 9, 2000, applicant filed a petition under 37 CFR 1.144 requesting withdrawal of the restriction requirement.

RELIEF REQUESTED

The petition under 37 CFR § 1.144 requests the following relief:

Withdrawal of the restriction requirement.

OPINION

Applicant asserts the following in support of the position that the restriction requirement should be withdrawn:

"There must be a serious burden on the examiner if the restriction requirement is required (MPEP 803). Where the related inventions as claimed are shown to be distinct, the Examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following: (A) separate classification thereof; (B) a separate status in the art when they are classifiable together; or (C) a different field of search (MPEP 808.02)."

Applicant further asserts:

" The Examiner has not even attempted to explain how examining Groups I and II would pose a serious burden (MPEP 803), much less how these Groups would involve separate classification, separate status in the art, or a different field of search (MPEP 808.02)."

Analysis:

MPEP 806.04 states in part:

"If it can be shown that the two or more inventions are in fact independent, applicant should be required to restrict the claims presented to but one of such independent inventions. For example: ....

(C) where species under a genus are independent, for example, a genus of paper clips having species differing in the manner in which a section of the wire is formed in order to achieve a greater increase in its holding power."

MPEP 806.04(f) states:

"Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species."

In the restriction requirement (Paper No. 6), the examiner restricted the claims by grouping the claims into Group I (Figures 3A-4B) and Group II (Figures 5A-6C). The basis for the restriction requirement was *patentably distinct* species.

As disclosed and claimed, both sets of species detail mutually exclusive characteristics. The species of Group I details a mutually exclusive characteristic of the overall shape of the contact pad/slider as being either V-shaped or U-shaped. The species of Group II details the overall shape of the air bearing slider as being rectangular with air bearing rail members protruding from the body of the rectangular slider. These are evidenced by the representation of the two sets of species with the set of Figures 3A-4C and 5A-6C.

Furthermore, as pointed out by the examiner in his response to applicant's traversal (Paper No.8), MPEP 808.01(a) SPECIES states:

"***Since claims are directed to independent inventions, restriction is proper pursuant to 35 U.S.C. 121, <u>and it is not necessary to show a separate status in the art or separate classification.</u>***" (emphasis added)

Nonetheless, a search for one of these mutually exclusive characteristics is not coextensive with a search for the other mutually exclusive characteristics and would therefore pose a serious burden.

The examiner's holding of Finality with respect to the election of species restriction requirement in Paper No. 8 is consistent with Office policy and practice. See also MPEP 809.02(a).

Accordingly, the Petition to withdraw the restriction requirement is **DENIED**.

The amendment and response filed May 7, 2001 (Paper No. 13) have been entered. This application file is now being forwarded to the examiner for generation of a response thereto.

James Dwyer, Director
Technology Center 2600
Communications

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MARK ALBOSZTA
LUMEN
426 LOWELL AVNUE
PALO ALTO, CA 94301

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AUG 20 2008

In re Application of	:	
Paul **DAGUM**, et al	:	
Application No. 09/491,461	:	DECISION ON PETITION
Filed: January 26, 2000	:	TO WITHDRAW
Attorney Docket No. RAP000P1US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 8, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Samuel G. Cambell, III does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KYMERIC SCHMIDT
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/22/2010

Applicant	: Paul Dagum	: DECISION ON REQUEST FOR
Patent Number	: 7584112	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/491,461	: OF WYETH
Filed	: 01/26/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 5

MAIL

JUL 1 1 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LAW OFFICE OF DAVID O REILLY
1800 BRIDGEGATE STREET, #200
WESTLAKE VILLAGE, CA 91361

In re Application of
Shigeto Igarashi
Application No. 09/491,581
Filed: January 25, 2000
Attorney Docket No. 2811
For: SIGNAL AMPLIFYING CIRCUIT IN CCD CAMERA

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed May 17, 2001.

A petition for accelerated examination under MPEP 708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements.

Accordingly, the petition is **granted**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

This application file will be forwarded to the examiner of record for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6295651
Issue Date: October 2,2001
Application No. 09491637
Filed: January 27,2000
Attorney Docket No. LOUIS3.0-016

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2010 ,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 2,2010 .
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.

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)
6295651	2001-10-02	09491637	2000-01-27	0698/0505PUS1

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)	2010-04-02
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
Washington, D.C. 20231
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Paper No. 3

Andre L Marais
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Blvd
7th Floor
Los Angeles , CA 90025

Mailed
JUL 3 - 2000
Director's Office
Group 2700

In re Application of :
Alex Dai-Shun Poon
Application No.: 09/491,703
Filed: January 26, 2000
For: METHOD AND APPARATUS FOR FACILITATING USER SE LECTION OF AN ITEM CATEGORY IN AN ONLINE AUCTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 22, 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 the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

ANDRE L. MARAIS
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Alex Dai-Shun Poon
Application No. 09/491,703 :
Filed: January 26, 2000 :
For: METHOD AND APPARATUS FOR FACILITATING USER SELECTION OF AN ITEM CATEGORY IN AN ONLINE AUCTION :

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. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

09/491,703

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/slb: 01/25/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS TX 75201

In re Application of
James W. Cree et al.
Application No. 09/491,721
Filed: January 27, 2000
Attorney Docket No. 31358-233

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed October 23, 2003, to revive the above-identified application. This petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **Granted**.

This application became abandoned on March 11, 2003, for failure to file a timely response to the Final Office Action mailed December 9, 2002, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed July 31, 2003.

While petitioner entitles the petition as one to withdraw the holding of abandonment, petitioner argues 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 and pays the fee under 37 CFR 1.17(l).

The file record discloses that a Final Office Action was mailed December 9, 2002 to the office of Jenkins and Gilchrist. Petitioner, P. Weston Musselman, Jr., was the Attorney of Record for Jenkins and Gilchrist. Mr. Musselman is also the attorney of record for Fish and Richardson and has provided copies of pages from the Fish and Richardson docketing system, wherein receipt of the Final Office Action would have been entered, had it been received.[1]

In that the statement from Mr. Musselman that the Final Office Action was not received, and exhibits from the Fish and Richardson docketing system, it is apparent that the Final Office Action was not received and the evidence submitted all corroborates non-receipt of the Final Office Action.

In view of the facts set forth in the petition, it is concluded that the Final Office Action was never received at the offices of Jenkins and Gilchrist, the address of record at the time the Final Office Action was mailed. Accordingly, the holding of abandonment is withdrawn. The petition fee in the amount of $110.00 and $750.00 for the Request for Continued Examination (RCE) are unnecessary and has been credited to Deposit Account No. 06-1050. Likewise, the RCE will not be entered.

---

[1]Mr. Musselman filed a revocation and new power of attorney August 8, 2003.

This application is being forwarded to Technology Center 1771 for appropriate action on the amendment filed September 8, 2003.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 20

FISH & RICHARDSON PC
5000 BANK ONE CENTER
1717 MAI8N STREET
DALLAS TEXAS 75201

COPY MAILED

JUN 2 5 2004

OFFICE OF PETITIONS

In re Application of
Bruce et al.
Application No. 09/491,721
Filed: January 27, 2000
Attorney Docket No. 15838-211011/233USPT

DECISION GRANTING PETITION

This is application has been referred back to this office by Technology Center 1700 for clarification, and upon careful reconsideration of the entire record, and with the approval of the Group Director, Technology Center 1700, the petitions filed September 8, 2003, and October 23, 2003, are collectively being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment.

The petition is **granted**.

The decisions of September 8, 2003, and November 5, 2003, are **vacated**.

BACKGROUND

A final Office action was mailed December 9, 2002, to counsel P. Weston Musselman, Jr. (Musselman), at the specified address: Jenkins and Gilchrist, 3200 Fountain Place, 1445 Ross Avenue, Dallas, Texas. As no reply within the meaning of 37 CFR 1.113 was filed, and no extensions of time were obtained, the application apparently became abandoned on March 9, 2003. A Notice of Abandonment was mailed July 31, 2003.

In reply on September 8, 2003, a petition was filed that requested, withdrawal of the holding of abandonment, or in the alternative, revival under 37 CFR 1.137(a). The petition was signed by Musselman, and asserted that the firm of Jenkins and Gilchrist had never received the aforementioned Office action, at the address to which the action had been mailed, and included a copy of that firm's docket records where the non-received communication would have been entered had it been received. The petition originated from Musselman's new firm and location: Fish and Richardson, 5000 Bank Center 1717 Main Street, Dallas Texas, and was accompanied by a revocation and power of attorney by the assignee of the entire interest. Under MPEP 324, the assignee revoked all previous powers and reappointed Musselman (and appointed others) at the new correspondence address. Furthermore, due to applicant's diligence, the petition also included a reply to the non-received final office action in an attempt to further prosecution.

The decision of September 30, 2003, apparently failed to recognize that (1) the petition was signed by counsel of record at the time of apparent abandonment, and (2) contained the requisite statement and showing as to non-receipt of the action at the address to which the Office action had been mailed, per MPEP 711.03(c)(II). The decision dismissed the petition to

withdraw the holding of abandonment, which pursuant to MPEP 1002.02(c) is decided by the Group Director of the Technology Center. The alternate petition for revival was likewise dismissed for the same reasons noted above.

A renewed petition was filed October 28, 2003. Musselman pointed out that he had been the attorney of record at the time of abandonment, which meant that the statement of non receipt had been made by the counsel of record at the time of abandonment that the showing of record pertained to the former mailing address, and as such the first petition to withdraw the holding of abandonment should have been granted.

The renewed petition was granted in the decision of November 5, 2003. The petition fees were refunded. The decision also held that the RCE was unnecessary and refunded the RCE fee. Unfortunately, the examiner had not been consulted by the Office of petitions to see if the reply *prima facie* placed the application in condition for allowance. But see MPEP 711.03(c)III(A)(2)(b).

On December 12, 2003, the examiner determined that the reply of September 8, 2003, did not *prima facie* place the application in condition for allowance. As such the RCE was necessary to maintain prosecution, and in turn the Technology Center queried this office as how to proceed further with this application.

OPINION

A correctly noted by counsel, the petition filed September 8, 2003, was grantable as filed. As such, upon favorable consideration of the petition by the Technology Center, the final Office action would normally be remailed, and the period for reply restarted. However, counsel had diligently obtained a copy of the non received Office action on August 25, 2003, to facilitate consideration of the petition, which rendered it unnecessary to remail the non-received Office action and restart the period. Then, if as here, the amendment did not *prima place* the case in condition for allowance, an Advisory action would have been mailed and, again as here, an RCE would have been filed requesting entry of the previously filed but on entered reply.

Therefore under the circumstances of this application, the record shows that the first time that the Office action of December 9, 2002, was "given or mailed" within the meaning of 35 U.S.C, § 133 to applicant was August 25, 2003, which in essence restarted the period for applicant to reply, given the adequate showing on non-receipt of the original mailing. The record further shows that applicant timely filed a reply under 37 CFR 1.113 and an RCE under 37 CFR 1.114, upon his having been given or mailed the Office action on August 25, 2003. Since the record further shows that the reply did not *prima facie* place this application in condition for allowance the RCE was required to maintain the pendency by withdrawing the finality of the outstanding office action.

DECISION

The holding of abandonment is being withdrawn by this office with the approval of the Group Director to facilitate treatment of this application. The decisions of September 30, 2003 and November 5, 2003, are ***vacated***.

This application is being returned to Technology Center 1700 to process the RCE request filed September 8, 2003, and charge the RCE fee.

Any inconvenience to applicant or the Technology Center is regretted.

Telephone inquiries related to this decision should be addressed 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 3

Ivan Posey
Darby & Darby
32nd Floor
707 Wilshire Boulevard
Los Angeles , CA 90017

Mailed
MAY 4 2000
Director's Office
Group 2700

In re Application of:)
Brad S. Konia, et al.)
Application No.: 09/491,747)
Filed: January 27, 2000)
For: ONLINE AUCTION BID MANAGEMENT)
SYSTEM AND METHOD)

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 6, 2000.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

cc: Harold E. Wurst, Esq.
Robert A. Green, Esq.
Christie, Parker & Hale, LLP
350 W. Colorado Blvd.
P.O. Box 7068
Pasadena, Ca 91109-7068

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

BROWN RAYSMAN MILSTEIN FELDER & STEINER LLP
1880 CENTURY PARK EAST, SUITE 711
LOS ANGELES, CA 90067

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OCT 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Brad S. Konia :
Application No. 09/491,747 :
Filed: January 27, 2000 :
Attorney Docket No. 9403-0F255US0 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 16, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 5, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 4, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 3624 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
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ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Burns, et al. :
Application No. 09/491,919 : ON PETITION
Filed: January 27, 2000 :
Attorney Docket No. 2391-002 :
For: SYSTEM AND METHOD FOR EMAIL SCREENING

This is a decision on the petition under 37 CFR 1.181, filed April 19, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision on Appeal within two months of the November 30, 2006 decision. No claims were allowed. The Office contended this application became abandoned on January 31, 2007.
A Notice of Abandonment was mailed on April 18, 2007.

Petitioners argue that the application did not become abandoned because a Request for Rehearing was filed on January 23, 2007, which was within the two month period for action.

37 CFR 41.52 (a)(1) states, "Appellant may file a single request for rehearing within two months of the date of the original decision of the Board."

However, the Office had no record of receiving the January 23, 2007 Request for Rehearing.

Petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing January 23, 2007 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a Request for Rehearing under 37 CFR 41.52

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on January 23, 2007. MPEP 503.

In addition, petitioners filed the correspondence in compliance with 37 CFR 1.10. Petitioners submitted a copy of Express Mail label no. EV955981497US showing a date-in of 1/23 and a USPS date stamp of JAN 23 2007. The same Express Mail label number is found on the copy of the Request for Rehearing submitted with the present petition. Attorney Christopher B. Kilner states that the papers submitted with the instant petition are copies of the original correspondence.

Paragraph (e) of 37 CFR 1.10 states that:

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Director to consider such correspondence as filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the

correspondence, including a Request for Rehearing under 37 CFR 41.52, was deposited as "Express Mail" with the U.S. Postal Service on January 23, 2007.

Accordingly, the petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the April 18, 2007 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to the Board of Patent Appeals and Interferences for consideration of the Request for Rehearing under 37 CFR 41.52, filed January 23, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 14 2004

OFFICE OF PETITIONS

ON PETITION

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of
Roy A. Jensen
Application No. 09/492,114
Filed: January 27, 2000
Attorney Docket No. 4366-10

This is a decision on the petition, filed January 6, 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 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 2642 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 25 2005

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Robert Pollin	:	
Application No. 09/492,133	:	ON PETITION
Filed: January 27, 2000	:	
Attorney Docket No. 2041.0010004	:	

This is a decision on the petition, filed February 24, 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 October 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3626 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).

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P.O. BOX 1450
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Paper No. _____

Date :February 25, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Robert Pollin
Application No. :09/492,133
Filed :January 27, 2000

The above-identified application has been assigned Patent No. 6,862,578 and an issue date of March 1, 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 March 1, 2005:

> "All reference to Patent No. 6,862,578 to Robert Pollin of Maryland for SYSTEM AND METHOD FOR MAKING A PAYMENT FROM A FINANCIAL ACCOUNT appearing in the Official Gazette of March 1, 2005 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: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
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Mary E. Johnson (Cookie), P/OCS, CM1-6D07
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Tamara Greene, Crystal Park 3-908

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APR 1 5 2004

OFFICE OF PETITIONS

In re Application of
Gundling et al.
Application No. 09/492,213
Filed: January 27, 2000
Attorney Docket No. 6416.US.P1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 29, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 19, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 20, 2003. A Notice of Abandonment was mailed on September 23, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/16/2007

TO SPE OF : ART UNIT 22800 (2837)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,157,638

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**.

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The following are denied because the changes change the reading of the claims: Column 31, lines 9, 50; Column 32, lines 42, 43, 49; Column 33, lines 1, 2, 17, 18, 19, 23, 24, 42, 60, 61; Column 34, lines 52, 55; Column 35, lines 6, 14, 23, 27, 35, 41, 43, 44, 46, 50, 61, 66; Column 36, lines 44; Column 37, lines 13, 14, 24, 25, 26, 33; Column 38, lines 5, 26, 35, Column 39, lines 14, 15; Column 40, lines 10, 11,

SPE
LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

2837
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 7/31/2008
Patent No.	: 7,157,638 B1
Inventor(s)	: Sitrick
Issue Date	: January 2, 2007
Title	: **SYSTEM AND METHODOLOGY FOR MUSICAL COMMUNICATION AND DISPLAY**
Doc./File No.	: **STD 1757**

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.

Your request has been approved in part, please see the attached enclosed PTOL-306 form with comments and explanations for items 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.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

SITRICK & SITRICK
8340 N LINCOLN AVENUE SUITE 201
SKOKIE IL 60077

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 14, 2008

TO SPE OF : ART UNIT 2837 Walter Benson

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/492,218 Patent No.: 7158634 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

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: _____

Walter Benson
SPE

2837
Art Unit

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

LETTER

In re Patent No. 6,369,787 :
Issue Date: April 9, 2002 :
Application No. 09/492,240 :
Filed: January 27, 2000 :
Attorney Docket No. ACIPP014 :

This is in response to the paper filed September 15, 2005 under 37 CFR 1.27(c) seeking status as a small entity.

Small entity status has been accorded.

Inquiries related to this communication should be directed to the undersigned at (571)272-3208.

This matter is being referred to the Files Repository.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Patent No. 6432583
Issue Date: August 13,2002
Application No. 09492453
Filed: January 27,2000
Attorney Docket No. 2166-0010-0 CIP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 6,2006 ,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 November 6,2006 . 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.

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)
6432583	2002-08-13	09492453	2000-01-27	150114USMF-9459-2166-0-CI

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)	2006-11-06
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.

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: Richard E. Rowe	: DECISION ON REQUEST FOR
Patent Number	: 6406023	: RECALCULATION of PATENT
Issue Date	: 06/18/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/492,512	: OF WYETH
Filed	: 01/27/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 11

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Frankel et al.
Application No. 09/492,534
Filed: January 27, 2000
Attorney Docket Number: PM265649
Title of Invention: METHODS FOR OPERATING INFRASTRUCTURE AND APPLICATIONS FOR CRYPTOGRAPHICALLY-SUPPORTED SERVICES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on February 18, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 19, 2003. A Notice of Abandonment was mailed on September 12, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES 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

TIMOTHY A. LONG
601 SW SECOND AVENUE SUITE 1600
PORTLAND, OR 97204

COPY MAILED

MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Crinon, Regis J.	:	
Application No. 09/492,561	:	ON PETITION
Filed: January 27, 2000	:	
Attorney Docket No. KLR7146.043	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed September 16, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on December 17, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on April 22, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES
PATENT AND
TRADEMARK OFFICE

JAN - 3 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#17

Savatore J. Arrigo
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P
1300 I Street, W.W.
Washington D.C., 20005

In re Application of	:
Dujon et al.	:
Serial No.: 09/492,697	: DECISION ON PETITION
Filed: 27 January 2000	:
Attorney Case No: 3495.0111-11	:

This is in response to applicants' petition filed 20 August 2001, for review of the restriction requirement set forth 12 February 2001 as Paper No. 11 in the above-identified application under the provisions of 37 CFR 1.144 and 37 C.F.R. 1.181. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that a restriction requirement mailed 12 February 2001, divided claims 23-44 into 12 groups of inventions, of which Groups I-IV, under traverse.

Group I, 23-37, drawn to a recombinant mammalian chromosome and cells comprising a Group I intron encoded endonuclease site (I-SceI)

Group II, 23-34, 36-37, drawn to a recombinant mammalian chromosome and cells comprising a Group I intron encoded endonuclease site (I-SceIV)

Group III, 23-34, 36-37, drawn to a recombinant mammalian chromosome and cells comprising a Group I intron encoded endonuclease site (I-CsmI)

Group IV, 23-34, 36-37, drawn to a recombinant mammalian chromosome and cells comprising a Group I intron encoded endonuclease site (I-PanI)

Groups V-XII drawn to other inventions were not traversed.

The examiner held that Groups I-IV were distinct because they were not disclosed as capable of use together and they have different modes of operations, different functions or different effects, citing MPEP 806.04 and MPEP 808.01. Further, the examiner held that the I-SceI, I-SceIV, I-CsmI and I-PanI are structurally and functionally distinct endonucleases that have structurally divergent sites of action and result in structurally distinct nucleic acid cleavages.

The examiner reasoned that Claims 23-27, 29-34 and 36-37 are generic to original Groups I-VIII because they encompass multiple inventions. Any of elected Groups I-VIII would be examined to the extent it encompassed the elected subject matter.

In Paper No 13, filed 30 March 2001, Applicants elected Group I, with traverse and cited 37 C.F.R. 1.141, alleging that the claims recite more than one species but do not exceed a reasonable number of species. Applicants also cited 37 C.F.R. 1.146, requesting that the examiner clarify the election of species, if one is required. Additionally, Applicants cited MPEP 803.02, in that it is improper for the Office to refuse to examine that which applicants regard as their invention. The Petition cited MPEP 809, which says that the linking claims must be examined with the invention elected. Applicants stated that their claims are genus claims linking species claims and that the linking claim must be examined with the species claim. Claims 23-37 were canceled and replaced by claims 45-60.

In Paper No. 14, mailed 20 June 2001, the examiner maintained and made final the restriction requirement between Groups I-VI reasoning that the genus claim encompassed patentably distinct species that are not disclosed as being capable of use together, and they have different modes of operation, different functions or different effects, citing again MPEP 806.04 and MPEP 806.01. The examiner also stated that the application was filed under 35 USC 111(a) and not under 35 USC 371, therefore the arguments drawn to the "unity of invention" were found lacking.

Claims 45-48, 50-51, 52-55 and 57-60 were withdrawn as being directed to non-elected inventions pursuant to 37 CFR 1.142(b), there being no allowable generic or linking claim. Claims 45-48, 50-51, 52-55 and 57-60 were examined to the extent that they read upon Group I, recombinant mammalian chromosome encoding an I-SceI endonuclease site.

The Office Action also a section numbered 4 that appears contain comments about, but not including, a rejection set forth under 35 USC 112, first paragraph for written description and which discusses the non-allowability of the generic claims that apparently had been withdrawn from examination.

Claims 49 and 56 were objected to as being dependent upon a withdrawn base claim, but would be allowable if rewritten independently excluding all the non-elected limitations of the base claim and any intervening claims.

DISCUSSION

The restriction requirement between Groups I-IV, set forth on 12 February 2001 as Paper No. 11 was proper. Independent Claim 23 recited a recombinant mammalian or plant chromosome comprising an endonuclease site selected from the Group consisting of HO endonucleases and Group I intron-encoded endonucleases.

The phrase "Group I intron encoded endonucleases" properly linked the patentably distinct Groups I-IV.

As stated in MPEP 809:

"Where, upon examination of an application containing claims to distinct inventions, linking claims are found, restriction can nevertheless be required."

The following statement should have been included with the Restriction Requirement.

"Claims 23-34 and 36-37 link inventions I-IV. The restriction requirement among the linked inventions is subject to the non-allowance of the linking claims 23-34, 36-37. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re

Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131 - 32 (CCPA 1971). See also MPEP § 804.01."

The Examiner failed to follow the above requirements by not examining, in addition to the elected invention, the linking claims, as required by MPEP 809.

Applicants argue that their claims are genus claims linking species claims and that the linking claim must be examined with the species claim. This is not persuasive for the following reasons. The restriction requirement set forth the different chromosomes as patentably distinct groups and not in a genus/species relationship. MPEP 809.03 states that patentably distinct groups may be linked by a linking claim.

Since the endonuclease sites are patentably distinct and not in a genus/species relationship, as required by In re Weber, the linking claims should have been examined along with the elected invention. This is in keeping with the guidance of MPEP 809. Had the linking claim been found allowable, it would have been proper to withdraw the restriction requirement and examine all of the linked inventions. It was improper for the Office to refuse to examine applicants' linking claims.

DECISION

Applicants' petition is **GRANTED IN PART** for the reasons set forth above.

The application will be forwarded to the examiner for action not inconsistent with this decision.

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 by letter addressed to the Director, Technology Center 1600, Washington DC 20231 or by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

PLEASE NOTE:

I-SceI, I-SceIV, I-CsmI and IPanI are structurally and functionally distinct endonucleases. In addition, the encoded endonuclease site (dsDNA sequence) for each enzyme is unique. For example, I-SceI site can not be cut by I-PanI enzyme and vice versa.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

In re the patent application of:
Zyskind, J., et al.
Application No.: 09/492,709
Filed: January 27, 2000
For: Genes Identified As Required For Proliferation In Escherichia Coli

DECISION ON PETITION

This is a decision under 37 C.F.R. 1.183, filed March 5, 2002 to waive the requirement of 37 C.F.R. 1.98(a)(2), for a copy of the sequence listing for European Publication No. 0 786 519 in an Information Disclosure Statement (IDS) filed in the above-identified application.

The petition under 37 C.F.R. 1.183 to waive the rules in the above noted application is **GRANTED**.

37 C.F.R. 1.98 requires applicants to submit as part of an IDS a legible copy of the portion of the reference that caused it to included in the IDS. The size and method of publication of the sequence listing in European Publication No. 0 786 519 makes it burdensome for applicant to submit, and for the Office to process if submitted, in the form it was published. Applicant and Michael Lewis of this office determined in earlier telephonic communications that the Office already has a copy of the sequence portion of the '519 document in a more usable form than applicant could submit.

Accordingly, it would be an unnecessary burden on both applicant and the Office to insist on a paper copy of the sequence portion of the '519 document.

The petition is granted to the extent that no paper copy of the sequence portion of the '519 reference needs be submitted with an IDS in this application.

After this decision is mailed, the application will be returned to the Technology Center 1600 for examination.

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Michael L. Lewis

for Karin Ferriter
Senior Legal Advisor
Office 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
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Paper No. 34

COPY MAILED
AUG 06 2003
OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re the patent application of:
Zyskind, J., et al.
Application No.: 09/492,709
Filed: January 27, 2000
For GENES IDENTIFIED AS REQUIRED
FOR PROLIFERATION IN
ESCHERICHIA COLI

DECISION
ON PETITION

This is a decision under 37 C.F.R. 1.183, on a petition filed January 3, 2002 to waive the requirement of 37 C.F.R. 1.98(a)(2), for a copy of the sequence listing for PCT publication number WO 01/34809 in an Information Disclosure Statement (IDS) filed in the above-identified application.

The petition under 37 C.F.R. 1.183 to waive the rules in the above noted application is **GRANTED**.

37 C.F.R. 1.98 requires applicants to submit as part of an IDS a legible copy of the portion of the reference that caused it to included in the IDS. The size and method of publication of the sequence listing in the three PCT publications makes it burdensome for applicant to submit, and for the Office to process if submitted, in the form it was published. Applicant and Michael Lewis of this office determined in earlier telephonic communications that the Office already has a copy of the sequence portion of the three documents in a more usable form than applicant could submit.

Accordingly, it would be an unnecessary burden on both applicant and the Office to insist on a paper copy of the sequence portion for this PCT document.

The petition is granted to the extent that no paper copy of the sequence portion of the PCT reference need be submitted with an IDS in this application.

After this decision is mailed, the application will be returned to the Technology Center 1600 for examination.

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Karin Ferriter

Karin Ferriter
Senior Legal Advisor
Office Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: Jean Brossard	: DECISION ON REQUEST FOR
Patent Number	: 6364767	: RECALCULATION of PATENT
Issue Date	: 04/02/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/492,722	: OF WYETH
Filed	: 01/27/2000	:
		:

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. 8

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

MAILED

MAR 0 5 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of)
MATSUO et al.)
Application No. 09/492,780)
Filed: January 28, 2000)
For: Semiconductor Device and Method of)
Manufacturing the Same)

DECISION ON PETITION TO
RESET PERIOD FOR REPLY

This is a decision on the petition filed on January 17, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on October 19, 2001, be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **granted**.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on January 14, 2002. The petition was filed within two weeks of the date of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on October 19, 2001, is hereby reset to run FROM THE RECEIPT DATE OF January 14, 2002.

The application file is being forwarded to the Central Files of Technology Center 2800 to await a response to the Office communication. No fee is required for the petition.

For 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
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THOMAS P. LINIAK
MYERS LINIAK AND BERENATO
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

COPY MAILED

FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
John W. Becker et al	:	DECISION ON PETITION
Application No. 09/492,811	:	TO WITHDRAW
Filed: January 28, 2000	:	FROM RECORD
Attorney Docket No. 7436.100A	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak, an attorney of record.

Thomas P. Liniak has been withdrawn as attorney or agent of record; the other attorneys remain of record.

This matter is being referred to Publishing Division.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MOORE, HANSEN & SUMNER, PLLP
225 South Sixth Street
Suite 4850
Minneapolis, Minnesota 55402

MAILED
FROM DIRECTORS OFFICE

APR 21 2005

TECHNOLOGY CENTER 3600

In re Application of :
Joel Ronning et al :
Serial No. 09/492,844 : DECISION ON PETITION
Filed January 27, 2000 : FILED UNDER 37 CFR 1.181
For: APPARATUS AND METHOD :
FOR SECURE DOWNLOADING :
OF FILES

This is a decision on the Petition under 37 CFR 1.81 filed January 4, 2005 requesting the removal of the finality of the Office action mailed out on October 4, 2004.

The petition is DENIED as indicated below.

Applicants allege that in the Office action mailed out on October 4, 2004, the examiner raised two issues on the record for the first time. The two issues are: 1) whether applicants are entitled to a priority claim, and 2) a claim rejection under 35 USC 101.

A review of the application file record shows that a non-final rejection was mailed out on November 20, 2002. Applicants filed an amendment and response to the non-final rejection, along with an extension of time on April 2, 2003. A final rejection was mailed on June 13, 2003. Applicants filed a Request for Continued Prosecution (RCE) on November 13, 2003. A non-final rejection in response to the RCE was mailed on February 2, 2004. Applicants filed an amendment and response to the to the non-final rejection, along with a second extension of time on July 2, 2004. The final rejection in question was then mailed on October 4, 2004.

In the amendment filed on July 2, 2004, applicants made amendments to claim 1 both adding and deleting claim language. Thus, the new ground of rejection under 35 USC 101 in the examiner's final Office action mailed on October 4, 2004 was necessitated by applicants' amendment to the claims. In accordance with MPEP 706.07(a), the finality of the examiner's Office action was proper.

Please note that MPEP 706.07(a) specifically sets forth that the claims in an application shall be finally rejected in a second or subsequent action on the merits, except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). There is no basis for holding a final rejection improper or premature based on the raising of new issues, such as the issue of whether applicant is entitled to a priority claim as noted by applicants. Thus, the issue of whether applicants are entitled to a priority claim raised by the examiner in the final Office action mailed on October 4, 2004 is not grounds to withdraw the finality of the Office action.

It is for the foregoing reasons that the finality of the Office action mailed on October 4, 2004 is held to be proper.

John J. Love
Director, Workgroup 3620
Technology Center 3600
(703) 308-1020

WC: 03/07/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : February 25, 2010

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction on Patent No.: 7617124

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: Jeffrey A. Smith **Art Unit** 3625

UNITED STATES 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. 6231435
Issue Date: May 15,2001
Application No. 09492965
Filed: January 28,2000
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2009 .
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)
6,231,435	2001-05-15	09/492,965	2000-01-28	17691-0015001

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	/Gregory A. Walters/	Date (YYYY-MM-DD)	2009-12-10
Name	Gregory A. Walters	Registration Number	41366

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
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Paper No. 16

NEIL A. STEINBERG, ESQ.
RAMBUS INC.
4440 EL CAMINO REAL
LOS ALTOS, CA 94022

COPY MAILED

MAR 0 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Michael Farmwald et al :
Application No. 09/492,982 :
Filed: January 27, 2000 :
Attorney Docket No. P043D2C3C :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(b)(5), filed January 30, 2001, 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. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **GRANTED**.

The above-identified application is hereby 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 December 12, 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 January 30, 2001.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 2818 for processing of the CPA.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 12/30/2002 Paper No.: 36

TO : Supervisor, Art Unit 2800

SUBJECT : Certificate of Correction Request in Patent No.: 6452863

A response to the following question is requested with respect to the accompanying request for a certific of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should tl scope or meaning of the claims be changed.

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, placing a check mark (+) in the box that reflects your decision, which corresponds to the question check above.

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:**

Supervisor

2818

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. 6296590
Issue Date: October 2,2001
Application No. 09492988
Filed: January 27,2000
Attorney Docket No. G-00268/US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 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 December 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)
6296590	2001-10-02	09492988	2000-01-27	G00268/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	/Jennifer M Brumbaugh/	Date (YYYY-MM-DD)	2009-12-08
Name	Jennifer M. Brumbaugh	Registration Number	48465

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No.

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

COPY MAILED

FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Akira Nagai, et al. :
Application No. 09/493,210 : ON PETITION
Filed: January 28, 2000 :
Attorney Docket No. 503.35443VX1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 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, January 22, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JAN 05 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 12

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER CO 80201

In re Application of
Roger L. KROENIG, et al.
Application No. 09/493,312
Filed: January 28, 2000
For: **PROCESSOR-BASED VOICE AND DATA TIME SLOT INTERCHANGE SYSTEM**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the petition filed October 16, 2001 to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181(a). No fee is required.

The Notice of Abandonment states that this application is in an abandoned status for failure to file new formal drawings as indicated in the Notice of Allowability mailed April 10, 2001. A Notice of Abandonment was mailed August 29, 2001.

Petitioner asserts that the examiner inadvertently indicated on the Notice of Allowability that corrected formal drawings were required and therefore the application was improperly abandoned. The examiner has confirmed that corrected drawings were not required by the Notice and that the box requiring corrected drawings should not have been checked.

Petitioner has made a proper showing that corrected drawings were not required. However, the drawings were reviewed by the official draftsperson on November 5, 2001 and have been objected to for the reasons set forth on the attached Notice of Draftsperson's Review.

The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Petitioner is given **TWO MONTHS** from the date of this decision to correct and submit new formal drawings. This time period is not extendable under 37 CFR 1.136(a) or (b). See 37 CFR 1.85(a).

The application file will be forwarded to the Office of Patent Publication, Drawing Review Branch to await the submission of new corrected formal drawings in accordance with this decision and the attachments hereto.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

1-12-05
MC
3-5-05

ATTACHMENTS: Notice of Draftsperson's Patent Drawing Review (PTO-948)
Attachment for PTO-948 (6/1/01)

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Paper No. 8

DAVID L. SOLTZ
CIENA CORPORATION
LEGAL DEPARTMENT
1201 WINTERSON ROAD
LINTHICUM, MD 21090

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MAY 22 2003

OFFICE OF PETITIONS

In re Application of
Tomas Brenner et al
Application No. 09/493,313
Filed: January 28, 2000
Attorney Docket No. 304

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 16, 2001. 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 October 17, 2001.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

MAR 22 2005

DIRECTOR
TECHNOLOGY CENTER 2600

MARK J. SPOLYAR
38 FOUNTAIN ST.
SAN FRANCISCO, CA 84114

In re application of:
Jerome D. Toporek et al., et al.
Application No. 09/493,338
Filed: January 28, 2000
For: INTERNET OVER SATELLITE APPARATUS

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 January 28, 2005

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with Customer Number 20350 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: Mentat Inc.
1145 Gayley Avenue, Suite 315
Los Angeles, CA 90024

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

COPY MAILED

JUN 25 2002

OFFICE OF PETITIONS

In re Application of :
Marcotte, et al. :
Application No. 09/493,401 : ON PETITION
Filed: January 28, 2000 :
Attorney Docket No. 07419-023001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed March 15, 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 June 16, 2001. A Notice of Abandonment was mailed on February 27, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply. Petitioner has failed to submit a reply to the non-final Office action mailed March 15, 2001.

A copy of the March 15, 2001 Office action is enclosed for petitioner's convenience.

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 unintentional, petitioner must notify the Office.

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
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enc: Office action, mailed March 15, 2001 (7 pages)
Notice of Draftsperson's Patent Drawing Review (1 page)

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[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).

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Paper No. 19

FISH & RICHARDSON PC
4250 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

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JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Margotte, et al.
Application No. 09/493,401
Filed: January 26, 2000
Attorney Docket No. 07419-023001

ON RENEWED PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed via facsimile on 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 non-final Office action mailed March 15, 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 June 16, 2001. A Notice of Abandonment was mailed on February 27, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(a) on April 4, 2002. However, because the required reply was not submitted, the petition was dismissed in a decision mailed on June 25, 2002.

Petitioner has met the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment. The petition fee and the proper statement of unintentional delay were previously submitted with the earlier petition on April 4, 2002.

Receipt of the formal drawings submitted with the instant petition is acknowledged. However, as formal drawings can not be filed via facsimile[1], petitioner should expect to receive a further communication from the examiner requiring proper formal drawings.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment, filed July 15, 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

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[1] See 37 C.F.R. 1.6(d)(4).

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Paper No. 19

MAIL

APR 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH PA 15143

In re Application of:
Franz, et al.
Application No. 09/493,507
Filed: January 28, 2000
For: INDEXING WITH TRANSLATION MODEL FOR FEATURE REGULARIZATION

DECISION ON PETITION

This is a decision on the January 5, 2004 Request for Reinstatement. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the January 13, 2003 Office action, which set a shortened statutory period of three (3) months to reply. That period lapsed without reply, rendering this application abandoned as of April 13, 2003. A Notice of Abandonment was mailed on November 3, 2003.

Petitioner alleges to have timely filed a response to the Office action. To support this position, Petitioner has included with this petition a copy of the reply, which consisted of an amendment, petition and fee for extension, change of correspondence address, all of which bear a proper certificate of mailing under 37 CFR 1.8(a).

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the requirements set forth above. Petitioner's submission does not contain a statement which attests on a personal knowledge basis of the previous timely mailing. However, given that the Petitioner signed the certificate of mailing, the personal knowledge statement will be considered as having been met. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course.

Mark R. Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/23/2010

Applicant	: Matthew Fuchs	: DECISION ON REQUEST FOR
Patent Number	: 7594167	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/493,517	: OF WYETH
Filed	: 01/28/2000	:
		:

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
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Paper No. 12

Ezra Sutton PA
Plaza 9 900 Route 9
Woodbridge NJ 07095

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Eric C. Hince, et al. :
Application No. 09/493,579 :
Filed: January 28, 2000 :
Attorney Docket No. GEO-3.0-001-(DIV)-(2) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005, to revive the above-identified application.

The Office sincerely apologizes for the delay in responding to the instant petition.

The petition is **GRANTED**.

The 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 28, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 1, 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 $750.00; and (3) an adequate statement of unintentional delay.

Petitioner has appointed a representative to conduct all business before the Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. ***If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or authorization of agent must be submitted.***

However, receipt is acknowledged of the change of correspondence address filed with the instant petition on July 19, 2005. The Office records will be corrected accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 1700, Art Unit 1744.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Eric C. Hince
P.O. Box 293
Florida, NY 10921

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 17

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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NOV 2 3 2004

OFFICE OF PETITIONS

In re Application of
Dennis et al.
Application No. 09/493,601
Filed: January 28, 2000
Attorney Docket No. UCSD0-078-2

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, and supplemented October 4, 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 25, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A reply and three month extension of time were filed. However, the reply was determined to be improper. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 26, 2002. A Notice of Abandonment was mailed on January 14, 2003.

A petition under 37 CFR 1.137(b) was filed on June 30, 2003. The petition, the envelope, the disk, and the new page of sequence listing were placed in the file jacket but were subsequently ignored. The file was not forwarded to the Office of Petitions. The disk was not forwarded to the correct part of the Office. The Office charged the petition fee per a credit card authorization submitted with the petition.

On October 4, 2004, a new law firm submitted a petition under 37 CFR 1.137(b) along with a copy of the previously filed petition. The new petition was accompanied by a reply to the September 25, 2001 Office action.

The Office has in essence received two replies to the September 25, 2001 Office action. Based on the facts, the Office will enter the reply filed on October 4, 2004. The reply and disk filed June 30, 2003, will be retained in the file but will not be used for prosecution purposes.

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.

As of October 1, 2004, the fee for a petition under 37 CFR 1.137(b) was increased to $685. Upon receiving the check for $665 with the most recent petition, the Office charged $20 to Foley & Lardner's deposit account for the remainder of the fee. However, the fee was previously paid in full during June of 2003. The sum of $685 will be credited to deposit account no. 50-0872.

The July 7, 2003, revocation of prior power of attorneys, power of attorney, and change of correspondence cannot be entered because the record fails to establish that the University of California is a full assignee of the application. A showing in compliance with 37 CFR 3.73(b) must be filed. 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 Art Unit 1652 for consideration of the papers filed with the petition.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 02138-0278

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Edward A. Dennis et al.
Application No. 09/493,601
Filed: January 28, 2000
Attorney Docket No. 041673-0301

This is a decision on the petition filed November 7, 2006 to restart the period for response which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned August 11, 2006 for failure to timely file a response to the non-Final Office Action mailed May 10, 2006 which set a three month period for reply. The instant petition and the instant decision precede the mailing of the Notice of Abandonment.

Petitioner claims that the non-Final Office Action was mailed May 10, 2006 and was never received in that the Office Action was mailed to the wrong address. Petitioners provide proof that a power of attorney, with a request for an address change, was filed by the Assignee on April 25, 2006, prior to the mailing of the non-Final Office Action on May 10, 2006.

A review of the file confirms that a power of attorney and address change was indeed filed on April 25, 2006 and that the USPTO records were not updated prior to the mailing of the non-Final Office Action. The non-Final Office Action was therefore mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The abandonment is withdrawn and this matter is being referred to Technology Center 1652 for a re-mailing of the non-Final Office Action and for a restarting of the period for response. Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212. Inquiries regarding the non-Final Office Action should be directed to the Technology Center.

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
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Paper No. 9

ZION HADAD
48 HAALMOGIM STREET
RISHON LIZION
ISRAEL

COPY MAILED
AUG 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Zion Hadad	:	
Application No. 09/493,662	:	DECISION GRANTING PETITION
Filed: January 28, 2000	:	UNDER 37 CFR 1.137(b)
For: OFDM COMMUNICATION CHANNEL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 nonfinal Office action mailed March 13, 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 14, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply to the Office action of March 13, 2003; (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 13, 2003 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 2665 for appropriate action on the reply received June 15, 2004.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ZION HADAD
48 HAALMOGIM STREET
RISMON LEZION
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OFFICE OF PETITIONS

In re Application of	:
Zion Hadad	:
Application No. 09/493,662	:DECISION ON PETITION
Filed: January 28, 2000	:UNDER 37 CFR 1.137(b)
For: OFDM COMMUNICATION CHANNEL	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 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.

This application became abandoned for failure to timely pay the issue fee (and submit corrected drawings) as required by the Notices mailed November 22, 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(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 fails to satisfy items (1) and (2).**

Effective December 8, 2005, the issue and petition fees were increased. More specifically, the issue fee was increased to $700 and the petition fee was increased to $750. While the Notice of Allowance and Fee(s)Due, mailed on November 22, 2004 indicated that the issue fee due was $685, any fee amount paid on or after December 8, 2004, must be paid in accordance with the revised fee schedule. Accordingly, petitioner must submit the balance due of $15 for the issue fee and $65 for the balance due for the petition fee.

In sum, before revival of this application can be effected, petitioner must submit fees totaling $80 ($15 for the issue fee and $65 for the petition fee).

Petitioner is advised that the drawings filed on May 10, 2005 have been approved by the Official Draftsperson. Note attached Notice of Draftsperson's Patent Drawing Review.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review

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P.O. Box 1450
Alexandria, VA 22313-1450
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ZION HADAD
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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Zion Hadad
Application No. 09/493,662
Filed: January 28, 2000
For: OFDM COMMUNICATION CHANNEL

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 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.

This application became abandoned for failure to timely pay the issue fee (and submit corrected drawings) as required by the Notices mailed November 22, 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(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 fails to satisfy items (1) and (2).**

Effective December 8, 2005, the issue and petition fees were increased. More specifically, the issue fee was increased to $700 and the petition fee was increased to $750. While the Notice of Allowance and Fee(s)Due, mailed on November 22, 2004 indicated that the issue fee due was $685, any fee amount paid on or after December 8, 2004, must be paid in accordance with the revised fee schedule. Accordingly, petitioner must submit the balance due of $15 for the issue fee and $65 for the balance due for the petition fee.

In sum, before revival of this application can be effected, petitioner must submit fees totaling $80 ($15 for the issue fee and $65 for the petition fee).

Petitioner is advised that the drawings filed on May 10, 2005 have been approved by the Official Draftsperson. Note attached Notice of Draftsperson's Patent Drawing Review.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review

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P.O. Box 1450
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ZION HADAD
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RISMON LEZION
ISRAEL

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Zion Hadad	:	
Application No. 09/493,662	:	DECISION GRANTING PETITION
Filed: January 28, 2000	:	UNDER 37 CFR 1.137(b)
For: OFDM COMMUNICATION CHANNEL	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee (and submit corrected drawings) as required by the Notices mailed November 22, 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 the issue fee of $700 and corrected drawings (which have been approved by the USPTO draftsperson as noted in the decision mailed June 30, 2005); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notices of November 22, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 26

HICKMAN PALERMO TRUONG & BECKER LLP
1600 WILLOW STREET
SAN JOSE, CA 95125

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of	:
Wilson Wai Shun Chan	:
Application No. 09/493,673	: DECISION ON PETITION
Filed: January 28, 2000	: UNDER 37 CFR 1.1.181
Atty Dkt No. 50277-383 OID 1999-921-02	:

This is a decision on the petition under 37 CFR 1.314, filed July 6, 2004, to defer issuance of the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting that the application file be returned to the jurisdiction of the Examiner for consideration of a previously submitted Information Disclosure Statement and for an initialed Form 1449.

The petition is **granted**.

Petitioner states that receipt of an initialed Form 1449 for the references filed on April 23, 2003 has never been received.

A review of the file record fails to disclose the presence of an initialed Form 1449 for the Information Disclosure Statement acknowledged by the proffered stamped return postcard as having been received in the USPTO on April 23, 2003.

In view of the above, this application is being returned to the jurisdiction of the Examiner in Technology Center AU 2172 for appropriate treatment of the Information Disclosure Statement acknowledged as having been received in the USPTO on April 23, 2003.

A petition treated under the provisions of 37 CFR 1.181 does not require a fee for consideration thereof. Accordingly, the $130 fee submitted will be refunded to petitioner's deposit account in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-8680

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Law Office of Scott C Harris
PO Box 1389
Rancho Santa Fe, CA 92067

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OFFICE OF PETITIONS

In re Application of Carmichael et al. :
Application No. 09/493,756 :
Filing Date: January 28, 2000 :
Attorney Docket No. 21100-003001 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed October 27, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

The Office mailed a non-final Office action on June 20, 2002, set a shortened statutory period for reply of three (3) months.

During, or before, August 2002, inventor and partial owner of the assignee Connie Jordan (formerly Connie Carmichael), learned the law firm of Lyon & Lyon had begun taking steps to dissolve the law firm.

On August 28, 2002, the assignee revoked all prior power of attorneys and requested the Office mail all future correspondence to the assignee's address listed on the revocation form.

Petitioner did not file a reply to the June 20, 2002 Office action. As a result, the application became abandoned as of September 21, 2002.

The Office mailed a Notice of Abandonment to the assignee on January 29, 2003. The Notice states, on January 22, 2003, the examiner informed Ms. Connie Carmichael that the Office had never received a response to the June 20, 2002 Office action. The Office attached an 8 page discussion of the methods by which one can revive an abandoned application to the Notice of Abandonment.

During, or about, the end of March 2003, petitioner obtained a copy of what was believed to be all of its files from Lyon & Lyon.

Connie Jordan states petitioner was unable to obtain counsel until July 2003. Petitioner retained the law firm of Ardell & St. George.[1] Ms. Jordan contends, once the new law firm learned of the incomplete nature of the files obtained from Lyon & Lyon, the new law firm withdrew.

Ms. Jordan states, "On or about July 12, 2004," assignee received papers regarding Lyon & Lyon's bankruptcy and learned the bankruptcy trustee was David Gill. Ms. Jordan contacted Gill but was unable to find a feasible way to obtain the missing files from the bankruptcy estate.

Ms. Jordan states her previous attorney at Ardell & St. George told her "the patent application process could not be continued without complete files."[2]

During or around May of 2005, Ms. Jordan met Attorney Scott Harris of Fish & Richardson, P.C. Attorney Harris was subsequently able to obtain all the missing files and informed Ms. Jordan several of the applications were abandoned.

The instant petition was not filed until October 27, 2006.

Discussion:

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(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 this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), the petition does not include a reply to the outstanding June 20, 2002 non-final Office action. A petition under 37 CFR 1.137 must be accompanied by a reply to the outstanding Office action or notice, unless such a reply was previously filed. Since a reply has not been filed, the petition cannot be granted.

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).

"[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."[3]

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[1] The Office notes petitioner may be intending to refer to the law firm of St. George & Carnegie. Ardelle St. George is a principle of the law firm of St. George & Carnegie.

[2] Page 6 of Ms. Jordan's declaration.

[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[4]

Ms. Jordan knew the instant application was abandoned by at least January 22, 2003. Once Ms. Jordan learned the application was abandoned, she became responsible for acting diligently in having the application revived.

Although petitioner did not obtain all of its files from Lyon & Lyon, the petition indicates petitioner did receive 4 boxes of files.

Petitioner was aware of the existence of the instant application and the fact it was abandoned as early as January 22, 2003. A reasonable and prudent person, treating the instant patent the same as the person would treat his or her most important business, would have taken steps to learn if the file for the instant file was in the boxes.

The petition does not assert the file for the instant application was missing from the boxes. If petitioner did receive the file for the instant application, applicant has failed to prove no law firm would represent petitioner with respect to the instant application. The fact law firms might not represent petitioner concerning all matters previously handled by Lyon & Lyon is not necessarily an indication such law firms would not assume responsibility for the instant application.

Even if all matters formerly handled by Lyon & Lyon needed to be handled by a single law firm or single attorney, petitioner has failed to prove, despite diligence, petitioner was unable to find representation. Petitioner fails to lists any of the law firms or attorneys contacted. Petitioner has failed to indicate the number of law firms and attorneys were contacted.

If petitioner did not receive the file, then the instant petition appears to be based primarily on Ms. Jordan's belief prosecution of an application was impossible absent possession of Lyon & Lyon's complete file for the application. However, Ms. Jordan fails to assert she, or any other officer of assignee, took any steps to learn about patent prosecution or to contact the USPTO with respect to petitioner's patent and trademark matters. The petition fails to demonstrate, if Ms. Jordan or another officer of assignee had taken such steps, petitioner would have failed to learn possession of the complete files was not necessary for Ms. Jordan to revive and prosecute the instant application.

Ms. Jordan states her previous attorney at Ardell & St. George told her "the patent application process could not be continued without complete files." Ms. Jordan has not proven an attorney informed her the complete files were absolutely necessary in order to prosecute any of petitioner's applications for patent. Ms. Jordan has not named the attorney or provided a statement by the attorney verifying the attorney provided Ms. Jordan with such information.

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[4] In re Mattulath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also Ray v. Lehman, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

Even if Ms. Jordan proved an attorney told her that it was impossible to take any steps to resume prosecution of the applications without the entire files from Lyon & Lyon, such proof would not prove delay resulting from the attorney's statement was unavoidable. Reliance on a third party representative does not, per se, constitute "unavoidable" delay. When a party relies on an agent to take certain steps, the petition must address not only the party's actions *but also* address the agent's actions or inactions.[5] A showing is insufficient if it merely establishes that petitioner did everything petitioner could to monitor the agent's actions and inactions, but fails to address the agent's conduct.[6]

The petition fails to prove a reasonable and prudent attorney, with knowledge of rules and policies involving prosecution of applications for patents before the USPTO, would have incorrectly stated nothing could be done to resume prosecution of the applications without the entire files from Lyon & Lyon.

Even if petitioner proved the entire delay until Ms. Jordan spoke with Attorney Scott Harris during or around May of 2005 was unavoidable, the petition could not be granted. Petitioner has failed to provide any evidence to show the entire delay from the date Ms. Jordan met Attorney Harris, until the instant petition was filed on approximately 17 months later, was unavoidable.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply to the outstanding Office action or notice, the required petition fee ($770 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 PDF "fillable" version of a petition to revive form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

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[5] See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 397 (1993) ("The [Circuit] court also appeared to focus its analysis on whether respondents did all they reasonably could in policing the conduct of their attorney, rather than on whether their attorney, as respondents' agent, did all he reasonable could to comply with the court-order bar date. In this, the court erred. . . . [I]n determining whether respondents' failure to file their proof of claim prior to the bar date was excusable, the proper focus is upon whether the neglect of respondents *and their counsel* was excusable." (emphasis in original)).

[6] See Id.

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JUN 0 5 2008

OFFICE OF PETITIONS

Law Office of Scott C Harris
PO Box 1389
Rancho Santa Fe, CA 92067

In re Application of Carmichael et al. :
Application No. 09/493,756 : Decision on Petition
Filing Date: January 28, 2000 :
Attorney Docket No. 21100-003001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 14, 2008, to revive the above-identified application.

The petition is **dismissed**.

The Office mailed a non-final Office action on June 20, 2002, set a shortened statutory period for reply of three (3) months. A reply was not filed in response to the June 20, 2002 Office action. As a result, the application became abandoned as of September 21, 2002. The Office mailed a Notice of Abandonment to the assignee on January 29, 2003.

A petition under 37 CFR 1.137(a) was filed October 27, 2006. The petition was dismissed December 14, 2007. The petition was dismissed for two reasons:

(1) The petition was not accompanied by a reply to the outstanding Office action, and
(2) The petition was not accompanied by 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 this paragraph was unavoidable.

The instant petition was filed May 14, 2008.

The instant petition under 37 CFR 1.137(b) does not require a showing that the entire delay was unavoidable. However, the petition does require the submission of a reply to the outstanding Office action. Office records indicate a reply to the outstanding Office action has not been filed. Therefore, the petition must be dismissed.

Any request for reconsideration should include a reply to the outstanding Office action. 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)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Law Office of Scott C Harris
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Rancho Santa Fe, CA 92067

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OFFICE OF PETITIONS

In re Application of Carmichael et al. :
Application No. 09/493,756 :
Filing Date: January 28, 2000 :
Attorney Docket No. 21100-003001 :

Decision on Petition

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on June 20, 2002, set a shortened statutory period for reply of three (3) months. Petitioner did not file a reply to the June 20, 2002 Office action. As a result, the application became abandoned as of September 21, 2002. The Office mailed a Notice of Abandonment to the assignee on January 29, 2003.

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 file will now be forwarded to Technology Center Art Unit 2876 and the application, including the amendment filed October 27, 2006, 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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of	:	
Schlick et al.	:	
Application No. 09/493,783	:	
Filed: January 28, 2000	:	DECISION ON PETITION
Atty Docket No.:	:	
KT-001AX	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 30, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice Regarding Drawings, mailed October 18, 2005. The Notice set non-extendable two (2) month period for reply. No reply having been received, the application became abandoned on November December 19, 2005. A Notice of Abandonment was mailed February 2, 2006.

With the instant petition Applicant has submitted corrected drawings.

This application is being forwarded to Publishing Division for processing into a patent.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 13

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600 New Hampshire Avenue, NW
Washington, DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Mark Alperovich	:	
Application No. 09/493,818	:	ON PETITION
Filed: January 28, 2000	:	
Attorney Docket No. 109289.00121	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2004, to revive the above-identified application.

The petition is granted.

The application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 11, 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 December 12, 2002.

The application file is being forwarded to Technology Center AU 1756 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Edward L Pencoske Esquire
Thorp Reed & Armstrong
One Oxford Centre
301 Grant Street
Pittsburgh, PA 15219-1425

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OFFICE OF PETITIONS

In re Application of	:	
McCormack, et al.	:	
Application No. 09/493,903	:	NOTICE
Filed: January 28, 2000	:	
Attorney Docket No.: 00034	:	

This is a notice regarding the "NOTIFICATION OF ERROR IN PAYMENT OF FEES AS A SMALL ENTITY UNDER 37 CFR § 1.28," filed October 12, 2004.

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full. Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

The change of status to a large entity has been entered and made of record.

This file is being forwarded to the Publications Division for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 13 2004

Technology Center 2100

Paper No. 12

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH PA 15143

In re Application of: KUN-LUNG WU, ET AL.
Application No.: 09/493,904
Filed: January 28, 2000
For: **ARRANGEMENTS AND METHODS FOR LATENCY-SENSITIVE HASHING FOR COLLABORATIVE WEB CACHING**

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to Petitioner's communication filed in the United States Patent and Trademark Office on December 02, 2003. This communication will be treated as a petition to Withdraw the Holding of Abandonment for the purpose of this decision. No fee is required.

A review of the file record reveals that the application was held abandoned on October 02, 2003 for failure to respond to the Office Letter dated February 06, 2003 within the Shortened Statutory Period of three months set therein.

Petitioner submitted a copy of the response to the Office Letter, a copy of Petition and Fee for Extension of Time, a copy of the Transmittal Letter, and a copy of Change in Correspondence Address, all of which bear a Certificate of Mailing under 37 CFR 1.8(a). Most copies do not contain the phrase "with sufficient postage" in their Certificate of Mailing. However, the Certificate of Mailing of the copy of the Transmittal Letter does have such a phrase. As a result, the missing phrase "with sufficient postage" will be construed as a typographical error. As such, Petitioner's copy of the response includes a Certificate of Mailing, addressed as set out in 37 CFR 1.1(a), stating the date of deposit, and was deposited on August 06, 2003 with the United States Postal Service with sufficient postage as first class mail.

Since a timely response to the Office Letter dated February 06, 2003 was filed, the Petition is **GRANTED**.

The holding of abandonment dated October 02, 2003 is hereby withdrawn. The application will be forwarded to the Examiner of Record for prompt action on the merits of the application.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

COPY MAILED
AUG 0 5 2004
OFFICE OF PETITIONS

In re Application of :
James Y.C. Chang :
Application No. 09/493,942 : DECISION GRANTING PETITION
Filed: January 28, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36491/LTR/B600 :

This is a decision on the petition, filed July 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Patent No. 6,426,748 :
Issue date: July 30, 2002 :
Application No. 09/494,004 : ON PETITION
Filed: January 28, 2000 :
Attorney Docket No. 470365.90021// :
P201243.US.01

This is a decision on the petition under 37 CFR 1.378(b), filed January 25, 2010, to accept unavoidably delayed payment of maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400. The petition for reconsideration should include an exhaustive attempt to provide the lacking item noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued July 30, 2002. The 3½ year maintenance fee could have been paid from July 30, 2005 through January 30, 2006, or with a surcharge during the period from January 31, 2006 through July 30, 2006. The Office has no record of receiving the 3 ½ year maintenance fee. Accordingly, the patent expired on July 31, 2006.

Statute and Regulation

37 CFR 1.378(a) provides that the Director may accept the payment of any maintenance fee due on a patent based on an expiration of the patent, if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. The appropriate surcharge set forth in § 1.20(i) must be paid as a condition of accepting payment of the maintenance fee. The surcharges set at 37 CFR 1.20(i) are established

pursuant to 35 U.S.C. 41(c) and, therefore, are not subject to small entity provisions of 35 U.S.C. 41(h). No separate petition fee is required for this petition. If the Director accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired but will be subject to the intervening rights and provisions of 35 U.S.C. 41(c)(2).

The patent statute at 35 U.S.C. 41(c)(1) provides as follows:

> "The Director may accept the payment of any maintenance fee required by subsection (b) of this section... at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable."

The statute's promulgating rule, 37 CFR 1.378(b), provides that any petition to accept the delayed payment of a maintenance fee must include the following:

(1) the required maintenance fee set forth in 37 CFR 1.20(e) - (g);

(2) the surcharge set forth in 37 CFR 1.20(i)(1); and

(3) 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. Such as statement must be verified if made by a person not registered to practice before the Patent and Trademark Office. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

Opinion

In the instant petition was filed on behalf of Orbital Technologies Corporation (hereinafter "ORBITEC"), who purportedly holds a license to the above-identified patent. Petitioner asserts that the delay in payment of the 3 ½ year maintenance fee was unavoidable because the assignee at the time of the expiration of the patent, Hypercosm Inc., had severed ties with the attorneys representing it at Quarles and Brady LLP on or around May 30, 2001and had failed to receive any reminders of the necessity to pay the 3 ½ year maintenance fee. As a result, the 3 ½ year maintenance fee was unintentionally not paid (Petition p.2, 30 Jan 2005).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Petitions for the delayed payment of maintenance fees under 35 U.S.C. 41(c)(1) are treated under the same standard as petitions for revival of abandoned applications under 35 U.S.C. 133 because both statutory provisions use the same language, i.e., "unavoidable" delay. Ray v. Leyman, 55 F.3d 606, 608-609, 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, 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). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable as follows:

> 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 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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-168 (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. Massinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). The requirement in 35 U.S.C. 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable (or expiration of the patent as it applies to 35 U.S.C. 41(c)(1)), but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive (or a petition under 37 CFR 1.378(b) to reinstate the patent under 35 U.S.C. 41(c)(1)). See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). 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, 316-317, 5 USPQ2d 1130, 1131-1132 (N.D. Ind. 1987).

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F.3d at 609-609, 34 USPQ2d at 1787. The party whose delay is relevant is the party in interest at the time action is needed to be taken. In Re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988). On July 30, 2006, which is the last day the 3 ½ year maintenance fee could be timely paid, Hypercosm LLC was the party in interest.

It was incumbent upon the party in interest to undertake the obligation to pay the fee or to engage a third party to monitor and track the maintenance fee payment. Reliance *per se* on a third party for tracking a maintenance fee does not provide a patent holder with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. 41(c). Rather, such reliance merely shifts the focus of the inquiry to whether that third party acted reasonably and prudently.

It is incumbent upon petitioner to demonstrate, via a documented showing, that Hypercosm LLC or its representative had docketed this patent for the first maintenance fee payment in a reliable tracking system.

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, a 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 Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), *reprinted in* 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, 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/or 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. Rydeen v. Quigg, 748 F. supp. at 900.

It is noted that patentee, Abe Megahed, was aware of the issuance of the patent some time in 2002 and it appears that he has had ties to all of the companies with an interest in the patent: Hypercosm Inc., Hypercosm LLC, ORBITEC, and PLANET LLC (a sister corporation to ORBITEC). The record fails to show that patentee and/or Hypercosm LLC and/or Hypercosm LLC's representatives took adequate steps to ensure timely payment of the maintenance fee. In re Patent No. 4,461,759, 16 USPQ2d 1883, 1884 (Comm'r Pat. 1990).

The record indicates that no steps were taken by Hypercosm LLC. to ensure timely payment of the 3 ½ year maintenance fee. Since no steps were taken by the owner of the patent at the time it became expired, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

In short, petitioner has not demonstrated, via a documented showing, that there was a reliable tracking system in place to monitor the due dates for the maintenance fees and that a responsible party had docketed this patent in that system. Evidence should be submitted which demonstrates that despite reasonable care by the assignee and/or the assignee's agent to implement reasonable steps to ensure the timely payment of the maintenance fee, the maintenance fee was nevertheless, unavoidably not paid.

Unfortunately, any delay resulting from the actions or inactions of the assignee is binding upon any successor in title. See Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963). That one may have subsequently exercised diligence after his vesting of interest and belated awareness of the need to pay the fee, it does not convert the preceding delay into unavoidable delay. See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

Pursuant to petitioner's authorization, deposit account no. 04-1420 will be charged the required $700.00 surcharge and the $490.00 maintenance fee. The $400.00 reconsideration fee has been paid prematurely. It will be refunded to the same deposit account. If petitioner does not wish to file a reconsideration petition, petitioner may, **in writing**, request a refund of the $1,190.00 submitted with the instant petition.

The October 27, 2009 power of attorney has been entered and made of record. Please find enclosed a Notice of Acceptance of Power of Attorney.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/494,004	01/28/2000	Abe E. Megahed	470365.90021

CONFIRMATION NO. 2927

POA ACCEPTANCE LETTER

25763
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

OC000000040052382

Date Mailed: 02/05/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

CIENA Corporation
Legal Department
1201 Winterson Road
Linthicum, MD 21090

COPY MAILED

MAY 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Vladimire Pelekhaty, et. al. :
Application No. 09/494,063 : ON PETITION
Filed: January 28, 2000 :
Attorney Docket No. 292 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2002, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

A review of the record reveals that the issue fee and drawings were accompanied by a certificate of mailing dated October 17, 2001. In view thereof, the issue fee and drawings will be considered as timely filed. Since the petition to revive is unnecessary, the $1280.00 petition fee will be refunded to petitioner's deposit account.

The application is being forwarded to the Publishing Division to be processed into a patent.

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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5/31/02

2 Serial/Patent # 09/494,063

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	9	5/22/02	$ 1280.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1280.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50 -- 0308

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

pet. was treated as 1.181 to w/d abandonment, which requires no fee.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Andrea Coram TITLE: Pets. Exmr.

SIGNATURE: [signature] PHONE: 703/308-6711

OFFICE: Ofc. of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 5-31-02

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)

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)
6,610,095	2003-08-26	09/494,239	2000-01-30	6057P/3759pt

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Scott Mayfield/	Date (YYYY-MM-DD)	2007-09-27
Name	Scott Mayfield, CFO of Diamicron, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	010532	Frame Number	0872
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6610095
Issue Date: August 26,2003
Application No. 09494239
Filed: January 30,2000
Attorney Docket No. 6057 P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 27,2007,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 27,2007. 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

McDERMOTT WILL & EMERY LLP
600 13TH STREET
WASHINGTON, DC 20005-3096

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:
Osamu Yamada et al	:
Application No. 09/494,253	: DECISION GRANTING PETITION
Filed: January 31, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 44239-066	:

This is a decision on the petition, filed May 16, 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 April 7, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES 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. 6410877
Issue Date: June 25,2002
Application No. 09494279
Filed: January 30,2000
Attorney Docket No. 6066P

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 19,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 19,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6410877	2002-06-25	09/494,279	2000-01-30	6066/3765.DIMC.PT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◉ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/Richard H. Dixon/	Date (YYYY-MM-DD)	2007-10-05
Name	Richard H. Dixon		
Patentee 2		Remove	
Signature	/Louis M. Pope/	Date (YYYY-MM-DD)	2007-10-17
Name	Louis M. Pope		
Additional Patentees may be generated within this form by selecting the Add Button		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Joseph S. Tripoli, Patent Operations
Thomson Multimedia Licensing Inc.
PO Box 5312
Princeton, NJ 08543-5312

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Thumpudi Naveen, et al. :
Application No. 09/494,514 : ON PETITION
Filed: February 1, 2000 :
Attorney Docket No. PU020213 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 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 NonProvisional Application mailed March 21, 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 May 22, 2000.

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 Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAWRENCE KURLAND
BRYAN CAVE, LLP
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Anthony R.A. Keane, et. al.	:	
Application No. 09/494,589	:	ON PETITION
Filed: January 31, 2000	:	
Attorney Docket No. C34932/114785	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2005, to revive the above-identified application.

In response to the Notice of Allowance and Fee(s) Due mailed April 7, 2005, petitioner hereby submits $1,500 for the petition to revive fee, $1,400 for payment of the issue fee, $30 for ten (10) advance soft copies, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Change of Attorney or Agent's Address filed July 13, 2005, has been made of record.

This application is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (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

J. Scott Denko
Andrews & Kurth LLP
111 Congress Ave., Suite 1700
Austin, TX 78701

MAILED

MAR 1 7 2006

TECHNOLOGY CENTER 2100

In re Application of: Birum, et al.
Application No. 09/494,765
Attorney Docket No. 120073.420
Filed: January 31, 2000
For: SOFTWARE ANALYSIS SYSTEM HAVING AN APPARATUS FOR SELECTIVELY COLLECTING ANALYSIS DATA FROM A TARGET SYSTEM EXECUTING SOFTWARE INSTRUMENTED WITH TAG STATEMENTS AND METHOD FOR USE THEREOF

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, originally filed April 16, 2004, (duplicate copies filed September 20, 2004 and December 15, 2005) requesting the Withdrawal of the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. The instant application was held abandoned for failure to timely pay the issue fee due in response to the Notice of Allowance and Fee(s) Due (PTOL-85) mailed November 19, 2003. The three-month statutory period for response expired on February 19, 2004. A notice of abandonment was mailed on April 8, 2004.

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record, and
4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance and Fee(s) Due was not received and that a search of the file jacket and docket records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

Note, a duplicate copy of the revocation of power of attorney with new power of attorney, change of correspondence address and statement under 37 CFR 3.73(b), filed November 16, 2004, is acknowledged. The original copy was filed October 29, 2003.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **withdraw the holding of abandonment**, before **REDATING** and **REMAILING** the Notice of Allowance and Issue Fees Due to the applicant.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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)
6263649	2001-07-24	09494798	2000-01-31	5182 Gross Earl

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 L Farris/	Date (YYYY-MM-DD)	2010-03-31
Name	Robert L. Farris	Registration Number	25112

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. 6263649
Issue Date: July 24,2001
Application No. 09494798
Filed: January 31,2000
Attorney Docket No. E Smith/Gross

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 31,2010 ,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 31,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 24

WITHROW & TERRANOVA
P.O. BOX 1287
CARY, NC 27512

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FEB 27 2004
OFFICE OF PETITIONS

In re Application of
Timothy E. Dickson
Application No. 09/494,897
Filed: January 31, 2000
Attorney Docket No. 2400-384

ON PETITION

This is a decision on the petition, filed January 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 2125 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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AUG 30 2007

OFFICE OF PETITIONS

In re Application of :
McCurdy :
Application No. 09/494,954 : Decision on Petition for
Filing Date: February 1, 2000 : Patent Term Adjustment
For: Method and Apparatus for Controlling an :
Actuatable Occupant Protection Device Using :
an Ultrasonic Sensor

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term adjustment entitled "Reconsideration of the Patent Term Adjustment," received on August 2, 2007. The request is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181 and a request under 37 CFR 1.705 as Petitioner has argued patent term adjustment provisions. See 35 U.S.C. § 154(b)[1] and 37 CFR § 1.701.

The request under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that the Notice of Allowance mailed on May 3, 2007, for the above-identified application did not contain an indication of paten term adjustment under 35 U.S.C. §154(b).

Petitioner contends that the instant application is entitled to 35 months of patent term adjustment as the Office exceeded it's three month commitment in responding a total of thirty five (35) months. Petitioner asserts that the application should be eligible for thirty five (35) months of patent term adjustment under the provisions of 35 U.S.C. 154(b).

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.

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on February 1, 2000. 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.

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 $200 fee for the petition under 37 CFR 1.705(b) has been paid. Any request for reconsideration of this decision must be submitted as a petition under either 37 CFR 1.182 or 37 CFR 1.183 with the required fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6658508
Issue Date: December 2,2003
Application No. 09495044
Filed: January 31,2000
Attorney Docket No. 3503P0004

:
: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)
6658508	2003-12-02	09495044	2000-01-31	US008018US

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

JJGJr.:11-02

Paper #20

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
McCloy, et al.
Application No. 09/495,105 :
Filed: 1 February, 2000 :
Attorney Docket No.: BRI.00026 :

ON PETITION

This is a decision on the petition filed 23 July, 2002, under 37 C.F.R. §1.183[1] requesting that the Office waive the timing requirements of 37 C.F.R. §1.193,[2] which sets forth the period within

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[1] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

[2] The regulations at 37 C.F.R. §1.193 provide:
§1.193 Examiner 's answer and reply brief.
(a)(1) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to appellant 's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to appellant. If the primary examiner finds that the appeal is not regular in form or does not relate to an appealable action, the primary examiner shall so state.
(2) An examiner's answer must not include a new ground of rejection, but if an amendment under §1.116 proposes to add or amend one or more claims and appellant was advised that the amendment under §1.116 would be entered for purposes of appeal and which individual rejection(s) set forth in the action from which the appeal was taken would be used to reject the added or amended claim(s), then the appeal brief must address the rejection(s) of the claim(s) added or amended by the amendment under § 1.116 as appellant was so advised and the examiner 's answer may include the rejection(s) of the claim(s) added or amended by the amendment under §1.116 as appellant was so advised. The filing of an amendment under §1.116 which is entered for purposes of appeal represents appellant 's consent that when so advised any appeal proceed on those claim(s) added or amended by the amendment under §1.116 subject to any rejection set forth in the action from which the appeal was taken.
(b)(1) Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within two months from the date of such examiner's answer or supplemental examiner 's answer. See §1.136(b) for extensions of time for filing a reply brief in a patent application and §1.550((c) for extensions of time for filing a reply brief in a reexamination proceeding. The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief. A supplemental examiner's answer is not permitted, unless the application has been remanded by the Board of Patent Appeals and Interferences for such purpose.
(2) Where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, appellant must exercise one of the following two options to avoid abandonment of the application:
(I) File a reply under § 1.111, if the Office action is not final, or a reply under §1.113, if the Office action is final; or
(ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (§§1.130,1.131 or 1.132) or other evidence are permitted.
[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18858, Nov. 26, 1969; para. (c), 47 Fed. Reg. 21752, May 19, 1982, added effective July 1, 1982; para. (b), 50 Fed. Reg. 9382, Mar. 7, 1985, effective May 8, 1985; 53 Fed. Reg. 23735, June 23, 1988, effective Sept.12, 1988; para. © deleted, 57 Fed. Reg. 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (b) revised, 58 Fed. Reg. 54504, Oct. 22, 1993, effective Jan.3, 1994; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b)(1) revised, 65 Fed. Reg. 54604, Sept .8, 2000, effective Nov. 7, 2000]

which a reply brief must be filed, as limited by the regulations at ¶(b) of 37 C.F.R. §1.136.[3]

The Office regrets the delay in addressing this matter.

The petition regarding suspension of the rules under 37 C.F.R. §1.183 as to delays for filing the Reply Brief is **DISMISSED**.

Any request (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.183."

BACKGROUND

The record indicates that:

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[3] The regulations at 37 C.F.R. §1.136 provide:

§1.136 Extensions of time.

(a)(1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed, unless:

(i) Applicant is notified otherwise in an Office action;

(ii) The reply is a reply brief submitted pursuant to § 1.193(b);

(iii) The reply is a request for an oral hearing submitted pursuant to § 1.194(b);

(iv) The reply is to a decision by the Board of Patent Appeals and Interferences pursuant to § 1.196, §1.197 or §1.304; or

(v) The application is involved in an interference declared pursuant to § 1.611.

(2) The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. A reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application (§ 1.135), but in no situation may an applicant reply later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.136(b) for extensions of time relating to proceedings pursuant to §§ 1.193(b), 1.194, 1.196 or 1.197; § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550© for extensions of time in *ex parte* reexamination proceedings; § 1.956 for extensions of time in *inter partes* reexamination proceedings; and §1.645 for extensions of time in interference proceedings.

(3) A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission.

(b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. See § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.645 for extensions of time in interference proceedings; § 1.550© for extensions of time in *ex parte* reexamination proceedings; and § 1.956 for extensions of time in *inter partes* reexamination proceedings.

© If an applicant is notified in a "Notice of Allowability" that an application is otherwise in condition for allowance, the following time periods are not extendable if set in the "Notice of Allowability" or in an Office action having a mail date on or after the mail date of the "Notice of Allowability":

(1) The period for submitting an oath or declaration in compliance with § 1.63; and

(2) The period for submitting formal drawings set under § 1.85(c).

[47 Fed. Reg. 41277, Sept. 17, 1982, effective Oct. 1, 1982; 49 Fed. Reg. 555, Jan. 4, 1984, effective Apr. 1, 1984; 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; 54 Fed. Reg. 29551, July 13, 1989, effective Aug. 20, 1989; para. (a) revised, 58 Fed. Reg. 54504, Oct. 22, 1993, effective Jan. 3, 1994; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. © added, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

- in response to Appeal Brief filed on 7 March, 2002, the Examiner's Answer was mailed on 22 May, 2002;

- therefore, Petitioner's Reply Brief (should he elect to file one) or a request under ¶(b) of 37 C.F.R. §1.136 for an extension of time within which to file a Reply Brief was due on or before Monday, 22 July, 2002;

- instead, on Tuesday, 23 July, 2002, Petitioner filed the instant petition and proffered with it his Reply Brief.

Because no extension of time was requested and obtained pursuant to 37 C.F.R. §1.136(b), the two month period for submission of a Reply Brief pursuant to 37 C.F.R. §1.193(b) expired at midnight 22 July, 2002.

When the Reply Brief was filed on 23 July, 2002, in the absence of a previously submitted request for an extension of time under the provisions of 37 C.F.R. §1.136(b), the Reply Brief was untimely.

ANALYSIS

Petitioner requests waiver under 37 C.F.R. §1.183 of the two- (2-) month time period for submission of the Reply Brief set forth in 37 C.F.R. §1.193(b). However, suspension of the rules under 37 C.F.R. §1.183 may be granted only in an "extraordinary situation, when justice requires."

Petitioner alleges that he was traveling due to family illness, however, there is no explanation why he could not have submitted a request and fee for an extension of time one day earlier in satisfaction of the regulations at 37 C.F.§1.136(b).[4]

Therefore, there is no adequate showing that the failure to file a request for an extension of time under 37 C.F.R. §1.136(b) to file the Reply Brief was caused or contributed to by circumstances beyond Petitioner's control.

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[4] In this regard, the elimination of fee extensions in the filing of reply briefs (and requests for oral hearings) was first proposed in 57 Fed. Reg. 43214 (September 21, 1992), *reprinted* at 1143 O.G. 33 (October 13, 1992). Initially, a one month time period was proposed for the filing of reply briefs and requests for oral hearings. However, after consideration of comments on the proposed rules the Notice of Miscellaneous Changes in Patent Practice announced that:

- the period was extended to two months (as adopted) to provide for counsel to communicate with, for example, foreign applicants; and

- "[e]xtensions of time for cause under § 1.136(b) will be available for those rare situations when an extension of time is necessary." 58 Fed. Reg. 54,504 at 54,508 (October 22, 1993), 1156 O.G. 54 at 57 (October 15, 1993).

The rules became effective 3 January, 1994, more than eight years before the time period in question. Id.

The showing of record is that Petitioner knew or should have known that adequate provisions for ensuring timely responses to Communications from the Patent and Trademark Office were required during the period in question.

The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay.[5]

Thus, Petitioner failed to take such reasonable care against any other contributing factor, and waiver of the two month time period of 37 C.F.R. §1.193(b) in this situation is not justified pursuant to 37 C.F.R. §1.183.[6]

Accordingly, the petition under 37 C.F.R. §1.183 and §1.193(b) is dismissed.

ALTERNATIVE VENUE

Because there is no requirement for the timely submission of a Reply Brief, to avoid the abandonment of an application, the failure to timely submit such an amended reply brief has not resulted in the abandonment of this application.

Nonetheless, while the application is not abandoned, the untimeliness of Petitioner's actions make it appropriate to consider the matter apply the model of a remedy (if not the exact principles) in light of the regulations at 37 C.F.R. §1.137(b).[7]

Therefore, Petitioner may wish to consider filing a petition to the Commissioner requesting acceptance of the delayed reply brief as if timely filed on the grounds that the delay was unintentional.

A petition requesting acceptance of a delayed Reply Brief on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by:

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[5] See, Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 C.F.R. 1.193(b). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). Circumstances resulting from petitioner's failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[6] Delay resulting from the inadvertence or mistake of Petitioner does not warrant equitable tolling of the time period of 37 C.F.R. §1.193(b). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Even assuming *arguendo*, that clerical inadvertence or error caused or contributed to the delay in filing the Reply Brief, such is not a ground for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

[7] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

(1) the amended reply brief (the requisite "reply);

(2) the petition fee set forth in 37 C.F.R. §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 was unintentional."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
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JJGJ: 01-03

Paper 22

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JAN 3 1 2003

OFFICE OF PETITIONS

In re Application of
McCloy, et al.
Application No. 09/495,105 :
Filed: 1 February, 2000 :
Attorney Docket No.: BRI.00026 :

ON PETITION

This is a decision on the petition filed 13 January, 2003, in light of regulations at 37 C.F.R. §1.137(b)[1] to accept the delayed filing of a reply brief for consideration before the Board of Patent Appeals and Interferences.

The petition is **GRANTED**.

BACKGROUND

The record indicates that:

- in response to Appeal Brief filed on 7 March, 2002, the Examiner's Answer was mailed on 22 May, 2002;
- therefore, Petitioner's Reply Brief (should he elect to file one) or a request under ¶(b) of 37 C.F.R. §1.136 for an extension of time within which to file a Reply Brief was due on or before Monday, 22 July, 2002;
- instead, on Tuesday, 23 July, 2002, Petitioner filed the instant petition and proffered with it his Reply Brief;
- Because no extension of time was requested and obtained pursuant to 37 C.F.R. §1.136(b), the two month period for submission of a Reply Brief pursuant to 37 C.F.R.

[1] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

§1.193(b) expired at midnight 22 July, 2002;

- on 23 July, 2002, the original petition was filed under 37 C.F.R. §1.183[2] requesting that the Office waive the timing requirements of 37 C.F.R. §1.193,[3] which sets forth the period within which a reply brief must be filed;

- when the Reply Brief was filed on 23 July, 2002, in the absence of a previously submitted request for an extension of time under the provisions of 37 C.F.R. §1.136(b), the Reply Brief was untimely;

- the 23 July, 2002, Petition was dismissed on 9 December, 2002;

- the instant petition and fee was filed on 13 January, 2003..

The instant application is being forwarded to the Board of Patent Appeals and Interferences.

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[2] The regulations at 37 C.F.R. §1.183 provide, in pertinent part:
§1.183 Suspension of the Rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. * * *

[3] The regulations at 37 C.F.R. §1.193 provide:
§1.193 Examiner 's answer and reply brief.
(a)(1) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to appellant 's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to appellant. If the primary examiner finds that the appeal is not regular in form or does not relate to an appealable action, the primary examiner shall so state.
(2) An examiner's answer must not include a new ground of rejection, but if an amendment under §1.116 proposes to add or amend one or more claims and appellant was advised that the amendment under §1.116 would be entered for purposes of appeal and which individual rejection(s) set forth in the action from which the appeal was taken would be used to reject the added or amended claim(s), then the appeal brief must address the rejection(s) of the claim(s) added or amended by the amendment under § 1.116 as appellant was so advised and the examiner 's answer may include the rejection(s) of the claim(s) added or amended by the amendment under §1.116 as appellant was so advised. The filing of an amendment under §1.116 which is entered for purposes of appeal represents appellant 's consent that when so advised any appeal proceed on those claim(s) added or amended by the amendment under §1.116 subject to any rejection set forth in the action from which the appeal was taken.
(b)(1) Appellant may file a reply brief to an examiner's answer or a supplemental examiner's answer within two months from the date of such examiner's answer or supplemental examiner 's answer. See §1.136(b) for extensions of time for filing a reply brief in a patent application and §1.550((c) for extensions of time for filing a reply brief in a reexamination proceeding. The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief. A supplemental examiner's answer is not permitted, unless the application has been remanded by the Board of Patent Appeals and Interferences for such purpose.
(2) Where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, appellant must exercise one of the following two options to avoid abandonment of the application:
(I) File a reply under § 1.111, if the Office action is not final, or a reply under §1.113, if the Office action is final; or
(ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (§§1.130,1.131 or 1.132) or other evidence are permitted.
[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18858, Nov. 26, 1969; para. (c), 47 Fed. Reg. 21752, May 19, 1982, added effective July 1, 1982; para. (b), 50 Fed. Reg. 9382, Mar. 7, 1985, effective May 8, 1985; 53 Fed. Reg. 23735, June 23, 1988, effective Sept.12, 1988; para. © deleted, 57 Fed. Reg. 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (b) revised, 58 Fed. Reg. 54504, Oct. 22, 1993, effective Jan.3, 1994; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b)(1) revised, 65 Fed. Reg. 54604, Sept .8, 2000, effective Nov. 7, 2000]

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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JJGJR.: 03-05

Paper No: __

PHILIP R. WARN, ESQ.
WARN, BURGESS AND
HOFFMANN, P.C.
POST OFFICE BOX 70098
ROCHESTER HILLS MI 48307

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of
McCloy. :
Application No. 09/495,105 :
Attorney Docket No. 8044-000026(Q-99021) :

This is a decision on the petition filed on 19 February, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the petition was received in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.181 is **DISMISSED**; and 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 Decision of the Board of Patent Appeals and Interferences (BPAI) mailed on 27 August, 2003, affirming final Office action of the Examiner, with reply due on or before 27 October, 2003,and the BPAI did not permit extension of time under 37 C.F.R. §1.136(a);

- on 28 October, 2003, Petitioner filed (over an October 24, 2003, certificate of mailing) an

amendment after the final action of the BPAI, but did not file a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114;

- on 15 December, 2003, the Examiner mailed an Advisory Action indicating that the amendment would not be entered because it raised new issues requiring further consideration and search;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- it further appears that Petitioner filed a request for Status on 26 August and 29 December, 2004;
- Petitioner requests withdrawal of the holding of abandonment, or, alternatively, seeks revival as abandoned due to unintentional delay, and submits an RCE, fee and submission as the required reply, and makes the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner contends that the burden for advancing the prosecution of Petitioner's application fell to the Examiner, and seeks support in the commentary at MPEP §1214.06. However, the MPEP clearly states therein: "Claims indicated as allowable prior to appeal except for their dependency from rejected claims will be treated as if they were rejected."

Petitioner could have permitted the Examiner to allow the claims not rejected under an Examiner's amendment or to set a period for Petitioner to amend properly.

Alternatively, Petitioner's proper reply following the decision of the BPAI would have been to file an RCE (with fee and submission) under 37 C.F.R. §1.114.

Instead, Petitioner chose to file an amendment which the Examiner found not to have placed the application in condition for allowance.

Petitioner wants to be able to continue prosecution without following the procedure for that process. Such is not grounds for withdrawal of the holding of abandonment.

Thus, Petitioner fails to carry his burden as to this argument.

---

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Allegations as to Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing/statement of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee (if the application was filed before 8 June, 1995).

Petitioner has satisfied the requirements of the regulation

CONCLUSION

The petition under 37 C.F.R. §1.181 is **dismissed**; and the petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The application is released to Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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LOS ANGELES CA 90025

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OFFICE OF PETITIONS

In re Application of	:
Hegde, et al.	: DECISION GRANTING PETITION
Application No. 09/495,150	: UNDER 37 CFR 1.137(b)
Filed: January 31, 2000	:
Atty. Dkt. No.: 30019.103US01	:

This decision is in response to the petition under 37 CFR 1.137(b), filed February 8, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned December 11, 2004 for failure to timely submit a proper reply to Notice of Allowance (Notice) mailed September 10, 2004. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed February 28, 2005.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No. 5

Samuel H. Dworetsky
AT&T Corporation
PO Box 4110
Middletown, NJ 07748-4110

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Benitez et al. :
Application No. 09/495,175 : ON PETITION
Filed: February 1, 2000 :
Attorney Docket No. 2000.0025 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 14, 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 June 15, 2000.

The file is being forwarded to the Office of Initial Patent Examination 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

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BEDMINSTER NJ 07921

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JUL 2 8 2008

In re Patent No. 7,185,049	:	
Issue Date: February 27, 2007	:	
Application No. 09/495,175	:	ON PETITION
Filed: February 1, 2000	:	
Attorney Docket No. 2000-0025	:	

This is a decision on the petition filed August 15, 2007, 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**.

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.

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OFFICE OF PETITIONS

In re Application of :
Robotham :
Application No. 09/495,207 :
Filed: January 31, 2000 :
Attorney Docket No. 1400.4100242 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed October 2, 2006.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on August 30, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 1, 2005. A Notice of Abandonment was mailed on June 26, 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 2600 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

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Milliken & Company
920 Milliken Road
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OFFICE OF PETITIONS

In re Application of
Richard C. Worrell et al.
Application No. 09/495,257
Filed: January 31, 2000
Attorney Docket No. 2151

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 18, 2001, which set a shortened statutory period for reply of three (3) months. A one- month extension of time and a request for reconsideration were filed on October 18, 2001. The reply filed October 18, 2001 failed to place the application in condition for allowance. Accordingly, the above-identified application became abandoned on October 19, 2001.

The application is being forwarded to Technology Center AU 1771 for processing of the Continued Prosecution Application (CPA) filed February 19, 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

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Choate, Hall & Stewart LLP
Two International Place
Boston, Massachusetts 02110

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OFFICE OF PETITIONS

In re
Ameer et al.
Application No. 09/495,278
Filing Date: January 31, 2000
Attorney Docket:0492611-0364(MIT 8616)

RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to Applicants' APPLICATION FOR RECONSIDERATION UNDER 37 CFR 1.705(b)timely[1] filed on February 21, 2006 requesting that the Office reconsider the PTA determination and adjust the PTA determination at the time of th mailing of the notice of allowance from a determination of zero (0)days to a determination of (

Applicants request for PTA reconsideration is **DISMISSED.**

Applicants assert that the Office engaged in 589 days of delay and applicants engaged in 145 days of delay. Accordingly, applicants allege that the proper amount of delay is 444 (589-145=444).

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 (January 31, 2000) was filed prior to May 29, 2000.

[1] Request for reconsideration of PTA was filed prior to/or with payment of the issue fee.
[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 $200.00 fee. No additional fees are required by applicants.

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

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner for
Patent Examination Policy

cc: PAIR calculation showing PTE

Day : Friday
Date: 7/21/2006

PALM INTRANET

Time: 12:11:10

PTE Calculations for Application: 09/495278			
Application Filing Date:	01/31/2000	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTE (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	11/21/2005	MAIL NOTICE OF ALLOWANCE			
52	11/21/2005	MAIL FORMAL DRAWINGS REQUIRED			
51	10/06/2005	CORRESPONDENCE ADDRESS CHANGE			
50	10/04/2005	ISSUE REVISION COMPLETED			
49	10/04/2005	FORMAL DRAWINGS REQUIRED			
48	10/04/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	10/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
46	10/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
45	10/03/2005	NOTICE OF ALLOWABILITY			
44	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
43	02/17/2005	MISCELLANEOUS INCOMING LETTER			
42	04/14/2004	DATE FORWARDED TO EXAMINER			
41	03/22/2004	RESPONSE AFTER NON-FINAL ACTION			
40	03/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	10/22/2003	MAIL NON-FINAL REJECTION			
38	10/01/2003	NON-FINAL REJECTION			
37	07/24/2003	DATE FORWARDED TO EXAMINER			
36	07/11/2003	RESPONSE AFTER NON-FINAL ACTION			
35	04/16/2003	MAIL NON-FINAL REJECTION			
34	03/24/2003	NON-FINAL REJECTION			
33	01/09/2003	DATE FORWARDED TO EXAMINER			
32	12/11/2002	RESPONSE AFTER NON-FINAL ACTION			
31	12/11/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			

29	10/14/2002	CASE DOCKETED TO EXAMINER IN GAU			
28	06/06/2002	MAIL NON-FINAL REJECTION			
27	06/05/2002	NON-FINAL REJECTION			
26	05/14/2002	DATE FORWARDED TO EXAMINER			
25	05/06/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
24	03/27/2002	MAIL RESTRICTION REQUIREMENT			
23	03/25/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
22	01/29/2002	CASE DOCKETED TO EXAMINER IN GAU			
21	01/23/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
20	01/23/2002	DATE FORWARDED TO EXAMINER			
19	01/17/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
18	10/01/2001	MAIL RESTRICTION REQUIREMENT			
17	09/28/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
16	09/27/2001	CASE DOCKETED TO EXAMINER IN GAU			
15	07/23/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/11/2001	DATE FORWARDED TO EXAMINER			
13	07/05/2001	RESPONSE TO ELECTION / RESTRICTION FILED			
12	06/04/2001	MAIL RESTRICTION REQUIREMENT			
11	06/01/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
10	05/07/2001	CASE DOCKETED TO EXAMINER IN GAU			
9	07/21/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/22/2000	CASE DOCKETED TO EXAMINER IN GAU			
7	05/17/2000	APPLICATION DISPATCHED FROM OIPE			
6	05/17/2000	APPLICATION IS NOW COMPLETE			
5	04/03/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/03/2000	CORRESPONDENCE ADDRESS CHANGE			
3	02/28/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/07/2000	PREEXAMINATION LOCATION CHANGE			
1	02/07/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 4

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OFFICE OF PETITIONS

In re Application of :
Thumpudi Naveen et al. :
Application No. 09/495,597 : ON PETITION
Filed: February 1, 2000 :
Attorney Docket No. PU020209 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2002, to revive the above-identified application.

The petition is Dismissed as moot.

A review of the application file discloses that the present application is not abandoned. Accordinlgy, the present petition to revive is unnecessary and dismissed as moot.

No petition fee will be charged.

This application is being forwarded to Technology Center AU 2623 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/2/07

Paper No.: _____

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 7220144 IFW

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.**

Reference OK? NOT INITIALLED/LINED THRU ON 1449 FILED 3/29/05

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Initialed Reference

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Paula Bradley
SPE

2833
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

STAAS & HALSEY LLP
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SUITE 500
WASHINGTON DC 20001

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MAR 2 0 2003

Technology Center 2600

In re Application of:
Hideyuki Miyata et al
Application No. 09/495,715
Filed: February 1, 2000
For: **OPTICAL COMMUNICATION APPARATUS AND OPTICAL ADD/DROP APPARATUS**

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on February 26, 2003, requesting that the shortened statutory period for reply set forth in the Office communication mailed on December 13, 2002 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED**.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on February 24, 2003. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt.

A review of the file finds that the non-Final Office action originally mailed on December 13, 2002, was remailed to applicant on February 27, 2003.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on December 13, 2002 has been reset to run from the date of the new mailing , February 27, 2003. The application has been forwarded to TC 2600 central files to await a response.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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MINNEAPOLIS MN 55402-3319

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OFFICE OF PETITIONS

In re Application of
Rossow, et al.
Application No. 09/495,729
Filed: February 1, 2000
Attorney Docket No. M297.12-148

DECISION ON PETITION

This is a decision on the petition filed on January 8, 2002[1], 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 reply to the Notice to File Missing Parts of Nonprovisional Application mailed March 29, 2000. This Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 30, 2000. A Notice of Abandonment was mailed on December 12, 2001.

With the instant petition, petitioner filed an executed oath or declaration, paid the petition fee, and made the proper statement of unintentional delay. The $130 surcharge for late filing of the oath or declaration, as well as the $40 deficiency in the petition fee submitted[2], has been charged to Deposit Account No. 23-1123, as authorized.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy commissioner
for Patent Examination Policy

---

[1] Supplemented by an authorization to charge petitioner's Deposit Account, received by facsimile transmission on January 29, 2002.

[2] Effective October 1, 2001, the fee for a petition to revive under 37 CFR 1.137(b) was increased to $1,280.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOME DEPOT USA, INC.
2455 PACES FERRY RD. NW
STORE SUPPORT CENTER, C-19
ATLANTA GA 30339

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Schoene et al. :
Application No. 09/495,733 : ON PETITION
Filed: February 1, 2000 :
Attorney Docket No. ETC-00-004 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 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.

The above-identified application became abandoned for failure to submit formal drawings and the issue fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed July 6, 2004. Accordingly, the above-identified application became abandoned on October 7, 2004. A Notice of Abandonment was mailed on November 12, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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). Petitioner gave authorization to collect the issue fee in the instant petition, which has been done. However, the Notice of Allowability also required corrected drawings to be submitted. The drawings must be submitted before the above-identified application can be revived. A copy of the Notice of Allowability is enclosed for petitioner's convenience.

Further, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned.

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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: Notice of Allowability
Issue Fee Transmittal

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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2455 PACES FERRY RD. NW
STORE SUPPORT CENTER, C-19
ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Application of	:	
Schoene et al.	:	
Application No. 09/495,733	:	ON PETITION
Filed: February 1, 2000	:	
Attorney Docket No. ETC-00-004	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner's deposit account was inadvertently charged the $1400.00 issue fee again when the instant petition was submitted. Since a $120.00 one-month extension of time is due, it will be deducted from the above amount and $1280.00 will be credited to petitioner's deposit account as authorized.

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
DIW 10-01

Paper No. 6

LEE PARKER
COMMVAULT SYSTEMS, INC.
2 CRESCENT PLACE
OCEANPORT, NJ 07757-0900

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OCT 0 4 2001

OFFICE OF PETITIONS

In re Application of	:	
Ignatius et al.	:	DECISION GRANTING
Application No. 09/495,751	:	PETITION
Filed: 1 February, 2000	:	
Attorney Docket No. 044463.0020	:	

This is a decision on the petition filed on 1 June, 2001, requesting that the above-identified application be accorded a filing date of 1 February, 2000, rather than the presently accorded filing date of 31 January, 2000.

Petitioners assert that the application was filed on 1 February, 2000, rather than on the presently accorded filing 31 January, 2000. In support, on 1 June, 2001, petitioners supplied a copy of an itemized postcard receipt bearing the above-identified application number and an Office date of 1 February, 2000.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

Receipt is also acknowledged of the Request for Withdrawal as Attorney or Agent filed on 24 September, 2001. The request is effective only for Gary W. Hamilton, because he is the only attorney/agent specifically mentioned in the request. Furthermore, the United States Patent and Trademark Office (Office) does not recognize law firms as such, and therefore, it cannot be determined which persons of record are members of the law firm. The correspondence address has been changed in accordance with the request. A one-time courtesy copy of this decision is being mailed to the address noted on the petition. However, unless otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being returned to Office of Initial Patent Examination for correction of the filing date to 1 February, 2000, and for issuance of a corrected Filing Receipt.

Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Russell C. Scott
AKIN GUMP STRAUSS HAUER & FELD LLP
816 CONGRESS AVE, SUITE 1900
AUSTIN, TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAMUEL H DWORETSKY
AT&T CORP
P O BOX 4110
MIDDLETOWN NJ 07748-4110

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APR 2 1 2006

OFFICE OF PETITIONS

In re Application of
Christian A. Gilmore et al.
Application No. 09/495,799
Filed: February 1, 2000
Attorney Docket No. 1999-0225

ON PETITION

This is a decision on the petition, filed June 22, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition 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.

This application became abandoned April 29, 2004 for failure to timely reply to the final Office Action mailed January 28, 2004, which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 23, 2005.

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 be 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(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of January 28, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on January 28, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAMUEL H DWORETSKY
AT&T CORP
P O BOX 4110
MIDDLETOWN NJ 07748-4110

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OFFICE OF PETITIONS

In re Application of :
Christian A. Gilmore et al. :
Application No. 09/495,799 :
Filed: February 1, 2000 :
Attorney Docket No. 1999-0225 :

ON PETITION

This is a decision on the renewed petition, filed May 18, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 29, 2004 for failure to timely reply to the final Office Action mailed January 28, 2004, which set a three month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 23, 2005. A petition to revive was filed June 22, 2005 but was dismissed in a decision mailed April 21, 2006 because a proper response to the Final Office Action was not included with the petition.

Comes now petitioner with the instant renewed petition and a Request for Continued Examination (RCE) as the response to the final rejection. Petitioner requests that the amendment filed June 22, 2005 be considered as the submission required under 37 CFR 1.114.

---

[1]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 be 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(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

All other requirements having been met, this application is being forwarded to Technology Center 2165 for processing of the RCE.

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

Paper No. 8

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ALSTON & BIRD LLP
P O DRAWER 34009
CHARLOTTE , NC 28234-4009

In re Application of:
GLUKSMANN, MARIA ALEXANDRA, *et al.*
Application No. 09/495,823
Filed: 01/31/2000
Attorney Docket No. 5800-79

DECISION GRANTING PETITION

This is a decision on the petition under 37 C.F.R. §1.10(d), filed on January 31, 2000, requesting that the above-identified application be accorded a filing date of January 31, 2000, rather than the presently accorded filing date of February 1, 2000.

Petitioner alleges that the application was deposited in Express Mail service on January 31, 2000. In support, the petition is accompanied by: a copy of the cover sheet for the above-referenced application showing the Express Main Number EL039496501US, a copy of the relevant page from the secretary's log of PTO mailings showing that the application was transmitted to the PTO on January 31, 2000, an affidavit signed by Nora Martinez, which states that she is the secretary who keeps the logbook and that she entered the information regarding the date the present application was transmitted to the PTO, a copy of the Alston & Bird, L.L.P. courier service logbook showing the accept and pickup date for Express Mail number EL039496501US as January 31, 2000, an affidavit signed by Sean Calfee stating that he personally delivered Express Mail number EL039496501US into the hands of a U.S. postal worker behind the Express Mail window at a U.S. Post Office on January 31, 2000, and a copy of the printout of the action screen for the present spplication which was obtined from the Alston & Bird, L.L.P. patent database showing the action type as "APP SENT PTO" on January 31, 2000.

After a review of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to March 24, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 12

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JAN 22 2002

OFFICE OF PETITIONS

ALSTON & BIRD LLP
P O DRAWER 34009
CHARLOTTE , NC 28234-4009

In re Application of:
GLUCKSMANN, MARIA ALEXANDRA, *et al.*
Application No. 09/495,823
Filed: 01/31/2000
Attorney Docket No. 5800-79

DECISION GRANTING PETITION

This is a decision on the paper titled "Communication Regarding Decision on Petition Under 37 C.F.R. §1.10(d)", filed on December 27, 2001. The decision originally mailed on September 25, 2000[1] is hereby vacated in favor of the decision below.

This is a decision on the petition under 37 C.F.R. §1.10(d), filed on June, 13, 2000, requesting that the above-identified application be accorded a filing date of January 31, 2000, rather than the presently accorded filing date of February 1, 2000.

Petitioner alleges that the application was deposited in Express Mail service on January 31, 2000. In support, the petition is accompanied by: a copy of the cover sheet for the above-referenced application showing the Express Main Number EL039496501US, a copy of the relevant page from the secretary's log of PTO mailings showing that the application was transmitted to the PTO on January 31, 2000, an affidavit signed by Nora Martinez, which states that she is the secretary who keeps the logbook and that she entered the information regarding the date the present application was transmitted to the PTO, a copy of the Alston & Bird, L.L.P. courier service logbook showing the accept and pickup date for Express Mail number EL039496501US as January 31, 2000, an affidavit signed by Sean Calfee stating that he personally delivered Express Mail number EL039496501US into the hands of a U.S. postal worker behind the Express Mail window at a U.S. Post Office on January 31, 2000, and a copy of the printout of the action screen for the present spplication which was obtined from the Alston & Bird, L.L.P. patent database showing the action type as "APP SENT PTO" on January 31, 2000.

After a review of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to January 31, 2000.

No fee will be charged for this reconsideration.

---

[1] See, Paper No. 6

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.: 09495886 Patent No.: 7185963 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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved. Thanks.

Matthew Luu, AU. 2861 (SPE)

SPE M.LUU Art Unit

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)
6273315	2001-08-14	09495893	2000-02-02	18928

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	/Lawrence E. Laubscher, Sr./	Date (YYYY-MM-DD)	2009-12-09
Name	Lawrence E. Laubscher, Sr.	Registration Number	18202

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6273315
Issue Date: August 14,2001
Application No. 09495893
Filed: February 2,2000
Attorney Docket No. 18928

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

JUL 2 2003

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

#21

In re Application of	:
Yutaka Takano et al	:
Serial No.: 09/496,041	: WITHDRAWAL OF ABANDONMENT
Filed: February 2, 2000	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.181, filed April 24, 2003, requesting withdrawal of the holding of abandonment of the above identified application.

A review of the file history shows that the Office mailed a non-Final Office action to applicants on August 13, 2002, setting a three month shortened statutory period for reply. This was a first Office action following the filing of a CPA request which was granted. Applicants replied on February 13, 2003, by filing a request for a three month extension of time, a Request for Continued Examination (RCE) and a request for suspension of action and the fees for all of the requests.

37 CFR 1.114 states as follows:

> (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
> (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
> (2) Abandonment of the application; or
> (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
> (b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

As noted above the filing an RCE is permitted only when prosecution in an application is closed and the application has a filing date later than May 29, 2000. The earlier filed CPA established the filing date on which an RCE may be based. However, the RCE filing was improper as the application prosecution was not closed. Since the filing occurred on the last day of the six month statutory period for filing a reply to an Office action and no reply to the Office action accompanied the RCE papers, the application was held abandoned. The request for a three month suspension of prosecution could not be granted as (a) the RCE was not grantable and (b) a suspension of action cannot be granted when applicant is under an obligation to reply to an

outstanding Office action. Thus the application was properly held abandoned. Applicants are entitled to a refund of the fees paid in error for the RCE and suspension of action.

Applicants' attachments to the petition requesting the filing of a continuing application will not be acted on. Such requests should be filed separately to "Mail Stop: New Application". Further, in order to establish copendency between this application and any continuing application a petition under 37 CFR 1.137(b) must be filed in this application for that purpose.

Applicants' petition is **DENIED.**

Alternatively, applicant may revive this application only by filing a petition under 37 CFR 1.137(b). Any such renewed petition must be filed within TWO MONTHS of the mailing date of this decision and must be accompanied by a reply to the outstanding Office action.

The fee paid for filing RCE papers of $750.00 and for suspension of action of $130.00 will be credited to applicants' Deposit Account No. 06-1205, as directed. (The fee for the extension of time is not refundable as it was not paid in error.)

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Joseph S. Tripoli, Patent Operations
Thomson Multimedia Licensing Inc.
PO Box 5312
Princeton, NJ 08543-5312

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Thumpudi Naveen, et al. :
Application No. 09/496,068 : ON PETITION
Filed: February 1, 2000 :
Attorney Docket No. PU020211 :

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 in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed April 10, 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 June 11, 2000.

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 Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 13

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Chatterjee et al.
Application No.09/496,086
Filed: February 1, 2000
Attorney Docket No. 99,028
Title of Invention: METHODS AN APPARATUS FOR INDEXING AND SEARCHING OF MULTI-MEDIA WEB PAGES

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 7, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of October 22, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). An advisory action mailed on May 12, 2004 informed applicant the amendment submitted on April 22, 2004 did not place the application in condition for allowance. Accordingly, this application became abandoned on April 23, 2004. This decision precedes the mailing of a Notice of Abandonment.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being forwarded to Technology Center 2100 for further processing of the Request for Continued Examination (RCE) and the amendment submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

August 19, 2002

Scott C. Harris
Fish & Richardson
4350 La Jolla Village Drive, Suite 500
San Diego, CA 92122

In re application of:
Steven Schkolne et al
Serial No.: 09/496,137
Filed: February 1, 2000

DECISION ON PETITION

For: THREE DIMENSIONAL SURFACE DRAWING CONTROLLED BY HAND MOTION

This is a decision on the petition received March 5, 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 a timely manner to the Notice to File Missing Parts of Application mailed March 27, 2000. Which set a shortened statutory period for rely of two (2) months. Accordingly, this application became abandoned May 31, 2000. A notice of abandonment was mailed November 30, 2001

On March 5, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that counsel never received the Notice of Missing Parts mailed March 27, 2000.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2721 with the documents received March 5, 2002

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

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MIELE LAW GROUP
2 SUMMER STREET
SUITE 306
NATICK, MA 01760

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Delaney et al	:	
Application No. 09/496,170	:	ON PETITION
Filed: February 1, 2000	:	
Attorney Docket No. 109140-0001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowability mailed May 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 10, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the formal drawings ((PTO-948 enclosed); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the formal drawings are accepted as having been unintentional delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

Enclosure: PTO-948

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: Terence Matthew O'Halloran	: DECISION ON REQUEST FOR
Patent Number	: 6439993	: RECALCULATION of PATENT
Issue Date	: 08/27/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/496,240	: OF WYETH
Filed	: 02/01/2000	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 22

FULBRIGHT & JAWRSKI LLP
600 CONGRESS AVENUE STE 2400
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application of
András Kónya, Hideki Hyodoh,
Kenneth C. Wright
Application No. 09/496,243
Filed: February 1, 2000

DECISION ON PETITION

This is a decision on the "Petition Under 37 CFR 1.182 to Change Order of Inventors", filed October 14, 2003 (Certificate of Mailing dated October 10, 2003).

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner has paid the petition fee under 37 CFR 1.182 and indicated the desired order of inventorship.

Records in the above-identified application have been changed to reflect that András Kónya is the first named inventor, Hideki Hyodoh is the second named inventor, while Kenneth C. Wright is the third named inventor.

The application file is being forwarded to Technology Center 3700 for consideration of the RCE filed on October 14, 2003.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-0272.

Cliff by

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
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Paper No.

BRIAN L. RIBANDO
REISING, ETHINGTON,
BARNES, KISSELLE, P.C.
P. O. BOX 4390
TROY, MI 48099

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MAY 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Horwarth et al. :
Application No. 09/496,249 :
Filed: February 2, 2000 :
Attorney Docket No. CM-0002 :

DECISION ON PETITION

This is a decision on the petition filed on April 5, 2004, 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 reply to the final Office action mailed August 27, 2003. This Office action set a shortened statutory period for reply of three (3) months. An amendment, made timely by an accompanying petition (and fee) for extension of time for response within the first month, was filed on December 24, 2003; however, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed January 30, 2004). No further extensions of time under the provisions of 37 CFR 1.136(a) were obtained and no proper reply having been received, the application became abandoned on December 28, 2003. A Notice of Abandonment was mailed on March 29, 2004.

With the instant petition, petitioner filed a Request for Continued Examination (RCE) under 37 CFR 1.114, with previous amendment noted as the submission and payment of the RCE fee. The RCE has been accepted as the required reply under 37 CFR 1.137(b)(1). Petitioner has met all other requirements of 37 CFR 1.137(b).

The examiner in Technology Center 2859 has been advised of this decision. The RCE and submission will be considered in due course. Receipt of a Notice of Appeal (and Fee) is acknowledged.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

Klarquist Sparkman Campbell
Leigh & Whinston LLP
One World Trade Center Suite 1600
121 SW Salmon Street
Portland, OR 97204-2988

In re Application of :
Gu, et al. :
Application No. 09/496,318 :
Filed: February 1, 2000 :
Attorney Docket No. 3382-53698 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a) filed August 15, 2000.

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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), (2), and (4)set forth above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration. The declaration of M. Pallemaerts lacks support in that copies of correspondence proportedly mailed to the non-signing inventor has not been included. In addition, the declaration fails to set forth the manner in which the application papers were presented to the non-signing inventor.

Any renewed petition should be supported by copies of dated cover letters and/or mailing receipts sent to the non-signng inventor at the non-signing inventor's last known address as evidence that the non-signing inventor was presented with a copy of the application papers (specification, claims, and drawings) or having been presented with the application papers, refused to

sign the oath or declaration. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

As to item (4), the Office is unable to determine if the last known address stated in the petition is deemed to be a business address or residential mailing address. Any renewed petition should include clarification.

8/Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

Klarquist Sparkman Campbell
Leigh & Whinston LLP
One World Trade Center Suite 1600
121 SW Salmon Street
Portland, OR 97204-2988

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MAR 20 2002

OFFICE OF PETITIONS

In re Application of
Gu, et al.
Application No. 09/496,318
Filed: February 1, 2000
Attorney Docket No. 3382-53698

DECISION GRANTNG STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a) filed September 17, 2001 and supplemented February 21, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Yaron Goland, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Stephen A. Wight, submitted September 17, 2001, sufficiently establishes that the inventor received the application papers and failed to respond to requests to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing by inventor at the address 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 Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

December 31, 2002

James M. Warner
Pharmacia Corporation
Corporate Patent Department
800 N. Lindbergh, O4E
St. Louis, MO 63141

In re application of:
Carter et al DECISION ON PETITION
Serial No.: 09/496,695
Filed: February 2, 2000
For: SUBSTITUTED BENZOPYRAN DERIVATIVES FOR THE TREATMENT OF INFLAMMATION

This is a decision on the petition filed September 9, 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 April 13, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned June 14, 2000. A notice of abandonment was mailed on November 30, 2001.

On September 9, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney filed a complete application at the time of filing.

The evidence submitted is sufficient to establish that the petitioners did file a complete application at the time of filing.

The petition is hereby GRANTED.

The office regrets any inconvenience this may have caused the attorney.

The application has been completed for release to Technology Center 1613.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6364506
Issue Date: April 2,2002
Application No. 09496723
Filed: February 3,2000
Attorney Docket No. McDERMOTT

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 18,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 18,2010 .
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)
6364506	2002-04-02	09496723	2000-02-03	McDERMOTT

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 A. Bruno/	Date (YYYY-MM-DD)	2010-06-18
Name	Frank A. Bruno	Registration Number	46583

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Ira V. Haffan
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAILED

MAR 1 8 2004

Technology Center 2100

In re Application of:
Juels et al.
Application No. 09/496,824
Filed: February 02, 2000
For: CRYPTOGRAPHIC COUTERMEASURES AGAINST CONNECTION DEPLETION ATTACKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 08, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 08, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Eric L. Prahl, Esq.
HALE AND DORR LLP
60 State Street
Boston, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Robert S. Mayer
Proskauer Rose, LLP
1585 Broadway
New York, NY 10036

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AUG 1 1 2006
OFFICE OF PETITIONS

In re Patent No. 6,336,318 :
Issue Date: January 8, 2002 :
Application No. 09/496,889 : ON PETITION
Filed: February 2, 2000 :
Patentee(s): Louis Raymond Falce, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on April 10, 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.

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Paper No. 9

Thinh V Nguyen
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles CA 90025

MAIL

MAR 1 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: MAN PAK YIP, ET AL.	)	
Application No.: 09/496,990	)	**DECISION ON PETITION**
Filed: February 02, 2000	)	**TO WITHDRAW THE**
For: **HYBIRD CONNECTION ADMISSION**	)	**HOLDING OF**
CONTROL USING COMBINED MODEL-BASED AND	)	**ABANDONMENT**
MEASUREMENT-BASED ESTIMATORS	)	

This is in reply to Petitioner's Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 10, 2004. No fee is required.

The petition is **GRANTED**.

A review of the file record reveals that the application was held abandoned for failure to timely file a proper reply to the Office Letter mailed on May 19, 2003 within the Shortened Statutory Period of three months set therein.

Petitioner has submitted a statement from the practitioner stating that the Office Letter 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 Letter was not received. A copy of the docket record where the non-received letter would have been entered had it been received and docketed was also submitted.

Since Petitioner has never received the Office Letter mailed May 19, 2003, the holding of abandonment dated December 10, 2003 is hereby withdrawn. The application will be forwarded to the Supervisory Legal Instruments Examiner with the instructions to remail and redate the Office Letter dated May 19, 2003.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 7

MORGAN, LEWIS & BOCKIUS
1800 M STREET NW
WASHINGTON , DC 20036-5869

In re Application of : Kirk Watkins
Application No. 09/497,142
Filed: February 3, 2000
For: SYSTEM AND METHOD FOR USING A PAYROLL DEDUCTION CARD AS A PAYMENT INSTRUMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed March 24, 2000 under 37 C.F.R. §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. § 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 is deficient in that it does not comply with (B) and (E) above. With respect to (B), while a statement is found regarding making an election without traverse if the claims are not directed to a single invention, no statement is found asserting that all the claims presented are directed to a single invention. With respect to (E), while applicant discusses the content of the references and argues that they do not disclose certain features, this discussion does not clear how the *claimed* subject matter is patentable over the references. The argued features, specifically paying for products/services "sold on a participating vendor's web site" is not found in the independent claims.

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.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 9

MORGAN, LEWIS & BOCKIUS
1800 M STREET NW
WASHINGTON , DC 20036-5869

In re Application of : Kirk Watkins
Application No. 09/497,142
Filed: February 3, 2000
For: SYSTEM AND METHOD FOR USING A PAYROLL DEDUCTION CARD AS A PAYMENT INSTRUMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the request for reconsideration filed October 11, 2001 regarding the decision mailed September 5, 2001 concerning the petition, filed March 24, 2000 under 37 C.F.R. §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. § 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 submissions, filed October 11, 2001 and March 24, 2000, together meet the criteria set forth above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 2/27/2009
Patent No.	: 7,086,082 B2
Serial No.	: 09/497,238
Inventor(s)	: HOKKINEN
Issue Date	: August 01, 2006
Title	: **IMPLEMENTATION OF DELAY-CRITICAL SERVICES IN A CABLE TELEVISION SYSTEM**
Doc./File No.	: **915-310-1**

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 the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with the requested reference(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied

However, further consideration will be given your request upon receipt of of a request for **Reconsieration** (w/supporting documentation) in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

MAIL

MAR 13 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Frank J Derosa
Cowan Liebowitz & Latman P C
1133 Avenue of the Americas
New York , NY 10036-6799

In re Application of
JARVORS, RUSSELL
Application No. 09/497,244
Filed: 02/03/2000
Attorney Docket No. 3910.164
For: TOY WITH REMOTELY CONTROLLED SECURITY ALARM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed concurrently with this application on February 3, 2000

A petition for accelerated examination under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing 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.

The petition meets all the above-listed requirements. Accordingly, *the petition is* ***granted***.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
George E. Carter :
Application No. 09/497,279 : ON PETITION
Filed: February 2, 2000 :
Attorney Docket No. 00P7437US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action.

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; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies slightly from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2100.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HOWREY, LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of
Philemon L. Bruner, et. al.
Application No. 09/497,284
Filed: February 2, 2000
Attorney Docket No. 10356.0035.NPUS00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 16, 2004. A Notice of Abandonment was mailed on November 6, 2006.

Since the appeal brief filed on January 11, 2007 is non-compliant, the proposed reply required for consideration of a petition to revive must be 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). A Notice regarding the non-compliant appeal brief is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Non-compliant Appeal Brief

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09497284	2/2/00	BRUNER ET AL.	10356.0035.NPUS00

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER
Jeffrey A.. Shapiro

ART UNIT	PAPER
3653	20070928

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Appeal Brief filed on 1/11/07 is still non-compliant for the reason set forth in the Notice of Non-compliant Appeal Brief of 5/30/06. Specifically, Appellant has fail to sufficiently set forth the subject matter of the independent claims as required by 37 CFR 41.37(c)(1)(v), which states, "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters." For example, Claim 1 contains limitations drawn to one or more sensors. This limitation in not mentioned nor a specific citation to the specification or the reference character for this limitation is not provided in the summary of claim 1. Therefore, the Appeal Brief is non-compliant and is non-responsive to the Notice of 5/30/06.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWREY, LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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OFFICE OF PETITIONS

In re Application of :
Philemon L. Bruner, et. al. :
Application No. 09/497,284 :
Filed: February 2, 2000 :
Attorney Docket No. 10356.0035.NPUS00 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on November 15, 2007, to revive the above-identified application.

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. In accordance with 37 CFR 1.34(a), the signature of Viola T. Kung 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amended appeal brief; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3653, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN, TX 78729

COPY MAILED
JAN 12 2006
OFFICE OF PETITIONS

In re Application of :
Sepehr Mehrabanzad, et al. :
Application No. 09/497,328 : ON PETITION
Filed: February 3, 2000 :
Atty Docket No. CX098043 :

This is a decision on the petition, filed October 17, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jack Schwartz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Schwartz desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application became abandoned for failure to reply in a timely manner to a final Office action mailed April 2, 2004. A Notice of Abandonment was mailed on March 10, 2005. In response, on October 17, 2005, petitioner filed, *inter alia*, the present petition and an amendment.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 2637 for consideration of the response filed October 17, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JACK SCHWARTZ
1350 BROADWAY, SUITE 1510
NEW YORK, NY 10018

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

June 18, 2002

Michael J. Stricker
Stricker, Stricker & Stenby
103 East Neck Road
Huntington, NY 11743

In re application of:
Friedrich Hachtel DECISION ON PETITION
Serial No.: 09/497,378
Filed: February 2, 2000

For: CLAMPING ELEMENT

This is a decision on the petition received January 30, 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 a timely manner to the Notice to File Missing Parts of Application mailed March 30, 2000. Which set a shortened statutory period for rely of two (2) months. Accordingly, this application became abandoned May 31, 2000. A notice of abandonment was mailed December 4, 2001.

On January 30, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that counsel never received the Notice of Missing Parts March 30, 2000.

The evidence submitted is sufficient to establish that the petitioners did not receive the Notice of Missing Parts mailed March 30, 2000.

The petition is hereby GRANTED.

A new Notice to File Missing Part is enclosed with this 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 E. Day
Program Management Assistant
Office Initial Patent Examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FEB 06 2009

TECHNOLOGY CENTER 2100

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of: BAHR, et al.
Application No. 09/497,383
Attorney Docket: 7204
Filed: 3 February 2000
For: SYSTEM AND METHOD FOR SCANNING A DOCUMENT IN CLIENT/SERVER ENVIRONMENT

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This paper provides the decision on the petition, filed May 15, 2008, under 37 CFR § 1.181 to invoke Supervisory Authority with respect to the Office Communication mailed on March 14, 2008 and require the Examiner to consider Information Disclosure Statements filed on April 6, 2007, April 10, 2007, and January 11, 2008.

The Petition is **DISMISSED.**

Applicable Prosecution History

April 17, 2006	Appeal Brief filed.
May 16, 2006	Examiner's answer mailed.
September 29, 2006	Remand by Board to Examiner for minor corrections.
December 5, 2006	Examiner's answer mailed on May 16, 2006 was vacated, and a new Examiner's Answer mailed.
April 6, 2007	IDS filed. Statement under 1.97(e) missing.
April 10, 2007	IDS filed. Statement under 1.97(e) missing. Exact duplicate of IDS filed on April 6, 2007.
January 11, 2008	Second IDS filed.

March 14, 2008	Office Communication mailed, informing applicant of non-consideration of the IDS for specific reasons.
May 15, 2008	Instant petition filed under MPEP 710.06, 37 CFR § 1.181 to invoke Supervisory Authority with respect to the Office Communication mailed on March 14, 2008 and require the Examiner to consider Information Disclosure Statements filed on April 6, 2007, April 10, 2007, and January 11, 2008.
August 24, 2008	Remand by Board for consideration of the Petition filed on May 15, 2008.

RELIEF REQUESTED

Petitioner requests that the Examiner of record consider the IDS filed on April 6, 2007, April 10, 2007, and January 11, 2008.

RULES, LAWS & PROCEDURES

37 CFR §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. For petitions in interferences, see § 1.644. (***Emphasis added***)

37 CFR § 1.181 (f) states:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

MPEP § 609.04(b) [R-5] Timing Requirements for an Information Disclosure, states in relevant part

II. INFORMATION DISCLOSURE FILED AFTER I. ABOVE BUT **BEFORE** MAILING OF FINAL ACTION, NOTICE OF ALLOWANCE, OR AN EX PARTE QUAYLE ACTION (37 CFR 1.97 (c))

An information disclosure statement will be considered by the examiner if filed after the period specified in subsection I. above, but prior to the date the prosecution of the application closes, i.e., before (not on the same day as the mailing date of any of the following:

a final action under 37 CFR 1.113, e.g., final rejection;

a notice of allowance under 37 CFR 1.311; or

an action that closes prosecution in the application, e.g., an Ex parte Quayle action, whichever occurs first, provided the information disclosure statement is accompanied by either (1) a statement as specified in 37 CFR 1.97(e) (see the discussion in subsection III.B(5) below); **or** (2) the fee set forth in 37 CFR 1.17(p).

If a final action, notice of allowance, or an Ex parte Quayle action is mailed in an application and later withdrawn, the application will be considered as not having had a final action, notice of allowance, or an Ex parte Quayle action mailed for purposes of considering an information disclosure statement.

An Ex parte Quayle action is an action that closes the prosecution in the application as referred to in 37 CFR 1.97(c). Therefore, an information disclosure statement filed after an Ex parte Quayle action, must comply with the provisions of 37 CFR 1.97(d).

III. INFORMATION DISCLOSURE STATEMENT FILED AFTER II. ABOVE BUT PRIOR TO PAYMENT OF ISSUE FEE (37 CFR 1.97 (d))

An information disclosure statement will be considered by the examiner if filed on or after the mailing date of any of the following: a final action under 37 CFR 1.113; a notice of allowance under 37 CFR 1.311; or an action that closes prosecution in the application, e.g., an Ex parte Quayle action, but before or simultaneous with payment of the issue fee, provided the statement is accompanied by:

(A) a statement as specified in 37 CFR 1.97(e) (see the discussion in subsection V; **and**

(B) the fee set forth in 37 CFR 1.17(p).

These requirements are appropriate in view of the late stage of prosecution when the information is being submitted, i.e., after the examiner has reached a final determination on the patentability of the claims presented for examination. Payment of the fee (37 CFR 1.17(p)) and submission of the appropriate statement (37 CFR 1.97(e)) are the essential elements for having information considered at this advanced stage of prosecution, assuming the content requirements of 37 CFR 1.98 are satisfied.

DECISION

I. Petition for consideration of IDS

a. Petitioner's position

Applicant filed the instant petition on May 15, 2008, requesting consideration of the IDS filed on April 6, 2007, April 10, 2007, and January 11, 2008. Applicant asserts that the Information Disclosure statements included the required certification (under 37 CFR 1.97(e)(1)) (refer MPEP **§ 609.04(b)** reproduced above) or fee (under 37 CFR 1.17(p)). Applicant, therefore, considers examiner's refusal to consider the IDS was erroneous

b. Relevant Prosecution History

A review of the prosecution history in the instant application reveals the following:

1. An examiner's answer to appeal brief filed on 4/17/2006, was mailed on May 16, 2006.

2. A Reply Brief was filed by applicant on 7/14/2006, and was entered by examiner in the communication mailed on August 28, 2006.

3. The case was remanded by the Board for minor corrections by the examiner, and a new examiner's answer was mailed out on December 5, 2006.

4. Applicant filed an IDS on April 7, and refilled the same IDS on April 10, 2007.

Specifically, the examiner refused consideration of these IDS on the grounds that:

- The IDS filed on April 7, 2007 and filed again on April 10, 2007 **did not include a statement under 37 CFR 1.97(e)** as required by MPEP **§ 609.04(b).**

- The fee under 37 CFR 1.17(p) were paid in both instances. However, neither contained a statement under 37 CFR 1.97(e).

5. Applicant filed a second IDS on January 11, 2008.

Specifically, the examiner refused consideration of this IDS on the grounds that:

- This IDS filed on January 11, 2008 **did not include a fee** under 37 CFR 1.17(p), (though it did contain a statement under 37 CFR 1.97(e)).

The position of the examiner regarding the above three IDS submissions were informed to the Applicant in the Office Communication mailed on March 14, 2008.

6. Applicant filed the instant petition, requesting that the IDS filed on April 6, 2007, the duplicate filed on April 10, 2007, and the IDS filed on January 11, 2008 be considered by the examiner.

b. Timeliness of the Petition

Under 37 CFR 1.181(f) (cited above) a petition for supervisory review not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Applicant's petition was filed more than 2 months after the issuance of the Office action complained of. For this reason alone, the petitioner is not entitled to relief.

c. The instant application

Petitioner contends that the Information Disclosure statements included the required certification (under 37 CFR 1.97(e)(1)) **or** fee (under 37 CFR 1.17(p)).

> However, it is noted that **MPEP § 609.04(b) (III) (reproduced above)** clearly states "**Payment of the fee (37 CFR 1.17(p)) and submission of the appropriate statement (37 CFR 1.97(e))** are the essential elements for having information considered at this advanced stage of prosecution, assuming the content requirements of 37 CFR 1.98 are satisfied".

Applicants have failed to meet one of the 2 requirements stated above in each of the IDS submissions argued above.

Accordingly, Applicant's petition, and request for consideration of the IDS filed on April 6, 2007, April 10, 2007, and January 11, 2008 is **DISMISSED**.

CONCLUSION

Petition is **DISMISSED**.

The application is being forwarded to the Board of Patent Appeals and Interferences for consideration of the Appeal.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 272-4147.

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,383	02/03/2000	David L. Bahr	7204	7431

826 7590 02/06/2009
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
2443	

MAIL DATE	DELIVERY MODE
02/06/2009	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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450 ALEXANDRIA VA 22313-450
WWW.USPTO.GOV

JUN - 5 2003

#26

SAMUEL WEBB
ALZA CORPORATION
c/o JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA, WH3221
NEW BRUNSWICK NJ 08933

In re Application of	:
Stephen A. Berry et al.	:
Serial No.: 09/497,422	: WITHDRAWAL OF ABANDONMENT
Filed: February 3, 2000	:
Attorney Docket No.: ARC 2914 R1	:

This is in response to applicants' petition under 37 CFR 1.181, filed April 18, 2003, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history shows that the examiner mailed a Notice of Allowance to applicants on October 2, 2002, setting a three month shortened statutory period for reply. Applicants replied on December 12, 2002 (Certificate of Mailing date), by filing a fee transmittal. The reply was never received by the Office. Applicants provided a copy of the reply which authorizes the fee charge to a Deposit Account, which has been done. In view of applicants' timely reply the Notice of Abandonment was mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is GRANTED.

The application will be forwarded to the Office of Publications after mailing of this communication.

Should there be any questions with respect to this decision, please contact Cecilia Tsang at (703) 308-0254, by mail addressed to: Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (703)308-0254 or by facsimile transmission at (703) 308-7230.

Cecilia Tsang for
John Doll
Director, Technology Center 1600

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Paper No. 33

Alza Corporation
PO Box 7210
Intellectual Property Department
Mountain View, CA 94039-7210

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FEB 17 2004

OFFICE OF PETITIONS

In re Application of :
Berry et al. :
Application No. 09/497,422 : ON PETITION
Filed: February 3, 2000 :
Attorney Docket No. ARC 2914 US R1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely pay the issue fee. In 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to change any additional fees due, the $1330 issue fee will be charged to Deposit Account No.20-1469.

Petitioner is advised that the issue fee paid on in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.1

The application file is being forwarded to Technology Center AU 1615 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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1 The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee**. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

Telephone inquiries 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

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Paper No. 13

Jones Volentine Steinberg & White LLP
12200 Sunrise Valley Drive
Suite 150
Reston, VA 20191

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OFFICE OF PETITIONS

In re Application of :
Kazuhiko Asakawa, et al. :
Application No. 09/497,499 :
Filed: February 4, 2000 :
Attorney Docket No. OKI.147 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 24, 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 July 25, 2002.

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 (703) 306-5594.

The application file is being forwarded to Technology Center 2800, Art Unit 2814 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: William S. Francos
Oki Electric Industry Co, Ltd.
Volentine Francos, P.L.L.C.
12200 Sunrise Valley Drive, Suite 150
Reston, VA 20191