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Paper No. 9

Technology Center 2100

Silverbrook Research PTY LTD
393 Darling Street
Balmain 2041 AU Australia

In re Application of: Silverbrook, et al.
Application No.: 09/575,165
Filed: May 23, 2000
Attorney Docket No.: NPA009US
For: METHOD AND SYSTEM FOR DELIVERY OF A SECURE DOCUMENT

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This is a decision on the petition filed August 2, 2004 to withdraw the holding of abandonment. The petition is being considered under 37 CFR § 1.8(b) as requesting the acceptance of correspondence as timely filed.

The petition is **DISMISSED**.

BACKGROUND

November 17, 2003 Non-Final rejection mailed (Paper No. 6)

June 21, 2004 Notice of Abandonment (Paper No. 7)

August 02, 2004 Instant Petition received (Paper No. 8)

ISSUES

The practitioner has submitted a copy of the original Response to the Non-Final Office action, a Fee transmittal letter, certificate of facsimile transmission dated February 10, 2004 *signed by both Ms. Kia Silverbrook and Paul Lapstun*, a transmission status report showing a status of "OK" for transmission of 17 pages on February 10, 2004, a "statutory declaration" by *Leonie Frances News*, and email communications between Examiner Jacob Lipman and Mr. Pascale Hair (June 9 – June 15, 2004). Mr. Hair states no Auto-Reply acknowledgement was received from the USPTO.

DECISION

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence can be considered timely filed if petitioners meet at least three conditions:

1. Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. **Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission.** If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
[Emphasis added.]

The evidence provided by Petitioner supports prompt notification on applicant's part after becoming aware of the previous transmission of the response and a copy of the transmitted correspondence has been included (items 1 and 2 above). However, a question remains as to who submitted the response via facsimile since the statutory declaration merely indicates that "The facsimile was sent .....". Therefore, Petitioner needs to submit a personal knowledge statement (in compliance) ***by the individual sending the original transmission*** [emphasis added]. While the third condition of 37 CFR § 1.8(b) permits submission of the sending unit's transmission report to support such a statement, *it is not intended to be a substitute for such a statement.* Any statement from Mr. Leonie Frances News (or Kia Silverbrook and Paul Lapstun) should focus on his or her ***personal knowledge*** regarding the timeliness of the transmission itself.

It is noted in the petition, the certificate of transmission/mailing does not reflect the facsimile number to which the Office actions response was sent. This fact will not prohibit a future grant of this petition, but it is suggested Practitioner can avoid future problems relating to use of the facsimile for official submissions by modifying in-house procedures and following up transmissions with a query to the Office if an "Auto-Reply" is not received.

In addition, Applicant is reminded of the proper use and procedures regarding Internet communications via email, as set forth in M.P.E.P. 502.03, which states in part,

>I. < CONFIDENTIALITY OF PROPRIETARY INFORMATION (ARTICLE 4)

If security and confidentiality cannot be attained for a specific use, transaction, or activity, then that specific use, transaction, or activity shall NOT be undertaken/conducted.

All use of the Internet by Patent Organization employees, contractors, and consultants

> shall be conducted in a manner that ensures compliance with confidentiality requirements in statutes, including 35 U.S.C. 122, and regulations. **Where a written authorization is given by the applicant for the USPTO to communicate with the applicant via Internet e-mail, communications via Internet e-mail may be used.** In such cases, a paper copy of the Internet e-mail contents **MUST** be made and placed in the patent application file as required by the Federal Records Act in the same manner as an Examiner Interview Summary Form is entered. **The following is a sample authorization form which may be used by applicant: "Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."** A written authorization may be withdrawn by filing a signed paper clearly identifying the original authorization.

In addition and to complete the file record, applicant must now provide an authorization statement, since the email communication(s) between the Examiner and Applicant have now been made of record in the instant application.

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 571-272-3595.

11/12/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 3 2003

Technology Center 2100

Paper No. 5

Silverbrook Research Pty. LTD
393 Darling Street
Balmain, New South Wales 2041
AUSTRALIA

In re Application of: Kia Silverbrook et al.	)	DECISION ON PETITION TO MAKE
Application No. 09/575,165	)	SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: May 23, 2000	)	AND MPEP § 708.02 (V) AND (VI):
For: METHOD AND SYSTEM FOR DELIVERY OF A SECURE DOCUMENT	)	ENVIRONMENTAL QUALITY AND ENERGY

This is a decision on the petition, filed February 20, 2003 under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V): Environmental Quality, and M.P.E.P. §708.02(VI): Energy, to make the above-identified application special.

The Petition is **DISMISSED**.

I. Environmental Quality

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section V, must be accompanied by the showing that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. A petition under M.P.E.P. § 708.02, Section V, should be accompanied by statements under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the restoration or maintenance of one of these life-sustaining elements. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V))

Applicants state that their invention, "a new form of information distribution" will reduce paper use and transportation thus resulting in reduction of carbon emissions and pollution.

The relevant portion of 37 C.F.R. §1.102(c) states: ".. or that the invention will materially enhance the quality of the environment". That is, the invention must have a substantial direct impact on the quality of the environment.

Applicant's showing does not establish that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance

of the basic life-sustaining natural elements, i.e., air, water, and soil. The invention as characterized by applicant is directed to an *information distribution system*. In particular, this application is directed to customized content of a book. A byproduct of this system is the possible reduction in the use of paper. Should paper use go down, the environmental and energy costs of paper production and disposal would be reduced. This incidental byproduct is not adequate to meet the requirement of the section cited above.

II. Energy

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by the showing that the application is for an invention which will materially contribute to the development or conservation of energy resources. A petition under M.P.E.P. § 708.02, Section V, should be accompanied by statements under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the development or conservation of energy resources. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V))

Applicant's representation of the reduced (per/printed drop) energy consumption of the Memjet™ printing technology as compared to inkjet technology would meet the standard for a grantable petition under this section. However, the claimed invention is directed to a security protocol for authorizing printing of a publication at a printer, not to the printing technology.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
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Paper No. 11

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041
AUSTRALIA

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Silverbrook et al. :
Application No. 09/575,165 : DECISION ON PETITION
Filed: 23 May, 2000 :
Atty Docket No. NPA009US :

This is a decision on the petition filed on 24 January, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The Office apologizes for the delay in responding to the present petition.

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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.

(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 18 January, 2004, for failure to timely reply to the non-final Office action mailed on 17 November, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 21 June, 2004. The petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on 2 August, 2004, was dismissed on 19 November, 2004.

Petitioners have filed an amendment as the required reply.

The application is being forwarded to Technology Center 2100 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

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OFFICE OF PETITIONS

In re Application of :
Lapstun, et al. :
Application No. 09/575,170 : DECISION
Filing Date: 23 May, 2000 :
Attorney Docket No.: NPX011US :

This is a decision on the petition filed on 2 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 non-final Office action mailed on 23 February, 2005, with reply due absent extension of time on or before 23 May, 2005;

- the Office mailed a Notice of Abandonment on 8 May, 2006–while the Notice indicates a failure to respond timely to the 23 February, 2005, Office action, clearly, the failure of timely reply was to the 13 June, 2005, Notice as to fees informality, which Notice carried a one- (1-) month period of reply with reply due on or before 13 July, 2005;

- thus, the instant application went abandoned after midnight 13 July, 2005;
- on 2 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of fees (and copies of formerly filed amendment), and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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

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(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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

[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] 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.[8]))

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 2 June, 2006) does not necessitate a finding that the delay between midnight 13 July, 2005 (date of abandonment), and 2 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 Petitioners Lapstun and Silverbrook when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

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 2600 for further processing in due course.

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

[9] 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 (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Lapstun et al.
Application No. 09/575,172
Filed: May 23, 2000
Attorney Docket No. NPX008US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed July 15, 2004, to withdraw the holding of abandonment in the above-identified application. The application was recently forwarded to the Office of Petitions for a decision on the petition. The Office sincerely apologizes for any inconvenience.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed on February 24, 2004. On May 18, 2004, the Office mailed a Notice of Abandonment. On July 15, 2004, petitioners filed the present petition.

Petitioners asserted that they filed a timely reply to the Notice of Non-Compliant Amendment via facsimile transmission to the USPTO on March 3, 2004. On March 9, 2004, Cynthia Streater from the USPTO sent an e-mail communication to petitioners indicating that the credit card used to pay the extra claim fees was declined. Mrs. Streater requested that petitioners contact her or transmit another credit card payment form. Petitioners asserted that they submitted a credit card payment form to replace the previously declined payment, via facsimile transmission on March 10, 2004. In support of the assertion, petitioner provided a copy of the e-mail communication and a copy of a three-page facsimile to Mrs. Streater, dated March 10, 2004, which included a credit card payment form for extra claim fees and a one-month extension of time fee. Additionally, petitioners submitted a copy of the transmission report from the sending unit, showing a successful transmission of three pages to the USPTO on March 10, 2004.

Upon a review of the record, the reply of March 3, 2004, was located in the application file. Additionally, the Office finance records indicate that a credit card payment for extra claim fees and a one-month extension of time fee was processed on March 10, 2004.

Petitioners have established that they submitted a timely and proper reply to the Notice of Non-Compliant Amendment. Therefore, the petition is **granted**. The holding of abandonment is withdrawn and the application is restored to pending status.

This application is being referred to Technology Center AU 2629.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Silverbrook Research Pty. Ltd.
393 Darling Street
Balmain, 2041
Austrailia

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Paul Lapstun :
Application No. 09/575,181 : ON PETITION
Filed: May 23, 2000 :
Attorney Docket No. NPA075US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 25, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on June 26, 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 $840 extension of time submitted with the petition on November 3, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center Au 3624 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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MAR 2 8 2003

Technology Center 2100

Paper No. 6

Silverbrook Research Pty.. LTD
393 Darling Street
Balmain, New South Wales 2041
AUSTRALIA

In re Application of: Kia Silverbrook et al.	)	DECISION ON PETITION TO MAKE
Application No. 09/575,186	)	SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: May 23, 2000	)	AND MPEP § 708.02 (V) AND (VI):
For: METHOD AND SYSTEM FOR CREATION AND USE OF A PHOTO ALBUM	)	ENVIRONMENTAL QUALITY AND ENERGY

This is a decision on the petition, filed May 23, 2000 under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V): Environmental Quality, and M.P.E.P. §708.02(VI): Energy, to make the above-identified application special.

The Petition is **DISMISSED**.

I. Environmental Quality

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section V, must be accompanied by the showing that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. A petition under M.P.E.P. § 708.02, Section V, should be accompanied by statements under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the restoration or maintenance of one of these life-sustaining elements. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V))

Applicants state that their invention, "a new form of information distribution" will reduce paper use and transportation thus resulting in reduction of carbon emissions and pollution.

The relevant portion of 37 C.F.R. §1.102(c) states: ".. or that the invention will materially enhance the quality of the environment". That is, the invention must have a substantial direct impact on the quality of the environment.

Applicant's showing does not establish that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance

of the basic life-sustaining natural elements, i.e., air, water, and soil. The invention as characterized by applicant is directed to an *information distribution system*. In particular, this application is directed to updating and editing a photo album. A byproduct of this system is the possible reduction in the use of paper by computer-based modification prior to final printing. Should paper use go down, the environmental and energy costs of paper production and disposal would be reduced. This incidental byproduct is not adequate to meet the requirement of the section cited above.

II. Energy

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by the showing that the application is for an invention which will materially contribute to the development or conservation of energy resources. A petition under M.P.E.P. § 708.02, Section V, should be accompanied by statements under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the development or conservation of energy resources. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V))

Applicant's representation of the reduced (per/printed drop) energy consumption of the Memjet™ printing technology as compared to inkjet technology would meet the standard for a grantable petition under this section. However, the claimed invention is directed to a security protocol for authorizing printing of a publication at a printer, not to the printing technology.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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MAR 2 7 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KIA SILVERBROOK
SILVERBROOK RESEARCH
393 DARLING ST. BALMAIN
NSW 2041 AUSTRALIA

In re Application of:
Kia Silverbrook, et al
Application No.: 09/575,187
Filed: May 5, 2000
For: INTERFACE SURFACE PRINTER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed May 4, 2000, under 37 C.F.R. § 1.102(c) and M.P.E.P. 708.02(V) and (VI): Environmental Quality and Energy, respectively, to make the above-identified application special.

A grantable petition under 37 C.F.R. § 1.102(c), M.P.E.P. § 708.02, Section V, must be accompanied by a statement under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the restoration or maintenance of the basic life-sustaining natural elements. No fee for such a petition is required.

A grantable petition under 37 C.F.R. § 1.102(c), M.P.E.P. § 708.02, Section VI, must be accompanied by a statement under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to (a) the discovery or development of energy resources or (b) the more efficient utilization and conservation of energy resources. No fee for such a petition is required.

The petition does not include statements *from the applicant, assignee, or attorney/agent registered to practice before the Patent and Trademark Office* ***explaining how the invention directly contributes the restoration or maintenance of the basic life-sustaining natural elements; and how the invention contrtbutes to the discovery or development of energy sources or the more efficient utilization and conservation of energy sources.*** The statements made by the applicant are speculative assertions as to how the application would conserve energy sources and maintain natural elements by ***potentially*** reducing the use of paper. These statements do not explain how the specific invention ***directly*** contributes to the restoration, maintenance, development, conservation, and more efficient utilization of the basic life-sustaining natural elements and energy sources as required.

The petition is **DENIED.**

Should petitioner 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.

The application file is being forwarded to the Technology Center's Central Files area to await examination in due course.

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
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook, et. al.	:	
Application No. 09/575,189	:	ON PETITION
Filed: May 23, 2000	:	
Attorney Docket No. NPX001US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005, to revive the above-identified application.

In response to the Notice Regarding Drawings mailed January 12, 2005, petitioner hereby submits $1,500 for the petition to revive fee, forty sheets of replacement drawings containing Figures 1-47, 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**.

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

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Paper No. 6

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN , AUX 2041

APR 6 - 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
SILVERBROOK, KIA, *et al.*
Application No. 09/575,192
Filed: 05/23/2000
Attorney Docket No. NPA048US
For: METHOD AND SYSTEM FOR PROVIDING A COPY OF A PRINTED PAGE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed on March 21, 2001.

A petition to make special under the Manual of Patent Examination Procedure (hereinafter "M.P.E.P.") §708.02 V must be accompanied by a statement by a registered practitioner, assignee, or applicant explaining how the invention materially enhances the quality of the environment. A petition to make special under M.P.E.P. §708.02 VI must be accompanied by a statement explaining how the invention materially contributes to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources. No fee is required.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Silverbrook Research Pty Ltd.
393 Darling Street
Balmain, 2041
AUSTRALIA

Paper No. 7

In re Application of:
Kia Silverbrook et al.
Serial No. 09/575,197
Filed: May 23, 2000
For: METHOD AND SYSTEM FOR ONLINE PAYMENTS

DECISION ON PETITION TO MAKE SPECIAL (ENERGY) OR (ENVIRONMENT)

This is a decision on the petition filed on March 13, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI 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 must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that "energy savings from a reduction in paper use are substantial" and sets forth the energy cost of manufacturing paper in 1998. The petition further states that "if the amount of paper in those newspapers was halved by using the Netpage system disclosed" in the application "the power savings in the US would be...equal to the output of about four full scale nuclear, coal, or natural gas electricity generating plants. Similar energy savings can be achieved for magazines, direct mail, and other printed media." These statements, along with the technical overview of the manner in which applicant's invention will be used, are adequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

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

In view of the granting of the Petition to make Special based upon energy, any determination of the environment grounds for making the application special is now moot and thus will not be treated on those grounds.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 4/3/03

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TECHNOLOGY CENTER 3600

Silverbrook Research Pty Ltd.
393 Darling Street
Balmain, 2041
AUSTRALIA

Paper No. 10

In re Application of:
Kia Silverbrook et al.
Serial No. 09/575,197
Filed: May 23, 2000
For: METHOD AND SYSTEM FOR ONLINE PAYMENTS

DECISION ON PETITION TO MAKE SPECIAL (ENERGY) OR (ENVIRONMENT)

This is a decision on the petition filed on February 24, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

The petition is **DISMISSED as MOOT**

The petition dated February 24, 2003 is an exact copy of the petition dated March 23, 2003 which was granted on April 11, 2003. It appears that Applicant resubmitted the petition on March 23, 2003 since the February 24-dated petition was lost by USPTO and recently matched with the application.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/dxn: 6/12/03

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SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Application of :
Peter Elenius, et al. :
Application No. 09/575,298 : DECISION ON PETITIONS
Filed: May 19, 2000 : 37 CFR 1.137(b)
Attorney Docket No. 72145.012100/US :

This is a decision on the petition under 37 CFR §1.137(b), submitted June 15, 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(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).

This application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/ Notice of Allowability mailed February 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned for failure to submit the issue fee on May 13, 2004. A Notice of Abandonment was mailed on July 20, 2004. A Notice Regarding Drawings was mailed June 1, 2004, which set a non-extendable period for reply of two (2) months to furnish corrected drawings.

The issue fee and statement have been received. However, the instant petition lacks item(s) (1) a proper reply, as the amended drawings filed with the petition do not satisfy the Notice Regarding

Drawings mailed July 20, 2004 as noted in the attached Draftsperson's Patent Drawing Review form, PTO-948. Accordingly, this application cannot be revived until formal drawings overcoming the draftsperson's objections have been received.

The person signing the instant petition has a correspondence address different from the correspondence address of record. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate change of correspondence address 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.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: PTO-948

Cc: Bruce T. Neel
2375 E. Camelback Road
Suite 700
Phoenix, AZ 85016

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GREENBERG TRAURIG, LLP
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Application of :
Peter Elenius, et al. :
Application No. 09/575,298 : DECISION ON PETITION
Filed: May 19, 2000 : 37 CFR 1.137(b)
Attorney Docket No. 72145.012100/US :

This is a decision on the renewed petition under 37 CFR §1.137(b), submitted September 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 previous petition lacked a proper reply, as the amended drawings filed with the previous petition did not satisfy the Notice Regarding Drawings mailed July 20, 2004 as noted in the Draftsperson's Patent Drawing Review form, PTO-948, mailed September 7, 2005. The new formal drawings, filed September 21, 2005, have been approved as noted in the attached Draftsperson's Patent Drawing Review form, PTO-948. Accordingly, the petitioner satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b).

This matter is being referred to the Office of Patent Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Draftsperson's Patent Drawing Review form PTO-948

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
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JUN 25 2002

#10

BRINKS, HOFER, GILSON & LIONE
IN RE: ALTICOR INC.
P.O. BOX 10395
CHICAGO IL 60610

In re Application of
Ernesto Brovelli et al
Serial No.: 09/575,307
Filed: May 19, 2000
Attorney Docket No.: 3086/1154

: PETITION DECISION TO RESTART
: PERIOD FOR REPLY

This is in response to applicant's petition under 37 CFR 1.181, filed Jun 18, 2002, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on February 27, 2002, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office, but provide no evidence that the Office action was not received. A statement alone does not suffice, but evidence from mail received logs or docketing systems must accompany a request to restart a period for reply. While applicants provide an observation that approximately 5% of mail was not received from the Office due to anthrax problems, this occurred only during the last quarter of 2001. The above Office action was mailed more than two months thereafter when few, if any, problems remained and is outside the period set in the OG notice below.

Notice published in the OG in January outlines the Office policy for requesting restart of a period for reply, and state, in part, as follows:

> For Office actions mailed between October 13, 2001 and January 2, 2002, the Office should grant a petition to reset a time period for reply if the following conditions are met:
>
> A) In order to provide a complete file history, a separate petition must be filed for each application for which a reset time period is requested;
>
> B) A written petition must be filed within two weeks of actual receipt of the Office action;
>
> C) A significant delay must have occurred - i.e. at least a month of a two or three month time period must have elapsed...;
>
> D) Requisite evidence of the delay may be provided by a statement stating the actual date of receipt and request that the time period be restarted as of the date of receipt;
>
> E) The statement must be signed by the applicant or registered practitiioner.

Applicants' petition is **DISMISSED**. Applicants' may file a renewed petition providing the missing evidence and the petition will be reconsidered. Any renewed petition must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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JJGJr: 04-03

Paper No: 17

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OLSON & BEAR LLP
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FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of:
Konecke
Filed:22 May, 2000
Application No. 09/575,429
Docket No. APOG1.005A

ON PETITION

This is a decision on the petitions filed herein on 7 April, 2003, under 37 C.F.R. §1.137(a)[1] and §1.137(b)[2] to revive the above-identified application, and considered, in light of Petitioner's

---

[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.)

allegations of non-receipt under 37 C.F.R. §1.181[3] as a request to withdraw the holding of abandonment.

The petition:

- under 37 C.F.R. §1.137(b) is **GRANTED**;
- under 37 C.F.R. §1.137(a) is **DISMISSED**; and
- as considered under 37 C.F.R. §1.181 is **DISMISSED**.

BACKGROUND

The record indicates that:

- applicant failed to file a timely and proper response to the final Office action mailed on 5 August, 2002, with a reply due (absent extension of time) on or before 5 November, 2002;
- while Petitioner alleges that the Office lost his reply filed by him on Monday, 7 October, 2002, he provides no date-stamped receipt card evidencing receipt of the reply by the office;
- on 3 February, 2003, Petitioner submitted via FAX a copy of his reply;
- however, Petitioner's reply was not a proper reply;[4]

---

[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. * * * (Emphasis supplied.)

[4] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a request for continued examination (RCE) under 37 C.F.R. §1.114 or a continuing application.

- on 24 February, 2003, the Examiner issued an Advisory Action indicating that the amendment failed to place the application in condition for allowance;

- Petitioner alleges that thereafter he:

  --engaged in a number of discussions with the Examiner wherein the Examiner first indicated that he would extend the deadline for reply and then indicated that he could not do so, and

  --then discussed the matter with the Examiner's supervisor, who, Petitioner states, based her refusal to extend the reply period on regulatory constraints,

  however, this is of no matter because Petitioner, as a registered practitioner of many years before the Office is aware that the maximum statutory period for reply is six (6) months;

- contemporaneously with the instant petitions (with fee), Petitioner filed a request for continued examination (with fee) and submission in the form of an amendment.

Notably, Petitioner pleads petitions under both 37 C.F.R. §1.137(a) and §1.137(a)--and also requests that the fee for the petition under 37 C.F.R. §1.137(a) be refunded if the petition is dismissed.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[5]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[6]

---

[5] 35 U.S.C. §133 provides:

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

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

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

Delays in responding properly raise the question whether delays are unavoidable.[7] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[8]

And the Petitioner must be diligent in attending to the matter.[9]

(Moreover, it long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[10] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[11] Such does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[12]))

As to the Request to Withdraw
the Holding of Abandonment and
the Allegation of Unavoidable Delay

Petitioner submits no showing as the basis for the petition to withdraw the holding of abandonment or as to the petition alleging unavoidable delay, save that Petitioner submitted a reply that was not a proper reply, and then waited until the end of the statutory period to raise the matter with the Examiner.

Because the error was not that of the Office, withdrawal of the holding of abandonment is not proper in the premises.

Moreover, because Petitioner's actions do not evidence the diligence required under Pratt,

---

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

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

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

[10] 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).

[11] 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.

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

Petitioner fails to satisfy the "showing" requirement as to allegation of unavoidable delay.

Thus, Petitioner's failure to satisfy the "showing" requirements under the regulations precludes withdrawal of the holding of abandonment or revival of the instant application as having gone abandoned due to unavoidable delay.

As to Unintentional Delay

Petitioner has authorized the fee, made the statement of unintentional delay, and submitted authorization for the required reply(ies).

CONCLUSION

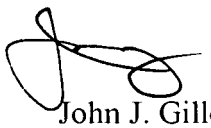
Accordingly, the petition:

- to revive under 37 C.F.R. §1.137(b) hereby is **granted**;
- to revive under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**; and
- as considered under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

Petition fees are jurisdictional--the petitions pled were considered, and therefore the fees will not be refunded.

The instant application is being forwarded to Technology Center 1700 for further processing.

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



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

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. 22

STEVEN J. HENRY
WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON, MA 02210

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JUN 24 2003

OFFICE OF PETITIONS

In re Application of :
Paul Ferguson, et al. :
Application No. 09/575,560 : ON PETITION
Filed: May 21, 2000 :
Attorney Docket No. A0312/7409/SJH :

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 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 final Office action mailed June 20, 2002, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed January 14, 2003 indicating that the reply filed on December 26, 2002 failed to place the application in condition for allowance. Accordingly, the application became abandoned at midnight on December 20, 2002.

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

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

The application file is being forwarded to Technology Center 2800, Art Unit 2818 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 22

Wolf Greenfield & Sacks
600 Atlantic Avenue
Boston, MA 02210-2211

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OCT 23 2003

OFFICE OF PETITIONS

In re Application of :
Xavier S. Haurie et al. :
Application No. 09/575,562 : ON PETITION
Filed: May 21, 2000 :
Attorney Docket No. A00312.70400 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2000, 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 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 13, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 application is being forwarded to Technology Center, 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Steven J. Henry
Wolf Greenfield & Sacks
Federal Reserve Bank Building
600 Atlantic Avenue
Boston MA 02210

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Xavier S. Haurie et al. :
Application No. 09/575,562 :
Filed: May 21, 2000 :
Patent No. 6,917,321 :
Issue Date: July 12, 2005 :
Attorney Docket No. :
A00312.70400 :
Title: METHOD AND APPARATUS FOR :
USE IN SWITCHED CAPACITOR :
SYSTEMS :
:

DECISION ON PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition filed on September 11, 2006, entitled "petition under 37 C.F.R. §1.59 to correct application file and expunge improperly filed material," which is properly treated as a petition under 37 C.F.R. §1.181(a).

The present application was filed on May 21, 2000 and issued on July 12, 2005 as patent number 6,917,321.

With the present petition, Petitioner has indicated that an amendment appears in the electronic file, which was received on December 31, 2001 and is associated with application number 09/575,561.

The electronic file has been reviewed, and Petitioner's assertion appears to be correct.

As such, the present petition is **GRANTED**.

The amendment of December 31, 2001 will be removed from the electronic file associated with application number 09/575,562 and placed into the electronic file associated with application number 09/575,561 in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. [illegible]

Dr. Kayako Kimbara
1455 Beacon Street
Brookline, MA 02446

In re Application of:
Frank McKeon, Kimbara Kayako and
Sandy Byeom
Application No. 09/575,580
Filed: May 22, 2000
Title of Invention: CALCIPRESSINS: ENDOGENOUS INHIBITORS OF CALCINEURIN USES AND REAGENTS RELATED THERETO

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MAY 10 2002

OFFICE OF PETITIONS

LETTER

Dear Dr. Kimbara:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

cc: Anita Varma
Patent Group
Foley, Hoag & Eliot LLP

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 13

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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MAY 10 2002

OFFICE OF PETITIONS

In re Application of:
Frank McKeon, Kimbara Kayako
and Sandy Pyeom
Application No. 09/575,580
Filed: May 22, 2000
Title of Invention:
CALCIPRESSINS: ENDOGENOUS
INHIBITORS OF CALCINEURIN USES
AND REAGENTS RELATED THERETO

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the Petition filed January 22, 2002 (Certificate of Mailing dated March 2, 2001), under 37 CFR 1.47(a), in the above-identified application, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. This application was recently forwarded to this Office for consideration of the petition.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Kimbara Kayako, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

The application file is being forwarded to Technology Center AU 1654 for processing in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Laffend et al.	:	
Application No. 09/575,638	:	ON PETITION
Filed: May 22, 2000	:	
Attorney Docket No. CR9715 US DIV1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed June 8, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 9, 2004. A Notice of Abandonment was mailed January 12, 2005.

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

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6250139
Issue Date: June 26,2001
Application No. 09575669
Filed: June 15,2000
Attorney Docket No. 007185-0039-999

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

This is a decision on the electronic petition, filed May 11,2007 ,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 11,2007 . 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.

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)
6,250,139	2001-06-26	09575669	2000-06-15	118717-002

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	/Robert M. Barrett/	Date (YYYY-MM-DD)	2007-05-11
Name	Robert M. Barrett	Registration Number	30142

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. 13

J C PATENTS INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

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JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Te-Hsiu Tsai et al
Application No. 09/575,890
Filed: May 22, 2000
Attorney Docket No. JCLA 5861

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: 37 CFR 1.55(c)

This is a decision on the petition, filed April 22, 2003, which is being treated both as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application (No. 09/414,251) and as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) and (f) to a foreign application (Taiwan Application No. 88112204)

The petitions are **DISMISSED AS MOOT.**

The instant application was filed on May 22, 2000. A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. *See* MPEP 1481 and 65 F.R. 57024 (Sept. 20, 2000). Therefore, the petitions are dismissed as involving a moot issue.

In view of the above, the $1,300 surcharge fee submitted is unnecessary and therefore refundable. Petitioner may request a refund of the $1,300 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Any inquiries concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

This application is being returned to Technology Center AU 2674 for appropriate action on the supplemental amendment filed May 27, 2003 and to await a reply to the non-final Office action mailed April 9, 2003. Failure to timely reply thereto will result in the abandonment of this application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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J C PATENTS INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

Paper No. 13

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JUN 0 2 2003

OFFICE OF PETITIONS

In re Application of
Te-Hsiu Tsai et al
Application No. 09/575,890
Filed: May 22, 2000
Attorney Docket No. JCLA 5861

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: 37 CFR 1.55(c)

This is a decision on the petition, filed April 22, 2003, which is being treated both as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application (No. 09/414,251) and as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) and (f) to a foreign application (Taiwan Application No. 88112204)

The petitions are **DISMISSED AS MOOT.**

The instant application was filed on May 22, 2000. A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. *See* MPEP 1481 and 65 F.R. 57024 (Sept. 20, 2000). Therefore, the petitions are dismissed as involving a moot issue.

In view of the above, the $1,300 surcharge fee submitted is unnecessary and therefore refundable. Petitioner may request a refund of the $1,300 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Any inquiries concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

This application is being returned to Technology Center AU 2674 for appropriate action on the supplemental amendment filed May 27, 2003 and to await a reply to the non-final Office action mailed April 9, 2003. Failure to timely reply thereto will result in the abandonment of this application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 10 2002

Paper No. 8

In re Application of :
Paul R. Dansreau *et al* : DECISION ON PETITION
Application No. 09/576,269 :
Filed: May 22, 2000 :
Attorney Docket No. PC11680A-US

This is a decision on the petition filed on August 6, 2002 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 2, 2002. No fee is required for the petition.

The petition is granted.

Petitioners allege that this application is not in fact abandoned because a reply to the Office letter was in fact filed on January 26, 2002 and that the reply was timely by reason of the fact that the reply had affixed thereto a 37 CFR 1.8(a) certificate of mailing dated October 18, 2001.

It is clear from the above showing that this application was not abandoned. See, in particular, 37 CFR 1.8(b). Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on January 26, 2002, certificate of mailing date October 18, 2002.

PETITION GRANTED.

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

Charles W. Almer
Warner-Lambert Company
201 Tabor Road
Morris Plains, NJ 07950

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

OCT 20 2002

#15

In re Application of	:	
S. Hinuma, et al	:	PETITION TO
Serial No.: 09/576,290	:	WITHDRAW HOLDING OF
Filed: May 23, 2000	:	ABANDONMENT
Attorney Docket No.: 47476-DIV (70342)	:	

This is in response to applicants' petition, filed September 4, 2002, requesting withdrawal of the holding of abandonment.

On December 12, 2001, an Office action was mailed to applicant. On August 25, 2002, an Notice of Abandonment for failure to respond to the Office letter mailed December 12, 2001 was mailed. On September 4, 2002, the present petition was filed. Applicant asserts that the response was timely filed on March 12, 2002 by Facsimile. The petition was accompanied with a copy of the Auto-Reply. Applicant's statement and evidence have been carefully reviewed. The response filed on march 12, 2002 is deemed timely. Accordingly, the petition is granted.

Petition GRANTED.

The application will be forwarded to the examiner for consideration after mailing of this decision.

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

Jasemine C. Chambers
Director, TC1600

John B. Alexander, Ph.D.
Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARD & ANGELL, LLP
101 Federal Street
Boston, MA 02110-1800

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

April 25, 2002

Gary Jacobs
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 11112-3801

In re application of:
Makoto Misaka DECISION ON PETITION
Serial No.: 09/576,297
Filed: May 23, 2000
For: ZOOM LENS, AND IMAGE PICKUP APPARATUS AND IMAGE PROJECTIONS APPARATUS USING THE SAME

This is a decision on the petition received on February 1, 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 August 4, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 5, 2000. A notice of abandonment was mailed April 11, 2001.

On February 1, 2002 the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Part mailed August 4, 2000.

The evidence is sufficient to establish that the petitioners did not receive the Notice to File Missing Parts of Application mailed August 4, 2000.

The petition is hereby GRANTED.

A new Notice to File Missing Parts is enclosed with this letter setting forth a new response period of two months from the date of the notice.

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

Doshie Day

Doshie E. Day

UNITED STATES PATENT AND TRADEMARK OFFICE

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OVERLAND PARK, KS 66251-2100

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OCT 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Fred S. Cook :
Application No. 09/576,300 : DECISION GRANTING PETITION
Filed: May 23, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1364 :

This is a decision on the petition, filed October 27, 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 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2157 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment (with drawing Figs. 4 and 30).

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) (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).*

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Paper No. 7

VENABLE
PO BOX 34385
WASHINGTON DC 20043-9998

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AUG 15 2001

OFFICE OF PETITIONS

In re Application of :
William T. Carden :
Application No. 09/576,386 : DECISION ON PETITION
Filed: May 22, 2000 :
Attorney Docket No. 35672-163980 :

This is a decision on the petition under 37 CFR 1.181(a)(3), filed May 8, 2001, to accord the above-identified application a filing date of May 22, 2000.

Application papers in the above-identified application were filed on May 22, 2000. However, on August 9, 2000, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the specification did not have at least one claim. Applicant timely filed a response to the Notice on October 10, 2000[1], and received another Notice on November 15, 2000, which was timely responded to on December 4, 2000. Applicant received an Official Filing Receipt on December 14, 2000, stating that the above-identified application had been accorded a filing date of December 4, 2000.

In the instant petition, petitioner asserts that the application was in fact filed with at least one claim on May 22, 2000. In support thereof, petitioner submitted a postcard receipt identifying this application, itemizing a specification with 38 pages including 20 claims as enclosed, bearing a United States Patent and Trademark Office date-stamp of May 22, 2000, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the petition is **GRANTED**.

A review of the application file indicates that only pages 1-23 filed on May 22, 2000, are present. Pages 24-38 are missing. It is noted that while page 23 filed on May 22, 2000 is present in the file, it differs from the "copy" of page 23 supplied on December 4, 2000. For petitioner's information, a copy of page 23 as filed on May 22, 2000, is enclosed with this decision. Since pages 24-38 were filed on May 22, 2000, as evidenced by petitioner's postcard receipt, the application will be processed

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[1] The response was timely submitted within the two month period for reply because October 9, 2000 was a federal holiday.

and examined using the copy of pages 24-38 supplied on December 4, 2000. However, page 23 as actually filed on May 22, 2000, according to the USPTO official file, will be used for processing and examination purposes, since that was the actual page filed on May 22, 2000. Petitioner may, of course, amend the specification to add any text missing on page 23 providing the amendment does not include new matter.

Given the basis for granting the petition, the petition fee has been refunded, as requested.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 22, 2000, using pages 1-23 filed on May 22, 2000, and the copy of pages 24-38 supplied on December 4, 2000. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Enc: Page 23 of the specification filed May 22, 2000

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Paper No. _____

Date : July 27, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Darrell R. Anderson et al
Application No. :09/576,424
Filed :May 22, 2000

The above-identified application has been assigned Patent No. 6,926,895 and an issue date of August 9, 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 9, 2005:

"All reference to Patent No. 6,926,895 to Darrell R. Anderson et al of California for TREATMENT OF CROHN'S DISEASE USING ANTI-CD80 ANTIBODIES THAT DO NOT INHIBIT THE BINDING OF CD80 ANTIGENTO CTLA-4 appearing in the Official Gazette of August 9, 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, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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JUL 27 2005

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Darrell R. Anderson et al :
Application No. 09/576,424 : ON PETITION
Filed: May 22, 2000 :
Attorney Docket No. 012712-855 :

This is a decision on the petition, filed July 26, 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 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1644 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 1 5 2001

Technology Center 2100

Paper No. 4

Kelly K. Kordzik
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270-2199

In re Application of: C. Thompson et al.
Application No.: 09/576,462
Filed: May 23, 2000
For: SYSTEM AND METHOD FOR PROCESSING IMPORT/EXPORT TRANSACTIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed February 15, 2001 under 37 C.F.R. §102(d) to make the above-identified application special. This petition will be treated as further filed under M.P.E.P. § 708.02(II): Infringement due to petitioner's assertion of infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required .

The petition does not meet the requirements for special status in that it does not state that an infringing device or product is actually on the market or method in use as per (A) above. Further, while a search has been performed, the petition does not clearly state that a "careful and thorough" search of the prior art has been made as per (C) above. Petitioner is reminded that only references "deemed most closely related to the subject matter encompassed by the claims" as stated in MPEP §708.02, Section II need be submitted instead of "all such material art" as indicated in the petition.

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

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COMMISSIONER FOR PATENTS
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MAY 23 2001

Technology Center 2100

Paper No. 6

Kelly K. Kordzik
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270-2199

In re Application of: C. Thompson et al.
Application No.: 09/576,462
Filed: May 23, 2000
For: SYSTEM AND METHOD FOR PROCESSING IMPORT/EXPORT TRANSACTIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the request for reconsideration, filed on April 13, 2001, regarding the petition, filed February 15, 2001 under 37 C.F.R. §102(d) to make the above-identified application special. The petition will be treated as further filed under M.P.E.P. § 708.02(II): Infringement due to petitioner's assertion of infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required .

The prior decision, mailed April 13, 2001, indicated that applicant's submission was deficient in that it did not state that an infringing device or product was actually on the market or method in use as per (A) above and did not state that a "careful and thorough" search of the prior art has been made as per (C) above. Applicant's submissions of April 13, 2001 and February 15, 2001 together meet all 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 PATENT AND TRADEMARK OFFICE

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

MAY 31 2002

Paper No. 11

In re Application of :
Richard E. Williams : DECISION ON PETITION
Application No. 09/576,499 :
Filed: May 23, 2000 :
Attorney Docket No. 2429/4

This is a decision on the petition filed on March 11, 2002 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated May 21, 2001. No fee is required for the petition.

The petition is dismissed as moot.

Subsequent to the mailing of the Notice of Abandonment on December 21, 2001, timely filed papers constituting a proper reply to the Office letter in question were in fact associated with the application file. Accordingly, the holding of abandonment was vacated and an action on the application in light of the reply was mailed to petitioner on May 7, 2002. The period for filing a reply to the action dated May 7, 2002 continues to run as set therein.

In light of the fact that this application is currently in a pending status, the petition to withdraw the holding of abandonment is moot.

PETITION DISMISSED.

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

Attachment

Baniak Pine & Gannon
150 N. Wacker Drive
Suite 1200
Chicago, IL 60606

ATTACHMENT

The petition and attached papers filed on March 11, 2002 (certificate of mailing dated February 27, 2002) have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

COPY OF PAPERS
ORIGINALLY FILED

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.

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MOTOROLA INC
LAW DEPARTMENT
1303 EAST ALGONQUIN ROAD
3RD FLOOR
SCHAUMBURG IL 60196

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Qiu, et al. :
Application No. 09/576,516 : ON PETITION
Filed: May 23, 2000 :
Attorney Docket No. 018926-002110US :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed May 18, 2009.

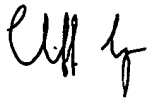
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 23, 2008, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 24, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal, together with a Pre-Appeal Brief Request for Review.

The application is being forwarded to Group Art Unit 2437 for consideration of the Pre-Appeal Brief Request for Review, filed May 19, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

#8

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

In re Application of
J. Carman
Serial No.: 09/576,623
Filed: May 23, 2000
Attorney Docket No.: T4088.CONT

PETITION DECISION

This is in response to applicant's Petition To Make Special under 37 CFR § 1.102, filed January 31, 2001, based upon special status under MPEP § 708.02(VIII and XII).

MPEP § 708.02(VIII) states a new application may be granted special status provided the applicant complies with each of the following items: (A)-(E). In particular, MPEP § 708.02(VIII)(C) states:
" 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;

Applicant states a copy of a form PTO-1449 submitted in an Information Disclosure Statement is enclosed with applicant's Petition to Make Special under 37 CFR § 1.102. However, no such copy of a form PTO-1449 is included nor is a form PTO-1449 filed in the application. Nevertheless, applicant also indicated that all of the references listed on this form PTO-1449 were of record in prior application No. 09/018,875. Applicant is requied to provide a copy of 1449 to complete the record.

Applicant also states the application meets the standards listed under MPEP § 708.02(XII) special status for applications relating to biotechnology filed by applicants who are small entities. Applicant included a statement establishing small entity status, stated that the subject of the patent application is a major asset of the small entity, and stated that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement. Based on the statements and evidence provided it is concluded the application meets the requirements for special status under MPEP § 708.02(XII).

Applicant's petition is **GRANTED**.

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

Cecilia Tsang for
John Doll
Director, Technology Center 1600

CLAYTON, HOWARTH & CANNON, P.C.
P.O. BOX 1909
SANDY, UTAH 84091

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 14 2008

In re Patent No. 6295555	:	
Issue Date: 09/25/2001	:	
Application No. 09/576658	:	NOTICE
Filed: 05/22/2000	:	
Attorney Docket No. 341821-991120	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 18

WENDEROTH LIND & PONACK LLP
SUITE 800
2033 K STREET N.W.
WASHINGTON DC 20006

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Michinori Tomomatsu et al	:	
Application No. 09/576,716	:	ON PETITION
Filed: May 23, 2000	:	
Attorney Docket No. 2000 0619A	:	

This is a decision on the petition, filed by facsimile transmission on October 29, 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 September 30, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2856 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failur to *timely* requ st *in writing* that the pr viously paid issue fee be applied towards th new Notice and payment of any balance due will r sult in the abandonm nt of th application.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/22/06

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/576716** Patent No.: **6775899**

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**.

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

Thank You For Your Assistance

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

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

Comments: Request to change Column 8, from Claim 13, line 1 not approved. Change ~~from~~ "circuit board" to --substrate-- is not correction of typographical error and term --substrate-- was what is application file. Other change OK.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2856
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Jon Red
9/22/06

Noland, Thomas

From: Noland, Thomas
Sent: Tuesday, September 26, 2006 10:47 AM
To: Williams, Hezron
Subject: FW: IFW 09/576716 6775899

Ron,

Action folder with 306 prepared and turned in to your office. Correction of reference citation appears ok. However don't believe can do change to claim by C of C since applicant appears to be trying to correct an antecedent basis problem by using a C of C. Probably has to do a reissue to get that correction. The language printed on the patent matches that in the application file.

-----Original Message-----
From: Green, Angela
Sent: Friday, September 22, 2006 2:05 PM
To: Williams, Hezron; Noland, Thomas
Subject: IFW 09/576716 6775899

Please respond to Req. for correction ASAP. The Application file has been sent to examiner's Mailbox today. The PTOL-306 has been forwarded for scanning today.

Once decision has been made on PTOL-306 and forwarded to scanning, a return message in Edan/Madras with comment stating "Response has been forwarded for scanning" is very much welcomed and appreciated.

PUBS CofC
Angela Green
ST9A22 Loca 7580
703.308.9380 ext. 123

Thank you for your attention to this matter.

09576716

Proposed Response to Certificate of Correction Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James R. Duzan
Trask Britt
P O Box 2550
Salt Lake City UT 84110

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Chadd A. Cobbley et al.	:	
Application No. 09/576,727	:	DECISION GRANTING PETITION
Filed: May 23, 2000	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3639.1US (97-23831.1)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 9, 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 March 23, 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 3729 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.*

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

McDONNELL BOEHNEN HULBERT & BERGHOFF
32nd Floor
South Wacker Drive
Chicago, IL 60606

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DEC 10 2003

Technology Center 2100

In re Application of
Douglas R. ADLER, et al
Application No. 09/576,754
Filed: May 23, 2000
For: METHOD AND SYSTEM FOR DYNAMIC FONT SUBSETTING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 6, 2003.

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

The request is **GRANTED**.

All future communication from the Office will 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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MINNEAPOLIS, MN 55402-0938

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Patent No. 7,155,672 :
Issue Date: December 26, 2006 :
Application No. 09/576,754 : ON PETITION
Filed: May 23, 2000 :
Attorney Docket No. 2050.028US1 :

This is a decision on the petition filed February 8, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

#14

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

EGK 00862-0219 ndy

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AUG 0 6 2004
OFFICE OF PETITIONS

In re Application of :
Hiroshi Tanioka et al :
Application No. 09/576,928 :
Filed: May 23, 2000 :
Attorney Docket No. 862.C1913 :

ON PETITION

This is a decision on the petition, filed July 30, 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 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2624 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

RECEIVED AUG 1 1 2004 FITZPATRICK, CELLA, HARPER & SCINTO

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY F COMMERCE F R INTELLECTUAL PR PERTY
AND DIRECTOR F THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

DEC - 9 2002

#14

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	:	
Yoko Asakura et al	:	
Serial No.: 09/577,005	:	WITHDRAWAL OF ABANDONMENT
Filed: January 10, 2001	:	
Attorney Docket No.: 0010-1108-0	:	

This is in response to applicant's petition under 37 CFR 1.181, filed October 9, 2002, requesting withdrawal of the holding of abandonment of the above identified application .

A review of the file history shows that the examiner mailed an Office action to applicants on December 14, 2001, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed to applicants on September 24, 2002. Applicants present evidence of timely filing of a RCE request and extension of time on June 14, 2002. The original submission has not been located and the copy of the reply submitted with the petition will be used in lieu thereof. In view of the evidence presented, the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to entry of the RCE papers and further action as warranted.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

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

February 4, 2003

Douglas H. Goldhush
Squire, Sanders & Dempsey
14th Floor
8000 Towers Crescent DR.
Tysons Corner, VA 22182-2700

In re application of:
Kalkunte, et al DECISION ON PETITION
Serial No.: 09/577,012
Filed: May 24, 2000
For: APPARATUS AND METHOD FOR DISTRIBUTING
A LOAD ACROSS A TRUNK GROUP

This is a decision on the petition received on September 24, 2002, to withdraw the holding of abandonment in the above-identified application. The office also, acknowledges the copy of counsel's post card showing that the first petition was received in the PTO on March 12, 2002.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed August 30, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 31, 2000. A notice of abandonment was mailed January 30, 2002.

On September 24, 2002, 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 August 30, 2000.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing parts mailed August 30, 2000.

The petition is hereby GRANTED.

The application will be complete with the declaration received on September 24, 2002.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APR 1 3 2001

Technology Center 2100

Paper No. 6

Rick A. Toering
Cooley Godward LLP, Attn: Patent Group.
One Freedom Square, Reston Town Center
11951 Freedom Drive
Reston, VA 20190

In re Application of : Kenneth N. Myers et al.
Application No. 09/557,039
Filed: May 24, 2000
For: MULTI-DISCIPLINARY INFORMATION ENGINE FOR TOTAL OWNERSHIP COST ESTIMATION OF COMPLEX SYSTEMS

DECISION ON REQUEST TO WITHRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 5, 2000 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 no clear indication is provided that applicant has been notified of the withdrawal. While the petitioner has enclosed an email that is asserted to be from an attorney for assignee requesting transfer of "matter FE-437", "FE-437" does not clearly identify this application nor does it correspond to the attorney docket number of record. Further, USPTO records do not indicate an assignee other than the inventors themselves while the email is apparently from Lockheed Martin. As a result, it is not clear that applicant has been notified of the withdrawal.

Accordingly, the request is **DENIED**. All future communications from the Office will continue to be directed to the address of record 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.

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
WASHINGTON, DC 20231
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JUL 05 2001

Technology Center 2100

Paper No. 8

WHITHAM CURTIS WHITHAM PLC
RESTON INTERNATIONAL CENTER
SUITE 900
SUNRISE VALLEY DRIVE
RESTON , VA 20191

In re Application of : Kenneth N. Myers et al.
Application No. 09/557,039
Filed: May 24, 2000
For: MULTI-DISCIPLINARY INFORMATION ENGINE FOR TOTAL OWNERSHIP COST ESTIMATION OF COMPLEX SYSTEMS

DECISION ON REQUEST TO WITHRAW AS ATTORNEY OR AGENT

This is a decision on the request for reconsideration filed June 11, 2001 regarding the decision mailed April 13, 2001 concerning the request to withdraw from representation filed September 5, 2000 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 for reconsideration has been reviewed but is deficient. The request for reconsideration is not signed by the attorney seeking to withdraw nor is it signed by an attorney explicitly indicating that he is signing on behalf of that attorney and is authorized to do so. Further, while it is asserted that there is a Notice of Recordation of the assignment dated December 5, 2000, USPTO records still do not indicate an assignee other than the inventors

themselves. Since a copy of the Notice of Recordation was not included with the request for reconsideration, it remains unclear whether applicants have been notified. Finally, the signer of the request is not of record in this application. No power of attorney is found in the file that includes the petitioner either explicitly or via a customer number.

Accordingly, the request is **DISMISSED AS MOOT**. All future communications from the Office will continue to be directed to the address of record 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.

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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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr: 02-03

Paper 7

GARY CARY WARE
& FREIDENRICH LLP
1755 EMBARCADERO ROAD
PALO ALTO CA 94303-3340

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OFFICE OF PETITIONS

In re Application of
Valenzuela, et al.
Application No. 09/577,209
Filed: 23 May, 2000
Attorney Docket No. B0843-991160

DECISION ON PETITION

This is the decision on the petition filed on 22 October, 2002, to revive the above-identified application under 37 C.F.R. §1.137(a),[1] however in light of the petition submitted via FAX on 24 February, 2003, under 37 C.F.R. §1.137(b)[2] to revive the above-identified application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.[3]

---

[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).

[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.)

[3] Pursuant to Petitioner's authorization, the petition fee for the petitions under 37 C.F.R. §1.137(a) ($110.00) and §1.137(b) ($1,300.00), and the late-filing surcharge ($130.00) are charged to Deposit Account 07-1896.

BACKGROUND

The record indicates that:

- the application became abandoned for failure to reply timely and properly to the Notice of Missing Parts (Oath or Declaration with surcharge ($130.00)) mailed on 31 July, 2000, and due (absent extension of time) on or before 30 September, 2000;
- Petitioner alleges that the response may have been filed into the wrong application;
- the application went abandoned after midnight 30 September, 2000;
- Notice of Abandonment was mailed on 18 September, 2002;
- the petition filed (with the required reply--i.e., oath/declaration and surcharge) on 22 October, 2002, under 37 C.F.R. §1.137(a) alleges unavoidable delay, however, Petitioner submitted no evidentiary support for the allegation as required;
- on 24 February, 2003, Petitioner filed via FAX a petition (with fee authorization) under 37 C.F.R. §1.137(b);
- at that time, Petitioner also 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).[4]

The regulations at 37 C.F.R. §1.137 set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally 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

---

[4] 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.

on petition.[5]

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

Moreover, it long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[9]

The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[10] Failure to do so does not demonstrate 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.[11]

Allegations as to Unavoidable Delay

Petitioner's showing as to a basis for the allegation of unavoidable delay is insufficient. While there may have been a lapse or mistake by counsel, it in no way satisfies the Pratt showing required herein.

---

[5] 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.

[6] 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).

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

[8] 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.

[9] 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).

[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.

More than 35 years ago the Court of Customs and Patent Appeals warned practitioners in Lorenz v. Finkl[12] that "ordinary prudence" demands that they take "appropriate action" as directed by the Office, and practitioners disregard this warning at peril to their client's matters. (Moreover, as long as the attorney/agent has not acted to deceive the client,[13] the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client who hired the attorney/agent.[14])

Allegation of Unintentional Delay

Petitioner has filed a petition and fee under 37 C.F.R. §1.137(b), and stated 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."

The record (including the petitions filed on 22 October, 2002, and on 24 February, 2003) does not necessitate a finding that the delays between midnight 20 September, 2000, and 24 February, 2003, were not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on Petitioner's (Counsel Barry Young (Reg. No. 27,744) duty of candor and good faith when accepting Petitioner's representation that the delay in filing the response was unintentional.[15]

CONCLUSION

Therefore , the petition to revive under 37 C.F.R. §1.137(b) hereby is **granted**, and the petition to revive under 37 C.F.R. §1.137(a) is **dismissed**.

This application is being forwarded to OIPE for further processing, before being forwarded for examination in due course.

---

[12] Lorenz v. Finkl, 142 USPQ 26, 27-28 (CCPA 1964).

[13] 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).

[14] 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).

[15] 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 regarding 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
Alexandria, VA 22313-1450
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Derrick M Reid
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The Aerospace Corporation
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Los Angeles CA 90009-2957

MAIL

OCT 09 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
ROLENZ, MICHAEL A.
Application Serial No.: 09/577,221
Filed: May 23, 2000
For: **LASER COMMUNICATIONS CROSSLINK SYSTEM**

DECISION ON PETITION

This is a decision on the petition pursuant to 37 C.F.R. §1.181, filed August 11, 2006 to reassign the present application to a new examiner. No fee is required.

The petition is **denied**.

Petitioner requests that the application be assigned to "an examiner and a supervisor possessing at minimum level: 1) a basic understanding of electronic communications communicating informational content with various forms for synchronous and asynchronous signaling; 2) a basic understanding of electronic communications art parlance; and 3) and ability to properly reject claims based upon teachings and suggestions of cited references.

Upon filing, an application is assigned to an examiner based upon technology and expertise in a particular art area depending on factors such as workload and resources available to handle such workload. All examiners have at least a basic understanding of the technology in their assigned art. This includes the electronic communication art. The commissioner (Director) has the authority to cause an examination of the application, see 35 USC § 131. The Director delegates this authority to a primary examiner to act on behalf of the Director in all "normal" aspects of the examination processes. Applicant has no right to pick and choose the examiner assigned to a particular application as this would cause undue burden upon the agency. However, Applicant has two avenues of relief when disagreeing with the examiner. 1.) The remedy for improper rejection is appeal to the Board of Patent Appeals and Interferences (BPAI) (35 USC 134(a), 37 CFR 41.31) and 2.) The remedy for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns related to the examination. See also, MPEP 1201.

Petitioner's arguments are essentially a rebuttal of the examiner's establishment of *prima facie* grounds for unpatentability of the claimed invention under various statutory grounds. If Petitioner is of the opinion that the rejection(s) is/are improper, the remedy therefrom is appeal to the BPAI and not petition for reassignment of the application.

The application file is being forwarded to the examiner for treatment of the response filed August 11, 2006.

Andrew Faile, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

INHALE THERAPEUTIC SYSTEMS, INC
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

COPY MAILED

MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Patton :
Application No. 09/577,264 : ON PETITION
Filed: May 22, 2000 :
Attorney Docket No. 0002.12 :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 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 October 22, 2000. A Notice of Abandonment was mailed on February 11, 2002.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.
See MPEP 711.03(c)(II).

As to (2), petitioner has failed to state that a search of the file jacket has been performed and that the file jacket does not contain the Notice of Missing Parts.

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

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

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

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

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

INHALE THERAPEUTIC SYSTEMS, INC
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

COPY MAILED

JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of :
Patton :
Application No. 09/577,264 : ON PETITION
Filed: May 22, 2000 :
Attorney Docket No. 0002.12 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed July 3, 2002, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 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 October 22, 2000. A Notice of Abandonment was mailed on February 11, 2002.

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

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

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 22

DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA, CA 92037

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MAR 2 3 2005

Director's Office
Office of Patent Publication

In re Application of :
Ariel Hazi, et al. :
Application No. 09/577,268 : **DECISION ON PETITION**
Filed: May 23, 2000 :
Attorney's Docket No. 254/147 :

This is a decision on the Petition To Withdraw Holding Of Abandonment For Failure To Pay Issue Fee Under 37 CFR 1.181(a), received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on February 4, 2005.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice of Allowance and Fee(s) Due, mailed July 22, 2004, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on January 13, 2005.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

Petitioner states that the issue fee was paid in full on June 25, 2004. Petitioner also note that a Corrected Notice of Allowance was sent in error on July 22, 2004, since there were no material corrections on the Notice of Allowance and since the Issue Fee and Publication Fee had already been paid.

A Notice of Allowance and Fee(s) Due with Part B – Fee(s) Transmittal was mailed by the USPTO on March 26, 2004. Part B –Fee(s) Transmittal was received in the USPTO on June 25, 2004. The issue fee was charged to the applicant's credit card on June 28, 2004. However, a Corrected Notice Of Allowance And Fee(s) Due (NOA), with Part B – Fee(s) Transmittal was mailed on July 22, 2004. Petitioner may contact Examiner, Forest Thompson, AU 3625, to inquire why the corrected NOA was mailed. Although, the corrected NOA and Part B – Fee(s) Transmittal indicated that $0 fee(s) was due, the applicant was required to return the Fee(s) Transmittal, PTOL-85B (Transmittal).

Petitioner's attention is directed to the last sentence in the following text, of which was also referenced by the petitioner:

.... THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

The applicant did not return the PTOL-85B as required, and as a result thereof, the proper abandonment of the application.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Further correspondence with respect to the Petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 703-305-9282 or as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 25

COPY MAILED

SEP 1 2 2005

Director's Office
Office of Patent Publication

DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA, CA 92037

In re Application of :
Ariel Hazi, et al. :
Application No. 09/577,268 : **DECISION ON PETITION**
Filed: May 23, 2000 :
Attorney's Docket No. 254/147 :

This is a decision on the Request For Reconsideration Of Petition To Withdraw Holding Of Abandonment And Request To Issue Patent, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on May 23, 2005 and again submitted with the Retransmission Of Request For Reconsideration Of Petition To Withdraw Holding Of Abandonment And Request To Issue Patent, received on September 7, 2005.

Petitioner now argues that the Examiner violated 37 C.F.R. 313(b) 1-4 by sending a Corrected Notice of Allowance on July 22, 2004 even though the Issue Fee was paid. Further indicates that there were no mistakes in the prosecution of the application and the Examiner erred by sending a "corrected' Notice of Allowance. Also notes that to withdraw an accepted application from issue under these circumstances is a clear violation of 37 CFR 313 and would be inappropriate.

The petition is **DISMISSED**.

The Office of Patent Publication properly abandoned the patent application due to applicant's failure to return Part B – Fee(s) Transmittal, mailed July 22, 2004, although the fee due indicated thereon was $0.

As noted in the Decision On Petition, mailed March 23, 2005, the following text as indicated on the Corrected Notice Of Allowance And Fee (s) Due that :

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

In regards to the petitioner's statement that the Examiner erred by sending a "corrected' Notice of Allowance and that the Examiner is in violation of 37 CFR 1.313, this matter should be directed to Examiner, Wynn Coggins, Art Unit 3565 by the filing a petition under 37 CFR 1.181(c) or file a Petition For Revival Under 37 CFR § 1.137, which should be directed to the Office of Petitions.

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAY 0 2 2006

TECHNOLOGY CENTER 3600

Joseph J. Mayo
Dalina Law Group, P.C.
7910 Ivanhoe Ave, #325
La Jolla, CA 92037

In re application of :
Ariel Hazi, et al :
Application No. 09/577,268 :
Filed: March 23, 2000 :
For: TIMESHARED ELECTRONIC :
CATALOG SYSTEM AND METHOD :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicants' Renewed Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(c) filed November 30, 2005. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

The application became abandoned for failure of applicants to timely file the fee transmittal form PTIO-85, Part B, in response to a Corrected Notice of Allowance mailed July 22, 2004, although the indicated fee due indicated is $0.

Applicants allege that the Issue Fee was paid in full on June 25, 2004. Applicants argue that prosecution on the merits for this application was closed as of June 25, 2004 and as there was no mistake on the part of the Office to correct, the Office erred by sending a "corrected" Notice of Allowance in violation of 37 CFR 1.313.

A review of the application file reveals that a Notice of Allowance (PTOL-85) was mailed to the correspondence address of record on March 26, 2004, that set a three-month, shortened statutory period for payment of the Issue Fee. Applicants properly responded with payment of the Issue Fee and transmittal form (PTOL-85B) on June 25, 2004. On July 22, 2004, a Corrected Notice of Allowance was mailed with an indication of $0 fee due and setting a three-month shortened statutory deadline to return the Issue Fee Transmittal Form (PTOL-85B).

The Office has reconsidered its previous position to hold the application abandoned for the following reasons: Applicants' payment of the issue fee on June 25, 2004 was timely. There is no discernible reason for the Office to have mailed a Corrected Notice of Allowance to applicants. It is reasonable to conclude that applicants should not have responded to the

Corrected Notice of Allowance mailed July 22, 2004 after timely payment of the issue fee and that the withdrawal of the application from issue is not in accordance with 37 CFR 1.313.

In view of these facts, the petition is **GRANTED**. The application will be forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and reinstatement of the application to pending status, and then to the Office of Publications for issuance of the letters patent.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Randolph A. Reese at (571) 272-6619.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/ffj: 4/27/06

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

FEB 12 2002

#22

WILLIAM C. GERSTENZANG
NORRIS, MCLAUGHLIN & MARCUS
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

In re Application of	:
Andreas Bleckman et al	:
Serial No.: 09/577,294	: PETITION DECISION
Filed: May 23, 2000	:
Attorney Docket No.: BEIERSDORF 614	:

This is a decision on the petition under 37 CFR 1.144, filed November 26, 2002, requesting review of a restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111. The examiner assigned to the application mailed a first Office action to applicants on January 30, 2001, rejecting claims 1-6 for indefiniteness and prior art. Applicants replied on August 3, 2001, amending claims 1-6 and adding claims 7-12. The examiner mailed a Final Office action to applicants on September 10, 2001, maintaining the prior art rejection.

Applicants filed an amendment after Final rejection on February 26, 2002, amending claim 6 and filed a second amendment on the same date amending claim 1. The examiner refused entry of the amendments as raising new issues and not placing the application in better form for appeal. Applicants also filed a Notice of Appeal. On April 6, 2002, applicants filed CPA papers requesting entry of the amendments previously filed.

The examiner mailed a new Office action to applicants on July 2, 2002, setting forth a restriction requirement in the form of an election of species of water soluble substances, lipids, lipophilic components, interface active components and cationic polymers. Applicants replied on July 28, 2002, identifying a species for each element and traversing the requirement as being burdensome on applicants and the public.

The examiner mailed a new Office action to applicants on October 17, 2001, replying to applicants' traversal of the election of species requirement and making it Final. Claims 1-12 were then rejected for obvious double patenting. Claims 1, 4-8 and 10-11 were rejected under 35

U.S.C. 112, second paragraph, for indefiniteness for various reasons. Claims 1, 3-4 and 7-8 were rejected under 35 U.S.C. 103(a) as unpatentable over Fanger et al. Claims 1-2 and 9-10 were rejected under 35 U.S.C. 103(a) as unpatentable over Fanger et al in view of Mahieu et al. Claims 1, 5-6 and 11-12 were rejected under 35 U.S.C. 103(a) as unpatentable over Fanger et al in view of Albacarys et al.

In response, applicants filed this petition of the restriction requirement. Applicants argue that the restriction requirement is improper as examination of the entire application can be done without serious burden to the examiner and that the examiner has not provided evidence of a serious burden. It was also noted that the application was initially examined without a restriction/election of species requirement being made and that no substantive changes to the claims under prosecution have been made which would result in the need for a restriction or election of species requirement. It is also noted that the applications over which an obvious double patenting rejection has been made have not been subject to a restriction or election of species requirement, but have claims of similar scope. Thus prosecution of the three applications is inconsistent.

DISCUSSION

A review of the original claims and those now under consideration as entered after the CPA request was accepted has been made. Other than making minor amendments to each of the four components of the water-in-oil emulsions the only substantive amendment made is to add a specific viscosity/temperature limitation of the emulsion as a whole. Applicants' arguments for withdrawing the restriction and election of species requirement have been carefully considered in light thereof.

Inasmuch as the invention now being claimed is essentially identical to the invention originally claimed, the making of a restriction or election of species requirement after substantial prosecution, but with no significant change to the composition's components without good and sufficient reasons is not indicative of reasonable prosecution on the part of the Office.
It is to be presumed that the search and examination of the original claims was sufficiently extensive to uncover the most pertinent prior art for determination of patentability. Having done that there can be no serious new burden placed on the examiner in continuing the examination of claims of comparable scope during later prosecution. The examiner has not sustained the requirement of a serious burden on the Office.

Further, assuming that the claims in copending applications over which an obvious double patenting has been made are of similar scope, consistency of Office practice and prosecution would not sustain making of a restriction or election of species requirement herein. Further, it would appear from a review of the prior art of record that a wide number of examples of each component of the emulsion is disclosed therein, thus further sustaining applicants' argument that there is no additional or significant burden on the examiner.

DECISION

Applicants' petition under 37 CFR 1.144 is **GRANTED.** The restriction/election of species requirement is withdrawn.

Applicants remain under obligation to reply to the Office action mailed October 17, 2002, within the time period set therein or as may be extended under 37 CFR 1.136(a).

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

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Chalberg et al. :
Application No. 09/577,311 : ON PETITION
Filed: May 23, 2000 :
Attorney Docket No. CHALB-86 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 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 November 7, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 8, 2003. A Notice of Abandonment was mailed on May 21, 2003.

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

The Notice of Appeal filed April 29, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 $ extension of time fee submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 3600 for further processing.

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

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

AO

2601
2682
#4
Pet Granted

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/577,329	6/19/00	W.W. HOWE	99-009 CIP

Title: **WIRELESS MOBILE CALL LOCATION AND DELIVERY FOR NON-GEOGRAPHIC NUMBERS USING A WIRELINE SSP+SCP/WIRELESS HLR INTERFACE**

Art Unit	Paper Number

Correspondence Address:
W. ERIC WEBOSTAD
GTE SERVICE CORPORATION
600 HIDDEN RIDGE HQE03G13
IRVING, TEXAS 75038

PATENT & TRADEMARK OFFICE
MAILED
JUN 22 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: 525,089
Grant Date: 21-Jun-00

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Approved:
for Commissioner of Patents and Trademarks

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LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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

Paper No. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

AUG 20 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BILLY DEAN ARNOLD

Noted FM

Appeal No. 2003-1381
Application No. 09/577,427

ON BRIEF

Before KIMLIM, TIMM and PAWLIKOWSKI, Administrative Patent Judges.

PAWLIKOWSKI, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 23-50. Claims 1-22 have been cancelled.

Claim 23 is illustrative of the subject matter on appeal and is set forth below:

23. A nonwoven web composite, comprising:

a plurality of side-by-side bicomponent multilobal fibers including a higher melting component on a first side, a lower melting component on a second side, and an interface between the higher and lower melting components;

each of the multilobal fibers including a multilobal region on the first side and an opposing rounded region on the second side, the multilobal region including at least one pair of raised lobal regions and a depressed region between each pair of raised lobal regions; and

a plurality of monolobal fibers.

On page 5 of the brief, appellant requests that claims 23-50 be considered together. Hence, we consider claim 23 in this decision. 37 CFR § 1.192(c)(7)(8)(2000).

Claims 23-40 and 42-50 stand rejected under 35 U.S.C. § 103 as being unpatentable over Midkiff in view of Powers.

Claim 41 stands rejected under 35 U.S.C. § 103 as being unpatentable over Midkiff in view of Powers and further in view of Largman.

The examiner relies upon the following references as evidence of unpatentability:

Largman	5,069,970	Dec. 3, 1991
Powers	5,580,459	Dec. 3, 1996
Midkiff	5,707,735	Jan. 13, 1998

OPINION

Critical to the determinations made in this decision, is the issue of whether its would have been obvious to make a nonwoven web composite comprising a mixture of (1) bicomponent multilobal fibers and (2) monolobal fibers. It is not disputed that Midkiff teaches a filter matrix of bicomponent multilobal fibers. (Brief, page 5). Our focus, therefore, is on the teachings of Powers. We do not comment on Largman as Largman is not pertinent to the resolution of this particular issue.

On pages 5-6 of the Brief, appellant argues that Midkiff does not teach to add monolobal fibers to bicomponent multilobal fibers and that Powers also does not teach to add monolobal fibers to bicomponent multilobal fibers. See also pages 1-4 of the Reply Brief. On page 7 of the Brief, appellant states that he has recognized that increased levels of monolobal fibers result in decreased filter efficiency when added to multilobal fibers.

In response, on page 5 of the Answer, the examiner states that Powers teaches that adding monolobal fibers controls the pore size of the web, which in turns customizes the filter efficiency. The examiner states this would be true whether the filter efficiency is increased or decreased by adding the monolobal fibers, since these are methods of customizing the filter efficiency, which is related to the overall pore size of the web.

Upon our review of Powers, we find that Powers teaches that " . . . it has been found that the microfiber may be used to customize the porosity of the bicomponent fiber matrix. Average pore size may be adjusted by varying the level or diameter of the microfiber." See column 4, lines 15-18. Powers also teaches that "[a]ccording to the present invention, filtration structures may be customized to a desired filter efficiency by using microfiber to control pore size of the bicomponent fiber matrix". See column 2, lines 19-22. Hence, Powers teaches that the porosity can be customized depending upon factors such as the amount of microfibers and size of the microfiber, and that filter efficiency can be adjusted according to porosity. Hence, we agree with the examiner that Powers teaches that the use of monolobal fibers is a factor in customizing filter efficiency.

Powers also teaches that the bicomponent fiber that can be used in the matrix can be a "multi-segmented" bicomponent fiber. See column 3, lines 55-58. Appellant has not argued or shown that this multi-segmented bicomponent fiber disclosed in Powers is not a multilobal fiber. Absent evidence to the contrary, we find that Powers' teaching of a multi-segmented bicomponent fiber encompasses appellant's claimed multilobal fiber. Therefore, contrary to appellant's position that the applied art does not teach a mixture of a multilobal fibers and monolobal fibers, we find that Powers suggests such a mixture.

We have carefully considered appellant's argument that he has recognized an advantage which is the complete opposite of teachings of Powers, i.e., that increased levels of monolobal fibers will result in decreased filter efficiency when added to multilobal fibers. (Brief, page 7.)

We do not find that Powers teaches that increased levels of monolobal fibers to multilobal fibers will only increase filter efficiency. As stated above, Powers states that "filtration structures may be customized to a desired filter efficiency by using microfiber to control pore size of the bicomponent fiber matrix". See column 2, lines 19-22. Also, Powers teaches that "[a]verage pore size may be adjusted by varying the level or diameter of the microfiber." See column 4, lines 15-18. Appellant's statement that Powers teaches that increased levels of monolobal fibers to multilobal fibers will only increase filter efficiency does not take into consideration other factors, such as fiber size, which can effect filter efficiency. Furthermore, we note that where general conditions of the appealed claim are disclosed in the prior art, it is not inventive to discover optimum or workable ranges by routine experimentation, and appellants have the burden of proving any

criticality. In re Boesch, 617 F.2d 272, 276, 205 USPQ 215, 218-19 (CCPA 1980); In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Here, appellant's have not met this burden.

In view of the above, we affirm each of the art rejections.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)

AFFIRMED

EDWARD C. KIMLIN)
Administrative Patent Judge)
)
)
)
)BOARD OF PATENT
CATHERINE TIMM) APPEALS AND
Administrative Patent Judge) INTERFERENCES
)
)
)
)
BEVERLY A. PAWLIKOWSKI)
Administrative Patent Judge)

BAP/sld

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2800 WEST HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES, IL 60195

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

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FEB 2 8 2003

OFFICE OF PETITIONS

ON PETITION

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

In re Application of
Chuang, Kaufman, Hsu
Application No. 09/577,461
Filed: May 24, 2000
Attorney Docket No. KCX-157 (14661)
For: TISSUE IMPULSE DRYING

This is a decision on the petition under 37 CFR 1.47(a), the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, and the petition under 37 CFR 1.137(b), all filed August 15, 2002.

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

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

The petition under 37 CFR 1.181(a) is also **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 1.137(b)" Failure to respond will result in abandonment of the application. Extensions of time are available and will be governed by 37 CFR 1.136(a).

The instant petition was filed in response in to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), mailed July 19, 2000, which indicated that proper oath or declarations for the named inventors had not been filed, that a surcharge of $130.00 was due consequently. The Notice set forth an extendable period for reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on September 20, 2000.

TREATMENT UNDER 37 CFR 1.47(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 instant petition lacks item (1) above.

As to item (1), Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides guidance as to what will suffice as sufficient proof that the non-signing inventor cannot be reached as is alleged in the instant petition. This section states, in pertinent part, as follows:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay Will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should Be made part of the statement. The steps taken to locate the whereabouts of the Nonsigning inventor should be included statement of facts.

While the petition indicates that the non-signing inventor is out of the country and cannot be reached, petitioner did not provide a statement describing petitioner's diligent efforts to locate the non-signing inventor. Any renewed petition filed must be accompanied by a statement that complies with Section 409.03(d) of the MPEP.

TREATMENT UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) requires:

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

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

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

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

The instant petition does not satisfy item (1) above.

In order for a petition under 37 CFR 1.137(b) to be considered grantable, petitioner must file a proper reply to the Notice to File Missing Parts of Nonprovisional Application. A proper reply would be either, a declaration executed by all named inventors, or a grantable petition under 37 CFR 1.47(a); neither was provided. Any renewed petition filed must include a proper reply to the Notice to File Missing Parts of Nonprovisional Application.

TREATMENT UNDER 37 CFR 1.181

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

The instant petition does not meet the item (2) and (3). Petitioner must provide a statement as described above and a copy all relevant docket records in order for a renewed petition under 37 CFR 1.181(a) to be considered grantable.

While it is noted that the application file does not contain a hard copy of the Notice of Missing Parts of Nonprovisional Application, Office computer records do reflect the notice was sent to the address of record

on July 19, 2000. It will be assumed that the notice was mailed, absent evidence from petitioner to the contrary.

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
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. 12

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Chuang, Kaufman, Hsu :
Application No.: 09/577,461 : ON RENEWED PETITION
Filed: May 24, 2000 :
Attorney Docket No: KCX-157 (14661) :
For: TISSUE IMPULSE DRYING :

This is in response to the renewed petitions under 37 CFR 1.47(a), 1.181(a), and 1.137(b) filed April 8, 2003.

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

The petition under 37 CFR 1.181(a) is **GRANTED.**

The petition under 37 CFR 1,137(b) is **MOOT.**

TREATMENT UNDER 37 CFR 1.47(a)

The initial petition under 37 CFR 1.47(a) was filed on August 15, 2002, in response to a "Notice to File Missing Parts of Non-Provisional Application" (the "Notice") which indicated that a proper oath or declaration had not been filed and that a surcharge for either a late filing fee or oath or declaration was due and owing. A decision dismissing the petition of August 15, 2002, was mailed on February 28, 2003. The decision indicated that petitioner did not provided adequate evidence of the efforts to locate inventor Chuang. The decision also advised petitioner of the two-month period for reply beginning from the mailing date of the decision and that extension of time for reply were available pursuant to 37 CFR 1.136(a). On April 8, 2003, petitioner filed a renewed petition. Petitioner also filed a declaration executed by inventor Chuang who was previously the non-signing inventor.

As petitioner has secured a proper oath or declaration from Mr. Chuang, there is no outstanding issue relative to the instant application that could be remedied by a petition filed pursuant to 37 CFR 1.47(a). The renewed petition is, therefore, rendered moot by the filing of Mr. Chuang's declaration.

TREATMENT UNDER 37 CFR 1.181(a)

This application was held abandoned on September 20, 2000, after no reply was received to the Notice of Missing Parts of Nonprovisional Application (the "Notice") mailed July 19, 2000. The Notice set forth a shortened period for reply of two months from its mailing date. No response as received within the allowable period and the application became abandoned on September 20, 2000. A first petition to withdraw the holing of abandonment was received on August 15, 2002, but was dismissed by a decision mailed February 28, 2002.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has meet the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

Petitioner appropriately responded to the Notice by remitting on April 8, 2003, a declaration executed by inventor Chuang.

TREATMENT UNDER 37 CFR 1.137(b)

As the holding of abandonment has been withdrawn pursuant to 37 CFR 1.181, there is no other remedy that could be provided under 37 CFR 1,137(b). The petition under 37 CFR 1.137(b) is, therefore, dismissed as moot.

Petitioner will be refunded the petition fee of $1280.00, in due course.

This application will be 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
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Lowe Hauptman Gopstein Gillman & Berner LLP
c/o Kenneth M Berner
Suite 310
1700 Diagonal Road
Alexandria VA 22314

MAILED

JUN 24 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Thomas S. Heath
Application Serial No.: 09/577,487
Filed: May 25, 2000
For: **VIDEO MOSAIC**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final action as premature, filed May 25, 2005, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed February 25, 2005 final and requests withdrawal of finality of the Office action. It has been contended by the petitioner that the examiner has entered a new grounds of rejection that was neither necessitated by amendment or based upon information cited in an information disclosure statement.

A review of the file record reveals that a non-final Office action was mailed on February 13, 2004 rejecting: claims 1, 13-15 as being anticipated by Burt et al.; claims 2-4, 6-7 as being unpatentable over Burt et al.; claim 5 as being unpatentable over Burt et al. in view of Yagi et al.; claims 8-10 as being unpatentable over Burt et al., Yagi et al. and Takiguchi et al.; and finally claims 11-12 as being unpatentable over Burt et al., in view of Takiguchi et al.

On May 13, 2004, applicant filed an amendment which cancelled claims 5-6, amended all the independent claims 1, 13-15 and amended dependent claims 8- 9 and 11-12.

On July 27, 2004, a final Office action was mailed rejecting claims 1-4, 7-10, 12-15 as being unpatentable over Burt et al. in view of Yagi et al. and Takiguchi et al.

On December 23, 2004, applicants filed a response to the outstanding Office action, presenting arguments as to why the examiner's holding was incorrect.

On February 1, 2005, an interview summary was made of record whereby the examiner states "Applicants arguments in the After Final amendment dated 12/23/2004 which have been found to be persuasive, a new office action will be mailed. Therefore, the office action mailed 07/27/2004 is hereby vacated...".

On February 25, 2005, a new final Office action was mailed which rejected claims 1-4, 7, 11-15 as being unpatentable over Hsieh et al. in view of Burt et al.

The issue here is the appropriateness of the final Office action mailed February 25, 2005.

MPEP §706.07(a) [R-1] Final Rejection, When Proper on Second Action, states in part:...

> 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).

In the instant application, given that the interview summary states that the July 27, 2004 final Office action was "vacated", then it is as though the final Office action mailed July 27, 2004 was not ever mailed. Therefore, the status of the application prior to the now vacated final Office action mailed July 27, 2004 would have been applicant had filed an amendment which cancelled claims 5-6, amended all the independent claims 1, 13-15 and amended dependent claims 8- 9 and 11-12.

The amendment filed May 13, 2004 amended and altered the scope of the independent claims. Thus, the new grounds of rejection in the final Office action mailed February 25, 2005, was necessitated by applicant's amendment and in accordance with MPEP §706.07(a) the action was appropriately made final.

Accordingly, given that applicant's amendment necessitated the new grounds of rejection in the outstanding final rejection, the petition to hold the outstanding finality of the Office action as being premature, is **Denied**.

The application file will be forwarded to the Technology Center's technical support staff for entry of the amendment which accompanied the petition, as an After Final amendment. From there, the application file will be forwarded to the examiner for appropriate action in due course.

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

Paper No. 17

KARL F. MILDE JR. ESQ
MILDE & HOFFBERG ,LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of
Nagel, Robert H.
Application No. 09/577,533
Filed: May 24, 2000
Attorney Docket No. NAGEL 202

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 15, 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 final Office action mailed August 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 14, 2003. A Notice of Abandonment was mailed March 4, 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.

The instant petition lacks item (1). The amendment submitted to the Examiner on July 15, 2004 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. Enclosed in an Advisory Action issued by the Examiner.

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

Enclosure: Advisory Action (PTOL-303)

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

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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. 20

KARL F. MILDE JR. ESQ
MILDE & HOFFBERG ,LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of
Nagel, Robert H.
Application No. 09/577,533
Filed: May 24, 2000
Attorney Docket No. NAGEL 202

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed May 25, 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 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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. 9

IPSOLON LLP
805 SW BROADWAY #2740
PORTLAND, OR 97205

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OFFICE OF PETITIONS

In re Application of :
Albert Szu-Chi Wang :
Application No. 09/577,544 : ON PETITION
Filed: May 24, 2000 :
Attorney Docket No. 142422.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 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 24, 2003, 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 July 25, 2003.

This application is being forwarded to the Office of Technology Center AU 2621.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: Hardy Lee Crumby	: DECISION ON REQUEST FOR
Patent Number	: 6419583	: RECALCULATION of PATENT
Issue Date	: 07/16/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/577,556	: OF WYETH
Filed	: 05/24/2000	:
		:

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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DIW 04-01

Paper No. 4

CHERYL A LETSON
87 BUSHNELL HOLLOW RD
BALTIC, CT 06330

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MAY 0 8 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of : DECISION DISMISSING
Lesson et al. : PETITION
Application No. 09/577,751 :
Filed: 8 December, 2000 :
For: Wacker Chaps :

This is a decision regarding the "letter" filed on 8 December, 2000, in response to a "Notice of Incomplete Nonprovisional Application" mailed on 15 August, 2000. The "letter" was accompanied by the $130.00 petition fee required by 37 CFR 1.53(e) and 1.17(i). Accordingly, the "letter" is being treated as a petition under 37 CFR 37 CFR 1.53(e) requesting that the application be accorded a filing date of 23 May, 2000.

The petition is dismissed.

Application papers were deposited in the USPTO on 23 May, 2000 On 15 August, 2000, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the present application had not been accorded a filing date, because the papers received at the USPTO did not include at least one claim. The Notice indicated that the filing date would be the date of receipt of a complete specification, including at least one claim.

On 23 May, 2000, 35 U.S.C. § 111(a)(2) provided than an "application shall include - (A) a specification as prescribed by section 112 of this title." Also, 35 U.S.C. § 111(a)(4) defined the filing date of an application as "the date on which the specification and any required drawing are received in the Patent and Trademark Office."

On 23 May, 2000, 35 U.S.C. § 112, second paragraph, provided that

> [t]he specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Thus, in order to be entitled to a filing date of 23 May, 2000, an application had to include at least one claim. A review of the application papers deposited on 23 May, 2000, confirms that the papers omitted a claim as required by 35 U.S.C. § 112, second paragraph. Thus, the "Notice" mailed on 15 August, 2000, was correct and will not be withdrawn.

The petition filed on 8 December, 2000, includes a paragraph including the language, "[t]he claim that we make is based on the one-piece garment protection with adjustability built in." The paragraph may be construed as an informal claim for filing date purposes. Therefore, the application will be accorded a filing date of 8 December, 2000.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 8 December, 2000, using the specification and drawings deposited on 23 May, 2000, and the claim filed on 8 December, 2000.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Dorsey & Whitney
1001 Pennsylvania Avenue, NW
Suite 400
Washington, DC 20004

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OCT 1 1 2002

OFFICE OF PETITIONS

In re Application of :
William K. Letson et al. :
Application No. 09/577,751 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 12513 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 6, 2001, which set a shortened statutory period of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 7, 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 $460 extension of time submitted with the petition on September 27, 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 forwarded to Technology Center AU 3765 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Patent No. 6,845,516 :
Issue Date: January 25, 2005 :
Application No. 09/577,751 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 12513 :

This is a decision on the petition under 37 CFR 1.378(b), filed April 24, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Petition asserts financial difficulty as the cause of delay. A showing of "unavoidable" delay based upon financial difficulty must establish that petition lacked the financial resources to timely pay the maintenance fee at issue. Such showing must be supported by a complete showing of the responsible person's financial condition during the entire period between and including income, expenses, assets, credit and obligations, which made the delay in payment of the maintenance fee unavoidable. Petitioner should provide copies of any documents or records that would confirm the financial difficulty.

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

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** as set forth in 37 CFR 1.17(f). The petition for reconsideration

should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

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

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

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

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

Telephone inquiries regarding this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

09/577,805

fax #: 703 746-4649

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6624539

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.

Please see COCIN dated 1-5-04 in the table of contents in IFW.

Thank You For Your Assistance

Diana T. Rose
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:

Darren Schuberg
SPE

2834
Art Unit

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. 6

Clifford G. Frayne
MARN & ASSOCIATES
136 Drum Point Road, Suite 7A
Brick, NJ 08723

FEB 26 2001

In re Application of :
Albert A. BURLANDO :
Application No.: 09/577,854 : DECISION ON PETITION
Filing Date: May 25, 2000 : TO MAKE SPECIAL
Attorney Docket No.: P/4593 :

This is a decision on the Petition under 37 CFR § 1.102(d) filed on November 17, 2000 requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

MPEP § 708.02 II requires, besides a petition and petition fee, a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) 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

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has good knowledge of the pertinent prior art.

The Petition filed on November 17, 2000 was accompanied by a Verified Statement of Albert A. Burlando (the sole inventor) and an Information Disclosure Statement (IDS). The Petition and Verified Statement failed to fully satisy sections (B) and (C) of MPEP § 708.02 II. On February 2, 2001, a Supplemental Declaration of Clifford G. Frayne (attorney) was filed by facsimile transmission (the original of the facsimile transmission was later filed on February 5, 2001). The Petition, Verified Statement, IDS and Supplemental Declaration taken together satisfies all the requirements set forth in MPEP § 708.02 II.

The Petition is GRANTED.

Edward Westin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

JOHN F. GULBIN
PITNEY HARDIN LLP
7 TIMES SQUARE
New York, NY 10036-7311

COPY MAILED

NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Albert Burlando :
Application No. 09/577,854 : ON PETITION
Filed: May 25, 2000 :
Attorney Docket No. P/4595 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 31, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 1, 2002.

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

The application is being forwarded to Technology Center AU 2859 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 26

KENNETH C. BOOTH
SCHMEISER OLSEN & WATTS LLP
18 EAST UNIVERSITY DRIVE
#101
MESA, AZ 85201

COPY MAILED

OCT 2 3 2003

OFFICE OF PETITIONS

In re Application of
C. Daniel McClain, et al.
Application No. 09/578,001
Filed: May 24, 2000
Attorney Docket No. ROWL-9955

ON PETITION

This is in response to a petition under 37 CFR 1.313(c)(2), filed October 8, 2003 in the above-identified application. Since the original petition was not properly forwarded to the appropriate deciding official in the Office of Petitions, a copy of the petition was provided by facsimile transmission on October 22, 2003. A decision on the petition to withdraw the above-identified application from issue after payment of the issue fee follows.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

After receipt in the Office of Petitions, the application will be forwarded to Technology Center AU 1755 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

Date : October 23, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : C. Daniel McClain, et al.
Application No. : 09/578,001
Filed : May 24, 2000

The above-identified application has been assigned Patent No. 6,638,351 and an issue date of October 28, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 28, 2003:

> "All reference to Patent No. 6,638,351 to C. DANIEL MCCLAIN, ET AL. of ARIZONAN for METHOD AND APPARATUS FOR PRODUCING AN AQUEOUS PAINT COMPOSITION FROM A PLURALITY OF PREMIXED COMPOSITIONS appearing in the Official Gazette of October 28, 2003, 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: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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)
6,665,058	2003-12-16	09/578,058	2000-05-24	302/1658US

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	/Kirk A Damman/	Date (YYYY-MM-DD)	2008-01-09
Name	Kirk Damman	Registration Number	42461

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. 6665058
Issue Date: December 16,2003
Application No. 09578058
Filed: May 24,2000
Attorney Docket No. 166030-0006

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

This is a decision on the electronic petition, filed January 9,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 9,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No: __

COPY MAILED

AUG 0 2 2006

OFFICE OF PETITIONS

BRUCE E. WEIR
12 SPARROW VALLEY COURT
MONTGOMERY VILLAGE MD 20886-1265

In re Application of	:	
Iftikhar	:	
Application No. 09/578,168	:	DECISION
Filing Date: 22 May, 2000	:	
Attorney Docket No.: 3112-6	:	

This is a decision on the petitions filed on 14 March, 2003 (resubmitted on 7 July, 2006), styled improvidently as a "Petition to Recover Fees" and requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

While present Petitioner apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay, the then-Counsel of Record filed the original petitions–resubmitted by current Counsel. However, Petitioner should have Applicant (it does not appear that the application has been assigned as of this writing, however, if there has been an assignment a certificate pursuant to under 37 C.F.R. §3.73(b) also will be required) also execute a statement of unintentional delay conforming with the regulatory language.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181." (Alternatively under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to Fail Missing Parts mailed on 2 August, 2000, with reply due absent extension of time on or 2 October, 2000;
- the instant application went abandoned after midnight 2 October, 2000;
- the Office mailed a Notice of Abandonment on 6 May, 2002;
- on 14 March, 2003, Petitioner filed the instant petition, further supplemented, requesting that the Office "set aside the holding of abandonment"[2] and "requests that the application be revived"[3]–which are alternative requests for relief–the former under 37 C.F.R. §1.181 and the latter under 37 C.F.R. §1.137(b)–and making the argument that Petitioner never

---

[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[2] Styled as "Petition for Fees."

[3] At the third page of the petition.

received the Notice of Missing Parts from the Office, but ignoring the requirement that any request under 37 C.F.R. §1.181 be submitted within two months of the act complained of (i.e., abandonment);

- it is noted that, while Petitioner clearly has obtained a copy of the Notice of Missing Parts, Petitioner has submitted only a part of the required reply thereto (i.e., only the oath/declaration and not the basic filing fee and surcharge (both at current and not 2000, 2002 or 2003 rates) are evident in the record–in the absence of copies of both sides fo any cancelled checks, those payment must be submitted as the required reply.

Petitioner refers to his receipt card(s) (see: MPEP §503[4]) but no copies thereof are in evidence. As indicated above, the provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), Petitioner waited twenty-nine (29) months after abandonment and ten (10) months after Notice thereof to seek relief under the regulation.

The record evidences no Status Inquiry filed between the date of filing and the filing of the

---

[4] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

instant petitions in March 2003–the then-Counsel appears to have waited until 25 July, 2002–i.e., more than two (2) months after the mailing of the Notice of Abandonment (6 May, 2002)–to contact the Office, and the written inquiry to which he refers in his petition is not in evidence either in the original or by copy.

Further, Petitioner is reminded that to take advantage of the provisions of 37 C.F.R. §1.8 and §1.10 certificates of mailing must appear on the papers submitted or on the transmittal letter/form therefor itemizing those papers.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[5]

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

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 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 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

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Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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).

[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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[11]))

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.[12]

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

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

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[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).

* **

> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[13]) requires that relief be sought within two (2) months of the act complained of.

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[13] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

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

As to the Allegations
of Unintentional Delay

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

As of this writing Petitioner has not satisfied the "reply" and "showing/statement" requirement of the regulation.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[14]

By mail: Commissioner for Patents[15]
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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[16]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[16] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-07

Paper No: __

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OFFICE OF PETITIONS

BRUCE E. WEIR
12 SPARROW VALLEY COURT
MONTGOMERY VILLAGE MD 20886-1265

In re Application of :
Iftikhar :
Application No. 09/578,168 : DECISION
Filing Date: 22 May, 2000 :
Attorney Docket No.: 3112-6 :

This is a decision on the petitions filed on 29 September, 2006, seeking revival of the application 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**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to Fail Missing Parts mailed on 2 August, 2000, with reply due absent extension of time on or 2 October, 2000;

- the instant application went abandoned after midnight 2 October, 2000;
- the Office mailed a Notice of Abandonment on 6 May, 2002;
- on 14 March, 2003, Petitioner filed the original petition, further supplemented, requesting that the Office "set aside the holding of abandonment"[1] and "requests that the application be revived"[2]–which are alternative requests for relief–the former under 37 C.F.R. §1.181 and the latter under 37 C.F.R. §1.137(b)–and making the argument that Petitioner never received the Notice of Missing Parts from the Office, but ignoring the requirement that any request under 37 C.F.R. §1.181 be submitted within two months of the act complained of (i.e., abandonment); while Petitioner clearly obtained a copy of the Notice of Missing Parts, Petitioner submitted only a part of the required reply thereto (i.e., only the oath/declaration and not the basic filing fee and surcharge and Petitioner referred to his receipt card(s) (see: MPEP §503[3]) but no copies thereof were in evidence–the, the

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[1] Styled as "Petition for Fees."

[2] At the third page of the petition.

[3] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a

petition was dismissed on 2 August, 2006;

- the instant petition seeks to cure the prior deficiencies and with the petition (and fee) Petitioner submitted the basic filing fees and surcharge (at the small entity rate), as well as an executed oath/declaration.

.Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[5]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[8] And the Petitioner must be diligent in attending to the matter.[9] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

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[5] 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

As to the Allegations
of Unintentional Delay

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

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The file is forwarded/released to OIPE for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

DECISION ON PETITION
ROUTING SLIP
TC 1600

Application No.: 9/578,194 Art Unit: 1635 Date 3/19/3

For Director's Secretary:

__ Granted ✓ Denied __ Dismissed

✓ Decision to be reviewed and signed by Director Dec

✓ Mail Decision

___ Enter Change of Address in PALM

✓ Enter paper Nos. _____ and the decision in PALM

___ Other _____

For Tech Support Staff and/or LIE:

___ Process and enter paper Nos. _____

___ Charge _____ fee to D.A. No. _____

___ Other _____

✓ Forward file to Examiner

Questions should be directed to:

William R. Dixon, Jr.	Cecelia Tsang	Julie Burke	Bruce Campell
SPRE 1600	SPRE 1600	SPRE 1600	SPE/SPRE
CM1-11E17	CM1-11D19	CM1-11D17	CM1-9D19
308-3824	308-0254	308-7553	308-4205

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

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
SLATER, IA 50244

In re Application of Marcelo Dornelas et al. :
Serial No.: 09 578,194 :
Filed: May 24, 2000 : PETITION DECISION
Attorney Docket No.: 026-1 :

This is in response to applicants' petition, filed December 9, 2002 under 37 CFR 1.144, requesting withdrawal of the restriction requirement set forth by the examiner.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on May 24, 2000. The application, as filed, contained claims 1-24. On August 13, 2001, the examiner mailed an Office action including a restriction requirement dividing the claims into 2 groups, and requiring a further election of a single species of plant and of a single nucleic acid sequence for examination. In the response filed June 11, 2002, applicants elected group II, and further elected *Arabidopsis* as the plant species and the dzeta ASK gene as the nucleic acid sequence to be examined, with traverse. Applicants traversed the restriction requirement on the same grounds presented in the petition, discussed below. On August 30, 2002 the examiner mailed a first Office action on the merits wherein the restriction requirement was made final.

DISCUSSION

Applicants have not traversed the restriction between groups I and II. The traversal concerns the further election of species within the elected group. Applicants appear not to understand that these are elections of species, not restriction, and that additional species will be examined should the elected species prove to be allowable. Nevertheless, applicants' arguments are addressed below.

Applicants argue that the examiner has not shown that the inventions are independent or distinct, or that it would be a serious burden to search all of the claimed species. This argument is not persuasive because these are the criteria used for determining whether restriction is proper, not election of species.

Applicants argue that all of the recited nucleotide sequences should be searched, citing MPEP 803.04. This argument is not persuasive for two reasons. First, MPEP 803.04 states that, in

certain cases, *up to* 10 sequences may be searched. This does not require the examiner to search 10 sequences. Second, the claims in the instant application are clearly dissimilar to those in the examples found in MPEP 803.04, and therefore the partial waiver of 37 CFR 1.141 does not apply in this case.

Applicants argue that the different plant species recited in the claims do not have mutually exclusive characteristics. This argument is not persuasive because, again, the cited section of the MPEP refers to restriction practice, not election of species. As stated in the original restriction requirement, "Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case." Absent any such evidence or admission, the examiner's position is not improper. Note that in the petition, applicants state, "The applicant is not suggesting...that the species are not patentably distinct" (p. 3, line 5).

DECISION

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

The time period for response continues to run from the mailing date of the final rejection.

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

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Doll
Director, Technology Center 1600

John,

Here you go. John Doll needs to sign the petition at some point and the petition decision needs to be mailed.

I backed up the examiner, but I wouldn't have done the election of species on the plant species. Seems unlikely that any additional search would be required. Also, they are right that, in plants, expressing the sense sequence can suppress gene expression as well as the antisense sequence (sometimes at least). So I might not have restricted on that basis, either. But they had not made that argument before, so I ignored it. I think my approach would have been different mainly because I am more familiar with the plant art (just guessing, don't really know Mary's background).

Obviously, we are only going to examine one sequence, though.

Sorry for the delay.

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

3/31/03

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
SLATER, IA 50244

In re Application of Marcelo Dornelas et al. :
Serial No.: 09 578,194 :
Filed: May 24, 2000 : PETITION DECISION
Attorney Docket No.: 026-1 :

This is in response to applicants' petition, filed December 9, 2002 under 37 CFR 1.144, requesting withdrawal of the restriction requirement set forth by the examiner.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on May 24, 2000. The application, as filed, contained claims 1-24. On August 13, 2001, the examiner mailed an Office action including a restriction requirement dividing the claims into 2 groups, and requiring a further election of a single species of plant and of a single nucleic acid sequence for examination. In the response filed June 11, 2002, applicants elected group II, and further elected *Arabidopsis* as the plant species and the dzeta ASK gene as the nucleic acid sequence to be examined, with traverse. Applicants traversed the restriction requirement on the same grounds presented in the petition, discussed below. On August 30, 2002 the examiner mailed a first Office action on the merits wherein the restriction requirement was made final.

DISCUSSION

Applicants have not traversed the restriction between groups I and II. The traversal concerns the further election of species within the elected group. Applicants appear not to understand that these are elections of species, not restriction, and that additional species will be examined should the elected species prove to be allowable. Nevertheless, applicants' arguments are addressed below.

Applicants argue that the examiner has not shown that the inventions are independent or distinct, or that it would be a serious burden to search all of the claimed species. This argument is not persuasive because these are the criteria used for determining whether restriction is proper, not election of species.

Applicants argue that all of the recited nucleotide sequences should be searched, citing MPEP 803.04. This argument is not persuasive for two reasons. First, MPEP 803.04 states that, in

certain cases, *up to* 10 sequences may be searched. This does not require the examiner to search 10 sequences. Second, the claims in the instant application are clearly dissimilar to those in the examples found in MPEP 803.04, and therefore the partial waiver of 37 CFR 1.141 does not apply in this case.

Applicants argue that the different plant species recited in the claims do not have mutually exclusive characteristics. This argument is not persuasive because, again, the cited section of the MPEP refers to restriction practice, not election of species. As stated in the original restriction requirement, "Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case." Absent any such evidence or admission, the examiner's position is not improper. Note that in the petition, applicants state, "The applicant is not suggesting...that the species are not patentably distinct" (p. 3, line 5).

DECISION

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

The time period for response continues to run from the mailing date of the final rejection.

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

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Doll
Director, Technology Center 1600

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

JAYADEEP R. DESHMUKH
RANBAXY PHARMACEUTICALS INC.
600 COLLEGE ROAD E.
SUITE 2100
PRINCETON, NJ. 08540

Serial No.: 09/203,855 :
Filed: December 2, 1998 :
For: 1-(4-ARYLPIPERAZIN-1-YL)-w-[N- :
(a,w-DICARBOXIMIDO)]- AKLANES :
USEFUL AS URO-SELECTIVE$_{a1}$-ADRENO :
CEPTOR BLOCKERS :

This is a decision on the Petition, filed October 20, 1999, to Add Joint Inventor under 37 CFR 1.48(a).

In view of the papers filed to correct inventorship on October 20, 1999, this application has been corrected in compliance with 37 CFR 1.48(a). The Inventorship of this application has been changed by Adding the following inventors.

ANIL KUMAR SAXENA, LUCKNOW (U.P.), INDIA

The Petition is GRANTED.

The application is being forwarded to Pre-examination area for correction of data on the front jacket of the file.

Michael Ambrose
Primary Examiner
Technology Center 1600/2900
Art Unit 1613

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

JAYADEEP R DESHMUKH
RANBAXY PHARMACEUTICALS INC
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

COPY MAILED

DEC 11 2002

OFFICE OF PETITIONS

In re Application of	:	
Nitya Anand et al	:	
Application No. 09/578,239	:	ON PETITION
Filed: May 24, 2000	:	
Attorney Docket No. RLL-5.4DIV	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 12, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 13, 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 1626 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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. 9

MARTINE & PENILLA, LLP
710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085

MAILED

JAN 18 2005

Technology Center 2100

In re Application of: Sharma
Application No. 09/578,346
Attorney Docket No. A-69094/SFC/DCA
Filed: May 24, 2000
For: SECURITY ARCHITECTURE FOR INTEGRATION OF ENTERPRISE INFORMATION SYSTEM WITH J2EE PLATFORM

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

This is a decision on the petition, filed October 7, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition under 37 CFR §1.181. This application was held abandoned for failure to respond to an Office Action, mailed January 2, 2004. A Notice of Abandonment was mailed on August 5, 2004.

In support of the petition, the Petitioner provided a postcard receipt showing a revocation of prior powers was timely filed on December 24, 2002, which was prior to mailing of the office action. In the revocation, the assignee appointed customer no. 32,291 to prosecute and transact all business in connection with the application. Thus the office action of January 2, 2004 was inadvertently mailed to the incorrect address.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the instant application to pending status. The office action, originally mailed January 2, 2004, will be redated and remailed to the correct address of record.

1/12/05

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

MBS

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

February 5, 2003

Andrew C. Farmer
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re application of:
Hong Hoa Cao et al DECISION ON PETITION
Serial No.: 09/578,429
Filed: May 25, 2000

For: SLIT TIP VENTRICULAR CATHETER

This is a decision on the petition received on June 7, 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 August 11, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 12, 2000. The notice of abandonment was mailed May 8, 2002.

On June 7, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on October 2, 2000.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on October 2, 2000.

The petition is hereby GRANTED.

The fees to complete the above application will be charged to Deposit Account 10-0750.

The application has been completed for release to Technology Center 3762.

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
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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 20 2002

#17

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

In re Application of Jacques Mallet et al. :
Serial No.: 09/578,453 :
Filed: May 26, 2000 : PETITION DECISION
Attorney Docket No.: PF-0417-2 DIV :

This is in response to applicants' petition, filed August 9, 2002 under 37 CFR 1.144, requesting withdrawal of the restriction requirement set forth by the examiner.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111(b) on May 26, 2000 as a continuation of application 08/624,469, filed May 10, 1996, which was the national stage of PCT/FR94/01142, filed September 29, 1994. Applicants filed a preliminary amendment canceling claims 1-15 and replacing them with claims 16-31. On October 2, 2001, the examiner mailed a restriction requirement dividing the claims into 6 groups, as follows:

I. Claims 16-22, 25 and 26, drawn to a recombinant virus comprising a nucleic acid encoding a mutated p53 protein and its use in a method of inhibiting toxicity in cultured cells.

II. Claims 16-20, 22, 25 and 26, drawn to a recombinant virus comprising a nucleic acid comprising a p53 binding site and its use in a method of inhibiting toxicity in cultured cells.

III. Claims 16-26, drawn to a recombinant virus comprising a nucleic acid encoding an antisense RNA which inhibits expression of p53 and its use in a method of inhibiting toxicity in cultured cells.

IV. Claims 27-31, drawn to a method for identifying compounds which inhibit p53 activity.

In the response filed October 18, 2001, applicants elected Group I. Applicants traversed the restriction requirement, arguing that groups I-III should be rejoined.

On January 2, 2002 the examiner (a different examiner) mailed a first action on the merits. A supplemental Office action was mailed on April 11, 2002. In both actions, the examiner made

the restriction final. On August 9, 2002 applicants filed a response to the outstanding Office action and the petition now under consideration.

DISCUSSION

In the petition, applicants present several lines of argument for their position that groups I-III should be rejoined.

Inspection of the prosecution history of the parent application, 08/624,469, reveals that groups I-III were examined together (by a third examiner) and all claims were either rejected over prior art or found allowable. In view of this fact, it would not be a burden for the present examiner to examine all three groups.

DECISION

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

The application will be forwarded to the examiner for consideration of claims 16-26 in their entirety, in light of applicants' response filed August 9, 2002, following mailing of this decision.

Since no fee is required for this petition, **the petition fee paid of $130 will be credited to Deposit Account No. 06-0916, as directed.**

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSS J. OEHLER
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Jacques Mallet et al :
Application No. 09/578,453 : ON PETITION
Filed: May 26, 2000 :
Attorney Docket No. ST93049 US CNT :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2006 and supplemented on August 10, 2006, 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 in a timely manner to the final Office action mailed November 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2006.

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

This matter is being forwarded to Technology Center AU 1635 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6609112
Issue Date: August 19,2003
Application No. 09578457
Filed: May 22,2000
Attorney Docket No. DOVEBID 001 US

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

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

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)
6609112	2003-08-19	09/578,457	2000-05-22	7856.3001.001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrew M. Grove, Reg. No. 39,697/	Date (YYYY-MM-DD)	2007-11-05
Name	Andrew M. Grove	Registration Number	39697

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. 5

JOHN J. STICKEVERS
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110

COPY MAILED

NOV 30 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Victor Firoiu and Marty Borden :
Application No. 09/578,564 : ON PETITION
Filed: May 25, 2000 :
Attorney Docket No. 2204/A05 :

This is in response to the petition under 37 CFR 1.47(a), filed October 17, 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 May 25, 2000 without the filing fees and without an executed oath or declaration and naming Victor Firoiu and Marty Borden as joint inventors.

Accordingly, on August 7, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, the basic filing fee, additional claim fees, and a surcharge for their late filing.

In response, on October 17, 2000 (certificate of mailing date of October 10, 2000), the filing, claim and surcharge fees; a Declaration signed by inventor Firoiu but not

by inventor Borden; the instant petition under 37 CFR 1.47(a) and fee; and declarations by Jeffrey Klayman, Steven Saunders, and John Stickevers in support of the petition under 37 CFR 1.47(a) were received.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.. The instant petition lacks item (1) set forth above.

The petition indicates that a copy of the application papers was mailed to inventor Borden on June 20, 2000 and a reminder letter was mailed on September 12, 2000 at Mr. Borden's home address. Copies of the letters are submitted as evidence in support of this statement. Additionally, on September 22, 2000, petitioner states that an electronic mail message was sent to Mr. Borden. A copy of the electronic mail message accompanies the petition in support this statement.

Petitioner has failed to show or provide adequate proof that a diligent effort was made to reach inventor Borden. The applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a).

The record currently fails to demonstrate, with a documented showing, that a diligent effort was made to reach the nonsigning inventor, such that the declaration can be accepted under 37 CFR 1.47. More specifically, although the petition sets forth the efforts to reach nonsigning inventor Borden, the petition fails to establish whether inventor Borden received the package containing the application papers at the address noted on the transmittal letter. How was the package mailed, i.e., by registered mail, first class mail, etc.? If the package was mailed by registered mail, petitioner should provide a copy of the signed registered mail receipt or any other evidence petitioner may have that would substantiate receipt by nonsigning inventor Borden at the address to which the package containing the application papers was mailed and to demonstrate that the package containing the application was not returned as being undeliverable or an indication that inventor Borden is no longer at that address. Upon receipt of evidence that the package containing the application papers was received by Mr. Borden, it will be concluded that the inactions of nonsigning inventor Borden demonstrate a refusal to join in the application.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

JOHN J. STICKEVERS
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110

COPY MAILED

FEB 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
victor Firoiu and Marty Borden :
Application No. 09/578,564 :DECISION ACCORDING STATUS
Filed: May 25, 2000 :UNDER 37 CFR 1.47(a)
Attorney Docket No. 2204/A05 :

This is in response to the "Request for Reconsideration Under 37 CFR 1.47(a)," filed by facsimile on January 26, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor cannot be reached/located 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(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.

Telephone inquiries regarding this decision should be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Office of Initial Patent Examination for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marty Borden
30 Shaker Lane
Littleton, MA 01460

COPY MAILED

FEB 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Victor Firoiu and Marty Borden
Application No. 09/578,564
Filed: May 25, 2000
For: METHOD AND APPARATUS FOR QUEUE MANAGEMENT

Dear Mr. Borden:

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Karen Creasy at (703) 305-8859. 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).

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

cc:

John J. Stickevers
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

#7

Rockwell Collins, Inc.
Intellectual Property Department M/S
124-323, 400 Collins Road, NE
Cedar Rapids, IA 52498

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FEB 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Marilee G. Berry :
Application No. 09/578,567 : ON PETITION
Filed: May 25, 2000 :
Attorney Docket No. 99PS014/KE :

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

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 5, 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 6, 2003.

The application file is being forwarded to Technology Center AU 2614 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Rockwell Collins Inc
Attention Kyle Eppele
400 Collins Rd NE
Cedar Rapids IA 52498

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of

Marilee G. Berry

Application No. 09/578,567

Filed: May 25, 2000

Attorney Docket No. 99PS014/KE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 9, 2009.

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

This application was held abandoned on April 12, 2008, after it was believed that a proper response was received to the non-final Office action mailed January 11, 2008, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed December 19, 2008.

Petitioner maintains that a proper and timely response to the non-final Office action was timely transmitted via facsimile on April 11, 2008. As evidence of the same, petitioner provides a copy of the response containing a certificate of transmission dated April 11, 2008, and a copy of Auto-Reply transmission sheet confirming twelve pages were received by a USPTO facsimile on April 11, 2008.

Petitioner's argument has been considered and is persuasive. Section 711.03(c) of the MPEP provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into

PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

A review of the copy of the response filed with the petition reveals that it contains a certificate of transmission dated April 11, 2008, that is signed by Shelia K. Mathews who also signed the petition document. Petitioner properly used the protections offered by 37 CFR 1.8 and is, therefore, entitled to assert that the response transmitted April 11, 2008, is timely by virtue of the certificate of mailing dated April 11, 2008, contained thereon. The petition is granted, accordingly.

The amendment filed March 9, 2009, is noted.

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

The application file is being forwarded to Technology Center GAU 2421 for further processing including review of the amendment first filed April 11, 2008, a copy of which was filed with the instant petition.

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. 7

GABRIEL P KATONA, LLP
708 THIRD AVE, 14TH FLOOR
NEW YORK, NY 10017

COPY MAILED

AUG 2 7 2001

OFFICE OF PETITIONS

In re Application of
Vilmos Keri, Irma Hogye,
Antonia Jekkel, Ilona Bagdi,
Gabor Ambrus, Attilla Jakab,
Attila Andor, Lajos Deak,
Istvan Szabo, Janos Balint,
Zsuzsanna Scheidl, Etelka Deli,
Gyula Horvath, Csaba Szabo,
Ildiko Lang, Imre Szekely,
Imre Moravcsik, Vera Kovacs,
Szabolcs Matyas, Zusuzsanna Sztaray
and Laszlo Eszenyi
Application No. 09/578,587
Filed: April 19, 2000
Title: PROCESS FOR THE ISOLATION
AND PURIFICATION OF MEVINOLIN

DECISION REFUSING
STATUS UNDER
37 CFR 1.47(a)
and
DECISION VACATING
CERTAIN REQUIREMENTS
SET FORTH IN THE
NON-FINAL OFFICE
ACTION MAILED
JUNE 27, 2001

This is in response to the petition, filed January 16, 2001, under 37 C.F.R. §1.47(a). This decision also addresses requirements regarding the declaration for patent set forth in the non-final Office action mailed June 27, 2001.

BACKGROUND

The above-identified application was filed on April 19, 2000, as a continuation-in-part of application No. 08/659,961, filed on June 7, 1996 (now abandoned), which was a continuation of application No. 08/269,150, filed on June 30, 1994 (now abandoned). A declaration which appears to have been executed in prior application No. 08/269,150 was among the papers present in the application on filing. However, the basic statutory filing fee was not submitted. On August 10, 2000, the Office mailed applicant a "Notice to File Missing Parts of Nonprovisional Application," requiring payment of the filing fee and the late filing fee surcharge under 1.16(e).

On January 16, 2001, applicant paid the filing fee and the surcharge; and filed a declaration executed by inventors Keri, Hogye, Bagdi, Jakab, Deak, Deli, Csaba Szabo, Kovacs, Sztaray, and Eszenyi on behalf of themselves and on behalf of non-signing inventors Ilkoy,[1] Jekkel, Ambrus, Andor, Istvan Szabo, Balint, Scheidl, Horvath, Lang, Szekely, Moravcsik, and Matyas, with a petition under §1.47(a); and a request for a three-month extension to make the reply timely. Payment of the filing fee and surcharge appear to have been processed as proper and complete replies to the "Notice to File Missing Parts of Application." The application was then forwarded to Technology Center 1600 for examination.

[1] This inventor needs to be made of record.

Upon her review of the application, examiner Marx determined that the declaration and petition under §1.47(a) had not been properly considered. In an Office action mailed June 27, 2001, the examiner stated that the declaration was defective as it was not in compliance with §1.67(a); did not include proof of Mary Balint as a legal representative; and did not include an express statement of the duty of disclosure set forth in §1.56 for the period between the filing of the prior application and the national or PCT international filing date of the continuation-in-part application. The examiner then forwarded the application to the Office of Petitions for consideration of the petition under §1.47(a).

Consideration - Petition under §1.47(a)

The "Notice to File Missing Parts of Application," mailed August 10, 2000, should have also required applicant to file a newly executed declaration covering the subject matter claimed in this application[2]. Fortunately, despite this omission, applicant timely responded with a new declaration and petition under §1.47(a). On petition, applicant asserted that rule 47 status is proper because eleven (11) of the twenty-two (22) inventors refuse to sign the new declaration. In support thereof, applicant submitted the declaration of foreign patent agent Emri Zsuzsa detailing the facts relied on to conclude that the non-signing inventors refused to join in the application.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventors cannot be reached or refuse 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 (4).

As to item (1), rule 47 applicant has not shown that the non-signing inventors by their conduct, or otherwise, refuse to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The declaration of facts of patent agent Zsuzsa states that only the declaration for patent was sent, and that it was sent to only one of the non-signing inventors, Imre Moravcsik. On renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to each non-signing inventor and each inventor refused to sign. A copy of the application papers should be sent to the last known address of each non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary

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[2] An oath or declaration from a prior nonprovisional application cannot be used to meet the requirements of §§1.51(b)(2) and 1.53(f) in a continuation-in-part application. See MPEP 602.05(a).

evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record. If appropriate, English language translations of the documentary evidence should also be submitted.

Moreover, where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Patent agent Zsuzsa's declaration suggests that he only has firsthand knowledge of inventor Moravcsik's refusal to sign. Likewise, when it is concluded by the rule 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. On request for reconsideration, applicant must be specific and fully describe the facts relied on to conclude that each inventor refuses to join in the application. Any affidavit or declaration of facts submitted must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

As to item (4), the petition does not include a statement of the last known addresses of the non-signing inventors. The renewed petition should include such statements for all non-signing inventors. Incorporation by reference to other documents in the record is not sufficient.

Accordingly, the petition under §1.47 is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

Consideration - Other Declaration Requirements set forth in the Non-final Office Action mailed June 27, 2001

Notwithstanding the deficiencies noted above, the declaration has been reviewed and found sufficient as to current requirements regarding proof of authority of legal representative and the duty of disclosure under §1.56. Effective September 8, 2000, §1.64(b) was amended to provide that if the person making the oath or declaration is the legal representative, the oath or declaration shall state that the person is the legal representative and shall also state the citizenship (pursuant to 35 USC 115 and 117) residence and mailing address of the legal representative. Section 1.44 was removed and reserved to eliminate the requirement that proof of the power or authority of the legal representative be recorded in the Office or filed in an application under §§1.42 or 1.43. Accordingly, the requirement set forth in the non-final Office action that applicant submit proof of Mary Balint as a legal representative is **VACATED**.

Likewise, both §1.63(e) and §1.56 were amended, effective November 7, 2000, eliminating the requirement for an express statement acknowledging the duty of disclosure under §1.56 for the period between the filing of the prior application and the national or PCT international filing date of the C-I-P application. Accordingly, the examiner should no longer object to an oath or declaration in a C-I-P that does not contain this statement. Hence, the requirement that applicant include an express statement of the duty of disclosure set forth in §1.56 for the period between the filing of the prior application and the national or PCT international filing date of the continuation-in-part application is **VACATED**.

CONCLUSION

Petitioner is advised that only the requirements set forth in former §1.44 and §1.56 specifically addressed in this decision are vacated. This decision does not otherwise impact the non-final Office action mailed June 27, 2001. **The period for reply to the non-final Office action continues to run from the mail date of that action, June 27, 2001, with extensions of time permitted under §1.136(a).** However, the application file will remain in the Office of Petitions to await a request for reconsideration of petition under §1.47, as the application cannot be returned to the Technology Center for examination without a proper declaration.

Further correspondence with respect to this matter, especially the filing of any Request for Reconsideration of Petition under §1.47(a), 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 Nancy Johnson at (703) 305-0309.

E. Shirene Willis for

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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 20 2002

#12

GABRIEL P. KATONA
GOODWIN PROCTER L.L.P.
599 LEXINGTON AVENUE
40TH FLOOR
NEW YORK, NY 10022

In re Application of	:
Vilmos Kéri et al	:
Serial No.: 09/578,587	: PETITION DECISION
Filed: April 19, 2000	:
Attorney Docket No.: 5173	:

This is in response to applicants' petition under 37 CFR 1.181, filed August 21, 2002, requesting withdrawal of finality of the last Office action.

A review of the recent file history shows that the examiner mailed a Final Office action to applicants on May 1, 2002, in which claims 4, 6 and 11-13 were rejected under 35 U.S.C. 112, second paragraph, for indefiniteness; claim 11 was rejected under 35 U.S.C. 102(e) as anticipated by Jekkel et al; and claims 4, 6 and 11-16 were rejected under 35 U.S.C. 103(a) as obvious over Jekkel et al in view of Nakamura et al and alternatively over Nakamura et al in view of Tsujita et al and Endo et al. The rejections were made in the previous Office action and repeated with an appropriate response to applicants' arguments in the Final Office action. Applicants' reference to and reliance upon an affidavit submitted in a parent application (a copy of which was not supplied with the reply) was noted, however the affidavit was not considered with reason for non-consideration given.

Applicants replied to the Office action on June 11, 2002 with a proposed amendment of claims 4, 6, 12 and 13, and replies to the rejections of record with the inclusion of a copy of the affidavit previously relied upon. The examiner prepared and mailed an Advisory Action to applicants on July 19, 2002, however the mailing address thereon was incorrect and the action was eventually returned to the Office as undeliverable. The Advisory Action indicated that the affidavit was not considered as it was presented late without good and sufficient reasons for earlier presentation. The action also responded to applicants arguments regarding the term "the improvement consisting essentially of" and what it actually limited. The Advisory action was subsequently facsimile transmitted to applicants as well as remailed on August 22, 2002, to the correct address.

Applicants then filed this petition seeking review of the finality of the last Office action, consideration of the affidavit since it was of record in the Office in a parent application and not presented late as well as review of a new rejection regarding the term "the improvement consisting essentially of".

Subsequent to a telephone interview with SPE Wityshyn on August 22, 2002, the examiner prepared a new Advisory Action which was mailed August 28, 2002, in which the affidavit was fully considered and commented on as to why it does not overcome the rejections of record. As also noted in the action, applicants' mailing address has been corrected on the Office records. The action further noted that the comments on the phrase "the improvement consisting essentially of" were merely a reply to applicants arguments' as to the claim scope defined by it. As understood by the examiner the phrase limits only the "improvements" in a process or processes having various steps and alternatives, not the known steps.

DISCUSSION

In view of the supplemental Advisory Action which provides a full explanation as to why the affidavit does not overcome the rejections of record and all other supposed errors in the examiner's action having been addressed by the examiner, applicants' request for withdrawal of the finality of the last Office action is moot. It is noted that no new rejections were set forth in the last Office action and that all of the rejections set forth in the last Office action are over the same references and for the same reasons as in the previous Office action. Thus the finality of the last Office action was not improper.

DECISION

Applicants' petition is **DENIED.** The Finality of the last Office action, mailed May 1, 2002, is maintained.

Applicants, however, remain under obligation to file an acceptable reply to the last Office action within the time period set therein or as may be extended under 37 CFR 1.136(a).

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

Any request for reconsideration of this decision must be made within TWO MONTHS of the mailing date of this decision and should be addressed to the Office of Petitions.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES
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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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DEC 24 2002

GABRIEL P. KATONA
GOODWIN PROCTER L.L.P.
599 LEXINGTON AVENUE
40TH FLOOR
NEW YORK, NY 10022

#24

In re Application of	:
Vilmos Kéri et al	:
Serial No.: 09/578,587	: PETITION DECISION
Filed: April 19, 2000	:
Attorney Docket No.: 5173	:

This is in response to applicants' petition under 37 CFR 1.181, filed October 1, 2002, requesting review of the petition decision mailed September 20, 2002.

The file history is set forth in the previous petition decision and not repeated here. The petition decision denied applicants' petition regarding prematurity of the Final Office action. It is noted that errors in the Advisory Action mailed after the petition was filed, but prior to the petition being acted on, corrected any errors in the original Advisory Action. In view of the examiner correction of those errors the petition was denied. Applicants' petition reiterates the same errors as the basis for withdrawing the Finality of the last Office action.

DISCUSSION

A review of the previous petition decision and circumstances surrounding it has been made. No error in the decision is noted. All of applicants' arguments for withdrawal of the Finality of the Office action were addressed by the decision or prior action of the examiner. Further, it is noted that RCE papers have been filed (October 7, 2002) the entry of which will remove the Finality of the last Office action. It is also noted that applicants' required response which must accompany RCE papers is not submitted in a paper separate from the RCE request papers as should be done. However, the remarks will be considered as satisfying the requirements of 37 CFR 1.114.

DECISION

Applicants' renewed petition is **DENIED.**

The application will be forwarded for proper entry of the RCE request prior to forwarding to the examiner for further action.

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

Any request for reconsideration of this decision must be made within TWO MONTHS of the mailing date of this decision and should be addressed to the Office of Petitions.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCNAIR LAW FIRM
P.O. BOX 10827
GREENVILLE SC 29603-0827

MAR 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Eliel Villa-Aleman
Application No. 09/578,662
Filed: May 25, 2000
For: **LED INTENSE HEADBAND LIGHT SOURCE FOR FINGERPRINT ANALYSIS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed February 25, 2003 under Manual of Patent Examination Procedure §708.02, VIII: Accelerated Examination and XI: Invention for Countering Terrorism.

The petition 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 fails to meet requirements (4), (5) and (6) above.

Accordingly, the petition is **DENIED**.

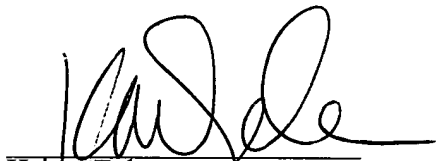
A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition do not show how the device for detecting and analyzing fingerprints of the instant application directly contributes to the countering of terrorism. The device for providing a high intensity wavelength specific light source for on-site fingerprint detection and anlysis of applicant's invention do not counter terrorism directly and do not fall into the category of invention as outlined above.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED

JUN 0 3 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

William Reeves
P.O. Box 23
North Branford, CT 06471

Paper No. 5

In re application of : **DECISION ON PETITION**
William Reeves : **TO MAKE SPECIAL**
Application No. 09/578,664 : **(INFRINGEMENT)**
Filed: May 25, 2000
For: COMPUTER SYSTEM FOR OPTICAL SCANNING, STORAGE, ORGANIZATION AND ELECTRONIC MAILING OF MEDICAL RECORDS AND OTHER SENSITIVE ORIGINAL LEGAL DOCUMENTS

This is a decision on the petition under 37 C.F.R § 1.102(d) filed April 25, 2002 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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 25, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

snm/snm : 6/1/02

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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APR 19 2004

PAUL B. TRAN, PhD.
AGENT FOR APPLICANTS
IMMUNEX CORPORATION
LAW DEPARTMENT
SEATTLE, WASHINGTON 98101

In re Application of	
Grabstein, Kenneth H. et al	:
Serial No : 09/578,669	:Petition To Review Restriction
Filed : May 25, 2000	:Under 37 C.F.R. 1.144
Attorney Docket No.: 2831-E	:

This is in response to applicants petition under 37 CFR 1.144, filed August 25, 2003, requesting review of the Examiner's restriction requirement mailed 02/01/2003. The delay in acting on this petition is regretted.

BACKGROUND

The Examiner instituted a restriction of claims 26-55 into 30 different Groups in an office action mailed 02/01/2002 which was subsequently made final. In particular the following restriction between Groups I and II is at issue:

Group I (original claims 26-29,35-38,40-41,43-44 and 46) drawn to antagonists comprising IL-15 conjugated with a chemical group.

Group II (original claims 26,30-37,39-41,43 and 45-46), drawn to antagonists comprising a mutein of IL-15 conjugated with a chemical group.

DISCUSSION

The application, file history and petition have been considered carefully.

Claim 26 as amended on 24 February 2003, is reproduced below.

> Claim 26. (Amended) An antagonist of interleukin-15 (IL-15) activity comprising IL-15 or a mutein thereof,

> conjugated with a chemical group that sterically interferes with the ability of IL-15 to transduce a signal through the IL-15 receptor complex, wherein said antagonist is capable of binding to said IL-15 receptor complex.

Page 5 of the specification defines the muteins of IL-15 as follows:

> IL-15 muteins or muteins of IL-15 refer to the mature, or native, simian IL-15 molecules having the sequence of amino acids 49- 162 of SEQ ID NO: 1 or human IL-15 molecules having the sequence of amino acids 49-162 of SEQ ID NO:2 that have a been mutated in accordance with the invention in order to produce an antagonist of IL-15. Such IL- 15 muteins are capable of binding to the IL- 15Ra subunit, and are incapable of transducing a signal through the B- or y-subunits of the IL-15 receptor complex.

Applicant briefly argues that the restriction between Groups I and II is improper in view of In *re Harnisch* (631 F.2d 716; 206 USPQ 300 CCPA 1980) or that claim 26 is a linking claim and thus Groups I and II should be examined in accordance with MPEP 809 and 809.04. No explanation was provided in support of either of these positions and neither of these arguments, in and of themselves, is persuasive.

On the other hand, the Examiner asserted that Groups I and II were restrictable since the antagonists comprise distinctly different structures (e.g. IL-15 vs. a mutant of IL-15) which result in a separate search of the different molecules. This is not persuasive. A thorough search for any IL-15 mutein would first require a search of IL-15. The Examiner failed to establish undue search burden required for restriction under 35 USC 121. For this reason, the restriction between Groups I and II is improper and will be withdrawn.

DECISION

Applicant's petition to withdraw the restriction requirement between Groups I and II under 37 CFR 1.144 is **GRANTED** for the reasons set forth above.

The finality of the Office action mailed 20 May 2003 has been withdrawn. The application will be forwarded to the Examiner for (1) consideration of the After Final amendment filed 27 October 2003 and (2) preparation a non-final action of claims within in rejoined Groups I and II.

Applicants may request for refund of their Notice of Appeal fees paid on 25 August 2003.

Should there be any questions regarding this decision, please contact Julie Burke, Special Program Examiner, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by facsimile transmission at (571) 305-7230.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Bushey et al.	**Certificate of Correction Branch**
Patent No.	:	7,224,790	Issued: May 29, 2007
Appln. No.	:	09/578,723	Filed: May 26, 2000
For	:	METHOD TO IDENTIFY AND CATEGORIZE CUSTOMER'S GOALS AND BEHAVIORS WITHIN A CUSTOMER SERVICE CENTER ENVIRONMENT	

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Certificate of Correction Branch
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Please find attached a proposed Certificate of Correction.

Please correct the following errors appearing in the printed patent which apparently the fault of the U.S. Patent and Trademark Office, as per the attached Certificate of Correction. Since the errors are the fault of the USPTO, no fee is due.

On page 1, under References Cited, of the printed patent, the prior art referenced in the Information Disclosure Statement and listed in the attached 1449, filed on August 28, 2000 and considered by the Examiner on June 10, 2003, should be included. Accordingly the following should be added at paragraph [56] under U.S. Patent documents:

5 943 416 08/24/99 GISBY

5 870 308 02/09/99 DANGELO et al.

5 832 430 11/03/98 LLEIDA et al.

5 832 428 11/03/98 CHOW et al.

5 825 856 10/20/98 PORTER et al.

5 822 744 10/13/98 KESEL

5 819 221 10/06/98 KONDO et al.

5 812 975 09/22/98 KOMORI et al.

5 809 282 09/15/98 COOPER et al.

5 808 908 09/15/98 GHAHRAMANI

5 771 276 06/23/98 WOLF

5 758 257 05/26/98 HERZ et al.

5 734 709 03/31/98 DEWITT et al.

5 710 884 01/20/98 DEDDRICK et al.

5 684 872 11/04/97 FLOCKHART et al.

5 675 707 10/07/97 GORIN et al.

5 668 856 09/16/97 NISHIMATSU et al.

5 657 383 08/12/97 GERBER et al.

5 600 781 02/04/97 ROOT et al.

5 594 791 01/14/97 SZLAM et al.

5 586 219 12/17/96 YUFIK

5 561 711 10/01/96 MULLER

5 537 470 07/16/96 LEE

5 535 321 07/09/96 MASSSARO et al.

5 533 107 07/02/96 IRWIN et al.

5 530 744 06/25/96 CHARALAMBOUS et al.

5 519 772 05/21/96 AKMAN et al.

5 500 795 03/19/96 POWERS et al.

5 479 488 12/26/95 LENNIG et al.

5 420 975 05/30/95 BLADES et al.

5 388 198 02/07/95 LAYMAN et al.

5 335 269 08/02/94 STEINLICHT

5 335 268 08/02/94 KELLY, JR. et al.

5 327 529 07/05/94 FULTS et al.

5 299 260 03/29/94 SHAIO

5 263 167 11/16/93 CONNER, JR. et al.

5 206 903 04/27/93 KOLER et al.

5 204 968 04/20/93 PARTHASARATHI

5 115 501 05/19/92 KERR

4 964 077 10/16/90 EISEN et al.

4 922 519 05/01/90 DAUDELIN

4 761 542 08/02/88 KUBO et al.

4 694 483 09/15/87 CHEUNG

4 310 727 01/12/82 LAWSER

At column 9, line 5(claim 6 line 22) of the printed patent, the word "coal" should be ---goal---. This is stated correctly on page 3, line 23 of Applicant's Amendment filed on April 21, 2006.

At column 9, line 19 (claim 11 line 1) of the printed patent, "storing a program" should be ---storing a computer program---. This is stated correctly on page 2, line 10 of Examiner's Amendment

mailed July 25,2006 .

Therefore, it is respectfully requested that a Certificate of Correction issue in the above-identified patent as follows:

On page 1, under References Cited, of the printed patent, the prior art referenced in the Information Disclosure Statement and listed in the attached 1449, filed on August 28, 2000 and considered by the Examiner on June 10, 2003, be included.

At column 9, line 5(claim 6 line 22) of the printed patent, change "coal" to ---goal---.

At column 9, line 19 (claim 11 line 1) of the printed patent, change "storing a program" to ---storing a computer program---.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed number.

Respectfully submitted,
Bushey et al.

William Pieprz
Reg. No. 33,630

Bruce H. Bernstein
Reg. No. 29,027

March 27, 2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent andTrademark 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 itdisplays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,224,790

APPLICATION NO.: 09/578,723

ISSUE DATE : May 29,2007

INVENTOR(S) : Bushey 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 page 1, under References Cited, of the printed patent, the prior art referenced in the Information Disclosure Statement and listed in the attached 1449, filed on August 28, 2000 and considered by the Examiner on June 10, 2003, should be included. Accordingly the following should be added at paragraph [56] under U.S. Patent documents:

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5 825 856 10/20/98 PORTER et al.
5 822 744 10/13/98 KESEL
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5 812 975 09/22/98 KOMORI et al.
5 809 282 09/15/98 COOPER et al.
5 808 908 09/15/98 GHAHRAMANI
5 771 276 06/23/98 WOLF
5 758 257 05/26/98 HERZ et al.
5 734 709 03/31/98 DEWITT et al.
5 710 884 01/20/98 DEDDRICK et al.
5 684 872 11/04/97 FLOCKHART et al.
5 675 707 10/07/97 GORIN et al.
5 668 856 09/16/97 NISHIMATSU et al.
5 657 383 08/12/97 GERBER et al.
5 600 781 02/04/97 ROOT et al.
5 561 711 10/01/96 MULLER

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

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191-1411

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 TOTHIS 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.

PTO/SB/44 (04-05)
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U.S. Patent andTrademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

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CERTIFICATE OF CORRECTION

PATENT NO. : 7,224,790

APPLICATION NO.: 09/578,723

ISSUE DATE : May 29,2007

INVENTOR(S) : Bushey et al.

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5 594 791 01/14/97 SZLAM et al.
5 586 219 12/17/96 YUFIK
5 535 321 07/09/96 MASSSARO et al.
5 533 107 07/02/96 IRWIN et al.
5 530 744 06/25/96 CHARALAMBOUS et al.
5 519 772 05/21/96 AKMAN et al.
5 500 795 03/19/96 POWERS et al.
5 479 488 12/26/95 LENNIG et al.
5 420 975 05/30/95 BLADES et al.
5 388 198 02/07/95 LAYMAN et al.
5 335 269 08/02/94 STEINLICHT
5 335 268 08/02/94 KELLY, JR. et al.
5 327 529 07/05/94 FULTS et al.
5 299 260 03/29/94 SHAIO
5 263 167 11/16/93 CONNER, JR. et al.
5 206 903 04/27/93 KOLER et al.
5 204 968 04/20/93 PARTHASARATHI
5 115 501 05/19/92 KERR
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4 922 519 05/01/90 DAUDELIN
4 761 542 08/02/88 KUBO et al.
4 694 483 09/15/87 CHEUNG
4 310 727 01/12/82 LAWS ER

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Reston, VA 20191-1411

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,224,790

APPLICATION NO.: 09/578,723

ISSUE DATE : May 29,2007

INVENTOR(S) : Bushey 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:

At column 9, line 5(claim 6 line 22) of the printed patent, the word "coal" should be ---goal---. This is stated correctly on page 3, line 23 of Applicant's Amendment filed on April 21, 2006.

At column 9, line 19 (claim 11 line 1) of the printed patent, "storing a program" should be ---storing a computer program---. This is stated correctly on page 2, line 10 of Examiner's Amendment mailed July 25,2006 .

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191-1411

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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.: _____

DATE : July 2, 2008

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No 09/578723 **patent no7224790**

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: All Changes apply---WJD

/Ahmad F. Matar/ — **SPE**

2614 — **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. 10

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAIL

MAR 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Dr. Richard HAYTON
Application No. 09/578,779
Filed: May 25, 2000
For: ACTIVITY MONITOR AND RESOURCE MANAGER IN A NETWORK ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 27, 2004.

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

The request is **GRANTED.**

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

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

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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

Mailed: AUG 21 2002

RPG

Paper No. 9

In re application of
A. Dale Maddox et al.
Serial No. 09/578,810
Filed: May 24, 2000
For: SEALING BLADE

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed July 18, 2002 for failure to respond to the office action dated September 5, 2001. Applicants assert that the office action was never received.

DECISION

Since petitioner asserts that the office action was never received, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request does not have merit. The showing required to establish the failure to receive an Office Action must consist of 1) a statement from the practitioner attesting to the fact that the Office Action was not received (done), **2) a statement that a search of the file jacket and docket records was performed and indicates that the Office Action was not received, and 3) copy of the docket record where the nonreceived Office Action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.** See MPEP 711.03(c).

Applicants have failed to adequately show the 2 highlighted requirements, as admitted in the petition, since at the time the office action was sent out, the present case was being prosecuted by another attorney(s), Harness Dickey and Pierce PLC. Therefore, it would be those records that would be needed as evidence to support a position of not receiving an office action. The prosecutors of the present application have not yet provided written proof of those records, as admitted. Additionally, the file records submitted for the present case show 6 different logs of "RESPONSE FILED-FOLLOW UP", several having the same date. Reviewer questions the content/nature of these logs since none of these entries are present in the file held by the USPTO and are not explained by the evidence submitted.

Therefore, the Notice of Abandonment dated May 15, 2002 is hereby maintained.

The Petition is **DENIED**.

If applicants' are unable to obtain the records from the previous firm, it is suggested that a Petition to Revive be filed to the Office of Petitions. Additionally, since this is a free Petition, and applicants' have been charged the $130.00 as submitted, it is suggested that applicants' file a request for refund to the Office of Initial Patent Examination (OIPE).

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Maddox :
Application No. 09/578,810 :
Filed: May 24, 2000 :
Attorney Docket No. 10970-009 :

This is a decision on the petition filed March 12, 2003, 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.[1]

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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition To Withdraw the Holding of Abandonment." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Facts:

On May 7, 2001, the law firm of Harness, Dickey & Pierce, PC ("Harness") transferred 41 boxes of files and materials to the law firm of Brinks, Hofer, Gilson & Lione ("Brinks'). The instant application was one of the files transferred to Brinks.

The May 7, 2001 letter to Brinks stated,

> It is our understanding that you are assuming responsibility for all further action ... and will attend to the filing of a new power of attorney and change of address with the United States Patent and Trademark Office.

On June 13, 2001, a Response to Restriction Requirement was filed. The Response did not instruct the Office to change the address of record for the instant application.

A non-final Office action was mailed September 5, 2001. The Office action was sent to the address of record. Specifically, the Office action was mailed to Harness.

At the time the Office action was mailed, Harness was no longer responsible for the application and would have forwarded the Office action to Brinks. Harness states it would have entered the Office action into its docketing records if the Office action had been received prior to May 7, 2001. The Office action was mailed after May 7, 2001.

A request to change the address of record was filed on March 25, 2002.

---

[1] The original petition cannot be located in the file. Therefore, this decision is based on the copy of the petition supplied on June 28, 2005.

A Notice of Abandonment was mailed May 15, 2002.

A petition to withdraw the holding of abandonment was filed on July 18, 2002. A decision dismissing the petition was mailed on August 21, 2002.

A renewed petition was filed on March 12, 2003.

Analysis:

If the Office action was received by Harness, even if it was never received by Brinks from Harness, the application was properly held to be abandoned.

The September 5, 2001 Office action could have been lost/misplaced at several times.

(1) The Office action may have been lost during delivery to Harness by the USPS.

(2) The Office action could have been lost after it was received by Harness and before it was forwarded to Brinks.

(3) Brinks could have properly forwarded the Office action and the Office action could have been lost by the USPS during delivery to Brinks.

(4) The Office action could have been received by Brinks and lost prior to being matched with the file or entered into the docketing system.

Petitioner bears the burden of proof. Petitioner has failed to demonstrate the probability of (1) above is *greater than* the combined probabilities of (2), (3), and (4).

Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity, $1,500 for a large entity), and 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. A copy of a blank petition form is enclosed for petitioner's convenience.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copies of papers mailed September 5, 2001
Copy of petition under Rule 137(b) form

UNITED STATES 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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JUN 05 2006

OFFICE OF PETITIONS

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

In re Application of :
Maddox :
Application No. 09/578,810 : ON PETITION
Filed: May 24, 2000 :
Attorney Docket No. 10970-009 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, 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 5, 2001. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on December 6, 2001. A Notice of Abandonment was mailed on May 15, 2002.

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.

Technology Center Art Unit 1722 will be informed of the instant decision and the application, including the papers filed on April 7, 2006, will be further examined in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

#4 DW

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

JUN - 8 2001

MAILED

JUN - 8 2001

Office of the Director
Group 3600

David L. Principe
Hodgson Russ Andrews Woods
& Goodyear LLP
Suite 2000
One M&T Plaza
Buffalo, NY 14203-2391

Paper No. 4

In re application of
Dieter Guldenfels
Application No. 09/579,090
Filed: May 25, 2000
For: RADIUS CONVEYOR BELT

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 29, 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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 29, 2001 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

kjd:6/8/01

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 J. Stickevers
Bromberg & Sunstein
125 Summer Street
Boston, MA 02110

COPY MAILED

FEB 27 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Victor Firoiu et al.
Application No. 09/579,169
Filed: May 25, 2000
For: Method and Apparatus for Queue Modeling

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 17, 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.

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.

After the mailing of this decision, the file will be forwarded to Office of Initial Patent Examination for preexamination processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marty Borden
30 Shaker Lane
Littleton, MA 01460

COPY MAILED

FEB 2 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Victor Firoiu and Marty Borden
Aplication No. 09/579,169
Filed: May 25, 2000
For: Method and Apparatus for Queue Modeling

Dear Mr. Borden:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules Practice in Patent Cases. Should a patent be granted on the application you will 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 patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position or 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. Joining in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. 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).

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

cc: John J. Stickevers
Bromberg & Sunstein
125 Summer Street
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-08

Paper No. 13

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

COPY MAILED

FEB 26 2008

OFFICE OF PETITIONS

In re Application of :
Yang-Pioung Kim :
Application No. 09/579,235 : DECISION ON PETITION
Filing Date: May 30, 2000 :
Title: LAYERED FILM SHEET FOR COATING :

This is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed June 24, 2002. This is also in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment, and in the alternative, the petition under 37 CFR 1.137(a) to revive the application, filed February 8, 2008.

The petitions are being treated as a petition under the unavoidable provisions of 37 CFR 1.137(a).[1] The paper application file was recently forwarded to the Office of Petitions for a decision on the petition. The undersigned immediately reviewed the petition upon its receipt, and rendered the following decision. The Office sincerely apologizes for any inconvenience.

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

---

[1] The record reveals that approximately 5.5 years elapsed between the initial filing of the petition to withdraw the holding of abandonment on June 24, 2002, and the filing of the second petition on February 8, 2008. The record further reveals that petitioners did not file any status inquiries during the intervening time. Therefore, the Office determined it is appropriate to treat the petitions under the provisions of 37 CFR 1.137(a). See generally, 37 CFR 1.181(f).

On January 2, 2002, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period to pay the issue fee. In the absence of a timely filed reply, the above-identified application became abandoned on April 3, 2002. On June 3, 2002, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue fee; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

A copy of the Part B - Fee(s) Transmittal accompanies this decision. Petitioner should complete and return the completed form to the USPTO promptly.

The terminal disclaimer submitted on February 8, 2008, is unnecessary and will not be entered. Accordingly, the $65.00 fee will be refunded to petitioner's credit card. The Office will charge the $720.00 issue fee and the $255.00 petition fee to the Deposit Account as authorized.

This application file is being forwarded to the Office of Patent Publications for issuance of a patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

Mail to: Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, VA
22313-1450

PART B - FEE(S) TRANSMITTAL

Complete and mail this form, together with applicable fee(s), to: ~~Box ISSUE FEE~~ ~~Assistant Commissioner for Patents~~ ~~Washington, D.C. 20231~~

or Fax to: (571) 273-2885

MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 01/02/2002

Harrison and Egbert
412 Main Street, 7th Street
Houston, TX 77002

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

Certificate of Mailing

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,235	05/30/2000	Yang-Pioung Kim		7550

TITLE OF INVENTION: LAYERED FILM SHEET FOR COATING

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
1	nonprovisional	YES	$640	$0	$640	04/02/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
VO, HAI	1771	428-156000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

❑ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

❑ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

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

1 _____

2 _____

3 _____

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

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

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

Please check the appropriate assignee category or categories (will not be printed on the patent) ❑ individual ❑ corporation or other private group entity ❑ government

4a. The following fee(s) are enclosed:

❑ Issue Fee

❑ Publication Fee

❑ Advance Order - # of Copies _____

4b. Payment of Fee(s):

❑ A check in the amount of the fee(s) is enclosed.

❑ Payment by credit card. Form PTO-2038 is attached.

❑ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____(enclose an extra copy of this form).

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date)

NOTE; The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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

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.

TRANSMIT THIS FORM WITH FEE(S)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 01/02/2002

Harrison and Egbert
412 Main Street, 7th Street
Houston, TX 77002

EXAMINER	
VO, HAI	
ART UNIT	**CLASS-SUBCLASS**
1771	428-156000

DATE MAILED: 01/02/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,235	05/30/2000	Yang-Pioung Kim		7550

TITLE OF INVENTION: LAYERED FILM SHEET FOR COATING

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
1	nonprovisional	YES	$640	$0	$640	04/02/2002

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

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

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

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

If the SMALL ENTITY is shown as NO:

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

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,235	05/30/2000	Yang-Pioung Kim		7550

7590 01/02/2002

Harrison and Egbert
412 Main Street, 7th Street
Houston, TX 77002

EXAMINER	
VO, HAI	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 01/02/2002

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The patent term adjustment to date is 0 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 0 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

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

PTOL-85 (REV. 07-01) Approved for use through 01/31/2004.

Notice of Allowability	Application No.	Applicant(s)	
	09/579,235	KIM, YANG-PIOUNG	
	Examiner	Art Unit	
	Hai Vo	1771	

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

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

1. ☒ This communication is responsive to *12/07/01*.
2. ☒ The allowed claim(s) is/are *2*.
3. ☒ The drawings filed on *30 May 2000* are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☒ All b) ☐ Some* c) ☐ None of the:
      1. ☒ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
   (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

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

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

8. ☐ CORRECTED DRAWINGS must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No. ____.
   (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
   (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

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

Attachment(s)

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

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with John S. Egbert on 12/27/01.
3. The application has been amended as follows:

   The Abstract:

   Delete the text starting from the term "Also" in line 17 to the term "texture." in line 25.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance: The claim rejections in Paper no. 6 have been overcome by the present amendment and response. Applicant's response is sufficient to place the instant claim in condition for allowance. None of the references of record, alone or in combination, teach or suggest a laminate having such a sandwiched arrangement as claimed by the present invention (the fourth full paragraph on page 5 of Paper no. 8).

   Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Monday to Friday, 8:30 to 5:00 (EAST).

   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (703) 308-1261. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

   Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV
December 28, 2001

BLAINE COPENHEAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Pearce et al.	:	
Application No. 09/579,348	:	DECISION ON
Filed: May 25, 2000	:	PETITION
Atty Docket No. 062891.0405	:	

This is a decision on the NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT AND RE-MAIL NONFINAL OFFICE ACTION filed April 13, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed August 13, 2004. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective November 14, 2004. A courtesy Notice of Abandonment was mailed on March 21, 2006.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn. (It is noted that applicants filed a status inquiry on January 24, 2005).

A review of the application file reveals no irregularities in the mailing of the Office action mailed August 13, 2004. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in

mailing of this Notice, petitioner must submit evidence to overcome this presumption. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

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

In view thereof, the notice of abandonment mailed March 21, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2668 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed August 13, 2004 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 09 2007

OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Patent of Sato :
Patent No. 7,084,915 :
Issue Date: August 1, 2006 : Decision on Petition
Application No. 09/579,466 :
Filing Date: May 26, 2000 :
Attorney Docket No. P19105.A12 :

This is a decision on the petition under 37 CFR 1.182, filed November 28, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Petitioner submitted $130 for the petition fee. The required fee for a petition under 37 CFR 1.182 is $400. Therefore, an additional $270 has been charged to petitioner's deposit account.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

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)
6,343,463	2002-02-05	09/579,521	2000-05-26	72NP6017-10

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

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	/Roger C. Phillips/	Date (YYYY-MM-DD)	2010-05-12
Name	Roger C. Phillips	Registration Number	37418

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. 6343463
Issue Date: February 5,2002
Application No. 09579521
Filed: May 26,2000
Attorney Docket No. 3816-6

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

This is a decision on the electronic petition, filed May 12,2010 ,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 12,2010 . 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

OCT 24 2003

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

Paper No. 20

Kenneth J. Lukacher
South Winton Court
3136 Winton Road South, Suite 304
Rochester, NY 14623

In re Application of	:	DECISION ON PETITION
James M. Zavislan	:	TO WITHDRAW
Serial No. : 09/579,599	:	HOLDING OF
Filed : May 26, 2000	:	ABANDONMENT
For : Microscopic Imaging Apparatus and Method	:	

This is a decision on petitioner's request filed, via facsimile transmission, August 4, 2003, to review the holding of abandonment mailed April 23, 2003 for failure to respond to the Office action mailed July 2, 2002. It is noted that the copy of the request is dated April 29, 2003. However, there are no indications that it was mailed to the Office on that day or received by the Office on or about that date. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included a Terminal Disclaimer and a request for a three-month extension of time, and a copy of a PTO stamped receipt dated December 30, 2002.

In view of the above, the Notice of Abandonment mailed April 23, 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 December 30, 2002. It is also noted that with the request, a fifth supplemental Information Disclosure Statement (IDS) and a Request for Continued Prosecution (RCE) were filed. The IDS and RCE will likewise be recorded and treated by the Legal Instruments Examiner and/or the Examiner.

Summary: Holding of Abandonment Withdrawn.

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

ak/09/26/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH J LUKACHER
SOUTH WINTON COURT
3136 WINTON ROAD SOUTH SUITE 304
ROCHESTER, NY 14623

COPY MAILED

AUG 3 0 2005

OFFICE OF PETITIONS

In re Application of :
James M. Zavislan, et al. :
Application No. 09/579,599 : ON PETITION
Filed: May 26, 2000 :
Attorney Docket No. ML-0362C2 :

This is a decision on the petition, filed August 23, 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 14, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 3739 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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)
6367714	2002-04-09	09/579,617	2000-05-26	PAN-35167

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	/etb/	Date (YYYY-MM-DD)	2008-03-03
Name	Elisabeth Townsend Bridge	Registration Number	37523

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. 6367714
Issue Date: April 9,2002
Application No. 09579617
Filed: May 26,2000
Attorney Docket No. S-532.03P

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

This is a decision on the electronic petition, filed March 3,2008 ,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 3,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Law Offices of Christopher L. Makay
1634 Milam Building
115 East Travis Street
San Antonio, TX 78205

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JUL 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Ralph Moorhouse, et al. :
Application No. 09/579,658 : ON PETITION
Filed: May 26, 2000 :
Attorney Docket No. B-0103.27 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 Notice to File Missing Parts of Application (Notice) mailed August 4, 2000. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 5, 2000.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to 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

for Sherry Brinkley
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

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OFFICE OF PETITIONS

LAW OFFICES OF CHRISTOPHER L MAKAY
1634 MILAM BUILDING
115 EAST TRAVIS STREET
SAN ANTONIO TX 78205

In re Patent No. 6,737,386	:	
Issue Date: May 18, 2004	:	
Application No. 09/579,658	:	DECISION ON PETITION
Filed: May 26, 2000	:	
Attorney Docket No. **B-0103.27**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 11, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE MPTB
JUL 11 2008
PATENT & TRADEMARK OFFICE

PTO/SB/45 (08-07)
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

MAINTENANCE FEE TRANSMITTAL FORM

(Do not submit this form electronically via EFS-Web)

Address to:
U.S. Patent and Trademark Office
P.O. Box 979070
St. Louis, MO 63197-9000

- OR -

Fax to: 571-273-6500

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "United States Patent and Trademark Office, P.O. Box 979070, St. Louis, MO 63197-9000" on 7 July 2008.

Signature _____

Typed or printed name Christopher L. Makay

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. ☑ A check for the amount of $ 2105.00 for the full payment of the maintenance fee(s) and any necessary surcharge is enclosed.
2. ☐ Payment by credit card. Form PTO-2038 is enclosed.
3. ☐ The Director is hereby authorized to charge $ _____ to cover the payment of the fee(s) indicated below to Deposit Account No. _____.
4. ☐ The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. _____.

* Information required by 37 CFR 1.366(c) (columns 1 & 2). Information requested under 37 CFR 1.366(d) (columns 3, 4, & 5)

Item	Patent Number*	U.S. Application Number* [e.g., 06/555,555]	Maintenance Fee Amount (37 CFR 1.20 (e)-(g))	Surcharge Amount (37 CFR 1.20(h))	Payment Year (select one below) Column 5		
	Column 1	Column 2	Column 3	Column 4	3.5 yrs	7.5 yrs	11.5 yrs
1	6,737,386 B1	09/579,658	$465.00	$1640.00	✓		
2							
3							
4							
5							
		Subtotals: Columns 3 & 4	$2105.00				
		Total Payment	$2105.00				

☐ ___ additional sheets attached for listing additional patents.

09/15/2009 CKHLUK 00000001 6737386
01 FC:2551 465.00 OP
02 FC:1558 1640.00 OP

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on Form PTO-2038.

Respectfully submitted, **

Customer's Signature: _____

Customer's Name: Christopher L. Makay

Registration Number, if applicable: 34,475

Telephone: 210-472-3535

Fax: 210-472-3311

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 CFR 1.363.

Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 CFR 1.27 and 1.33(b).

** WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

This collection of information is required by 37 CFR 1.366. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA. 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: United States Patent and Trademark Office, P.O. Box 979070, St. Louis, MO 63197-9000.**

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

Adjustment date: 09/15/2009 CKHLUK
07/14/2008 WABDELR1 00000006 6737386
01 FC:1599 -2105.00 OP

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

August 20, 2002

Gary D. Clapp
David & Bujold
Fourth Floor
500 North Commercial ST.
Manchester, NH 03101-1151

In re application of:
Eric Miles Aram Deforest. et al DECISION ON PETITION
Serial No.: 09/579,670
Filed: May 26, 2000
For: FAULT TOLERANT SYSTEM SHARED SYSTEM et al

This is a decision on the petition received on May 16, 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 August 4, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned on October 5, 2000. The notice of abandonment was mailed May 2, 2002.

On May 16, 2002, the office received a communication from the new attorney of record. Enclosed was an acknowledgment that the previous attorney responded to the Notice to File Missing Part on October 5, 2000 with a certificate of mailing.

The evidence submitted is sufficient to establish that the previous petitioners responded to the Notice to File Missing Parts on October 5, 2000.

The necessary fees to complete the above application will be charge to counsel's Deposit account 05-0889.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2771.

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of:
Gregory W. Cox, et al.
Application No. 09/579,746
Filed: May 26, 2000
For: **METHOD AND APPARATUS FOR PROCESSING A COMMUNICATION SIGNAL BASED ON THE GEOGRAPHICAL LOCATION OF A COMMUNICATION DEVICE**

DECISION
ON PETITION

This is a response to the petition to Withdraw the Holding of Abandonment, filed June 1, 2004 pursuant to 37 C.F.R. § 1.181. No fee is required.

This application became abandoned for failure to timely submit the issue fee due to the Notice of Allowance mailed December 11, 2003. A Notice of Abandonment was mailed on April 29, 2004.

Petitioner asserts that the Notice of Allowance mailed December 11, 2003 was never received. In support therefore, Petitioner attests that the Office communication (Notice of Allowance) was not received at the correspondence address, 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.

Accordingly, the Notice of Abandonment mailed April 29, 2004 is hereby vacated and the holding of Abandonment withdrawn. Also, the Notice of Allowance and Issue Fee Due mailed December 11, 2003 is hereby vacated.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that Applicant also failed to receive the Notice of Allowability. The application will be forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability and the examiner's reasons for allowance. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the new Notices.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAIL

Paper No. 9

Steven C. Sereboff
2555 Townsgate Road
Westlake Village, California 93161

MAR 1 3 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Leslie Cheong et al.
Application No. 09/579,787
Filed: May 26, 2000
For: METHOD AND APPARATUS FOR SURROGATE CONTROL OF NETWORK-BASED ELECTRONIC TRANSACTIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 5, 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.

As a result of a Revocation and Power of Attorney filed by applicant on 3 November 2000, the signer of the petition, Richard L. Gregory, is no longer of record. Accordingly, the request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

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

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

cc: Richard L. Gregory, Jr.
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, California 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Christopher P. Foley, Esq.
Finnegan, Henderson, Farabow, Garrett & Dunner
1300 I Street, N.W.
Washington, D.C. 20005-3315

MAILED

SEP 0 8 2001

Technology Center 2100

In re Application of: Leslie Cheong et al.
Application No. 09/579,787
Filed: May 26, 2000
For: METHOD AND APPARATUS FOR SURROGATE CONTROL OF NETWORK-BASED ELECTRONIC TRANSACTIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY AND FOR CHANGE OF CORRESPONDENCE ADDRESS

This is a decision on the Request To Withdraw from Representation filed August 6, 2001.

As a result of the Revocation of Prior Powers of Attorney, filed 5 September 2001, Steven C. Sereboff is no longer appointed as attorney or agent of record. Therefore, the request to withdraw is **DISMISSED AS MOOT**.

Furthermore, because Mr. Sereboff is not authorized to act on behalf of the attorneys of record, ***he can not effect a change of address***. Accordingly, the request for a change in correspondence address is **DISMISSED**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

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

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

cc: Steven C. Sereboff
Netzero, Inc.
2555 Townsgate Road
Westlake Village, California 93161

UNITED STATES 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. 6487506
Issue Date: November 26,2002
Application No. 09579797
Filed: May 26,2000
Attorney Docket No. M-121

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

This is a decision on the electronic petition, filed July 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6487506	2002-11-26	09/579,797	2000-05-26	M-121

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Victor F. Lohmann, III/	Date (YYYY-MM-DD)	
Name	Victor F. Lohmann, III	Registration Number	33951

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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. 7

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAILED

MAY 3 1 2002

Technology Center 2100

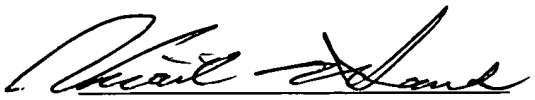
In re Application of: Gyudong Kim et al.)
Application No. 09/579,811)
Filed: May 26, 2000) **DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR) **WITHDRAWAL AS ATTORNEY**
TMDS ENCRYPTION)

This is a decision on the Request To Withdraw from Representation filed February 26, 2002.

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

The request is **GRANTED**.

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



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: Paul Hickman
Oppenheimer Wolff & Donnelly, LLP
1400 Page Mill Road
Palo Alto, CA 94304

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

7/29/07

Patent No. :7384186
Inventor(s) :Timothy J. Williams
Issued : 6/10/2008
Title : MOUNT REUSABLE PAINT CONTAINER WITH SPIGOT ASSEMBLY AND STIRRING MECHANISM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 7 lines 40-41 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 0 4 2004

Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

Paper No.

In re Application of	:	DECISION ON PETITION
Richard Ornberg et al	:	TO WITHDRAW
Serial No. : 09/580,007	:	HOLDING OF
Filed : May 26, 2000	:	ABANDONMENT
For : Biomaterials Modified With Superoxide Dismutase Mimics	:	

This is a decision on petitioner's request filed December 29, 2003, to review the holding of abandonment mailed December 8, 2003 for failure to respond to the Office action mailed January 30, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included a Request for Continued Examination (RCE), an amendment, a credit card payment form, a two-month extension of time request, and a PTO stamped receipt dated June 30, 2003.

In view of the above, the Notice of Abandonment mailed December 8, 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, processing and consideration of the RCE.

Summary: Holding of Abandonment Withdrawn.

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

ak/2/27/04

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

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DEC 13 2000
TECH CENTER 1600/2900

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/580,018	6/28/00	DALE B. SCHENK, ET AL	15270J-004760US

Title: **PREVENTION AND TREATMENT OF AMYLOIDOGENIC DISEASE**

Art Unit	Paper Number

Correspondence Address:
JOE LIEBESCHUETZ
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

PATENT & TRADEMARK OFFICE
MAILED
AUG 0 9 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: 525,283
Grant Date: 24-Jul-00

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

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 aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

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 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 Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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

PATENT & TRADEMARK OFFICE
MAILED
AUG 0 9 2000
LICENSING & REVIEW

In re:	Schenk et al.	:	DECISION ON REQUEST
Serial No.:	09/580,018	:	UNDER 37 CFR 5.25
Filing date:	May 26, 2000		
Docket No:	15270J-004760US		

Title: PREVENTION AND TREATMENT OF AMYLOIDOGENIC DISEASE

This is a decision on the petition filed on June 28, 2000 for retroactive foreign filing license. At the time of the filing, the declaration of Joe Liebeschuetz states that the application was filed in error in that he had overlooked the need for a license due to the pressure of time. This conclusion is supported by the facts recited in the declaration. Also given the short time frame in filing of the instant application and the filing date in the various countries the petition is considered to be diligently.

In view of the above facts and statements, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Argentina	May 23, 2000
Chile	May 26, 2000
Colombia	May 26, 2000
Ecuador	May 25, 2000
Egypt	May 27, 2000
Malaysia	May 26, 2000
Nigeria	May 22, 2000
Peru	May 26, 2000
Philippines	May 27, 2000
Pakistan	May 23, 2000
Thailand	May 16, 2000
Taiwan	May 24, 2000
Uruguay	May 29, 2000
Venezuela	May 24, 2000

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TECH CENTER 1600/2900

Michael J. Carone
Supervisory Patent Examiner
(703) 306-4198

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

AUG 15 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

In re Application of:
SUNADA, DWIGHT, et al.
Application Serial No.: 09/580,022
Filed: May 26, 2000
For: **APPARATUS AND METHOD FOR FINDING THE LONGEST MATCHING PREFIX IN A ROUTER**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed July 20, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed on December 29, 2004. A Notice of Abandonment was mailed July 12, 2005.

Petitioner alleges to have timely filed a response in the form of a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the RCE transmittal and a USPTO receipt that is date stamped February 7, 2005.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, A[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. The fee submitted with the RCE has been credited to the application.

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

The application will be forwarded to Technology Center's technical support staff for processing the RCE. From there, the file will be forwarded to the examiner for further consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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Paper No. 7

Edward A. Vangieson
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAILED

SEP 1 3 2002

Technology Center 2100

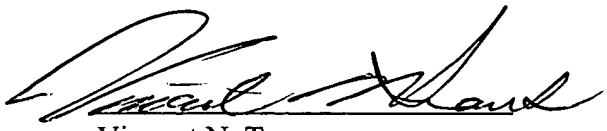
In re Application of: Rohit Sharma)
Application No. 09/580,029)
Filed: May 26, 2000) **DECISION ON REQUEST FOR**
For: NETWORK PERFORMANCE) **WITHDRAWAL AS ATTORNEY**
MONITORING AND RESTORATION)
BASED ON TRANSMISSION CODE
VIOLATIONS

This is a decision on the Request To Withdraw from Representation filed August 27, 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 filed August 27, 2002 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.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. David Fox
CANTOR COLBURN, LLP
55 Griffin Road South
Bloomfield, CT 06002

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Paper No. 17

BIRCH STEWART KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church VA 22040-0747

COPY MAILED

OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Robhit Sharma :
Application No. 09/580,029 : ON PETITION
Filed: May 26, 2000 :
Attorney Docket No. 21216-04993 :

This is a decision on the petition, filed August 31, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed November 6, 2003.

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

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

The application file is being forwarded to Technology Center AU 2133 for consideration of the response filed August 31, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

John Chupa & Associates
31313 Northwestern Highway
Suite 205
Farmington Hills, MI 48334

COPY MAILED

OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Gary Steven Strumolo :
Application No. 09/580,056 : ON PETITION
Filed: May 27, 2000 :
Attorney Docket No. 199-2102 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 27, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 28, 2001.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on September 17, 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 2872 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT - 5 2004

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND OH 44114

In re Application of:
Sandberg et al.
Serial No.: 09/580,156
Filed: May 30, 2000
Attorney Docket No.: 97-489-US-P

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on July 1, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the final Office action mailed April 14, 2003.

A review of the file history shows that the examiner mailed a final Office action to applicants on April 14, 2003, setting a three month statutory time period for reply. On May 4, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a petition for a one month extension of time and a Request for Continued Examination (RCE) were timely filed on August 14, 2003, as evidenced by the properly executed Certificate of First Class Mailing on the reply. Applicants provide copies of relevant documents. The petition meets all of the requirements set forth in 37 CFR § 1.8. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as the case is no longer in abandoned status.

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

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

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LOCKE LORD BISSELL & LIDDELL LLP
ATTN: IP DOCKETING
600 TRAVIS STREET
SUITE 3400
HOUSTON TX 77002-3095

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JUN 02 2008

OFFICE OF PETITIONS

In re Patent No. 7,237,199
Issue Date: June 26, 2007
Application No. 09/580,163
Filed: May 30, 2000
Attorney Docket Number: 023686-002US

ON PETITION

This is a decision on the petition, filed April 8, 2008, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about June 26, 2007, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent.

Petitioners indicate that the Letters Patent were not received but have not presented any evidence to prove that the Letters Patent mailed June 26, 2007 were not received. In view thereof, the petition fee required is $400.00. Per the authorization to charge the petition fee, petitioner's deposit account no. 12-1322 has been charged in the amount of $400.00.

A copy of this decision is being forwarded to Publishing Division for issuance of a

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

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

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JAN 12 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

In re Application of:
Sung-Soo LEE
Application Serial No.: 09/580,221
Filed: May 26, 2000
For: **METHOD FOR CONTROLLING FAX DATA TRANSMISSION ACCORDING TO AN OUTPUTTING WAY OF A RECEIVING PART**

DECISION
ON PETITION

This is a decision on the Petition Under 37 CFR § 1.181 Request for Withdrawal of Premature Final Office Action filed November 8, 2005.

A final Office action was mailed May 20, 2005. On November 8, 2005 the instant petition was filed. The petition was filed more than five months after the final Office action. In accordance with 37 CFR § 1.181(f):

> "The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. 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." (Emphasis added)

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

It is noted that applicant has filed a Request for Continued Examination (RCE) on November 21, 2005. The application will be forwarded to the examiner for consideration in due course.

Leo Boudreau

Leo Boudreau, Director (Acting)
Technology Center 2600
Communications

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BERRY & ASSOCIATES P.C.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
DiVALENTINO :
Application No.: 09/580,272 : DECISION ON PETITION
Filing Date: May 25, 2000 : UNDER 37 CFR 1.181
Attorney Docket No.: 3085.PALM.PSI :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED.**

On July 5, 2006, a Notice of Abandonment was mailed, indicating that the above-identified application is abandoned for failure to file a timely reply to the non-final Office action mailed October 4, 2005, which set a three-month shortened statutory period for reply.

The instant petition states that a proper reply in the form of an amendment and a petition for a two-month extension of time was filed via facsimile on February 16, 2006. The petition is accompanied by a copy of the reply filed on February 16, 2006, a copy of a USPTO auto-reply facsimile receipt, and a statement from the person who personally transmitted the correspondence. Furthermore, the correspondence includes a proper certificate of facsimile transmission. Accordingly, the petition sufficiently establishes that a proper reply to the non-final Office action mailed October 4, 2005 was filed on February 16, 2006.

The Notice of Abandonment mailed July 5, 2006 is hereby **VACATED**.

The 37 CFR 1.137(b) petition fee of $1500.00 will be refunded to Deposit Account No. 50-3102.

This application is being referred to Technology Center AU 2145.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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LOS ANGELES CA 90069

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Rocco A. DIVALENTINO :
Application No. 09/580,272 : DECISION ON PETITION
Filed: May 25, 2000 :
Attorney Docket No. **PALM-3085.US.P** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 21, 2007.

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 $1540; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 2145 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.

David Bucci
Petitions Examiner
Office of Petitions

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

Paper No. 12

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

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Steven Yatchak, et. al. :
Application No. 09/580,310 : ON PETITION
Filed: May 26, 2000 :
Attorney Docket No. 17297-001700US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 26, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed October 22, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 22, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since 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 petition is **GRANTED**.

The application is being forwarded to the Publishing Division 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

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SEP 2 8 2006

OFFICE OF PETITIONS

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1026

In re Application of :

HSU, et al. :

Application No. 09/580,365 : DECISION ON PETITION
Filed: May 26, 2000 : TO WITHDRAW
Attorney Docket No. 004828.P001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 30, 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 Todd M. Becker on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 7, 2006 that requires a reply from the applicant.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Stephen Dao Hui Hsu**
3150 Beech Street
Eugene, OR 97405

cc: **Meyertons Hood Kivlin Kowert & Goetzel PC**
700 Lavaca, Suite 800
Austin, TX 78701-3102

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-29-07

Paper No.: _____

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 09580400 Patent No.: RE12102

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**.

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

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: _____

_____

_____

_____

_____

Anne Marie Grunberg — SPE

1661 — Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US PP12,102 P2
DATED : September 25, 2001
INVENTOR(S) : Alan R. Asdoorian; Lora A. Asdoorian

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

Column 1:
- Line 23: Replace "ORGIN" with --ORIGIN--
- Line 32: Replace "orgin" with --origin--

Column 2:
- Line 4: Insert --it-- between "which" and "is distinguishable"
- Line 29: Replace "or" with --of--

Column 3:
- Line 4: Replace "diameter 9",10" above" with --diameter 9" at 10" above--
- Line 18: Replace "scaffold" with --scaffolds--
- Line 19: Delete "being"
- Line 39: Insert --(.08 inch)-- after "2mm"
- Line 62: Replace "pp#" with --Plant Patent No.--

Column 4:
- Line 9: Replace "0.254" with --0.039--
- Line 10: Replace "0.59 inch" with --0.059 inch--
- Line 26: Replace "50 - red near dianthe" with --Red Near Dianthus (5-K-3)--
- Line 27: Replace "(Pale chamois)" with --Chamois (11-I-5)--
- Line 28: Replace "0.039" with --0.39--
- Line 32: Insert --(.72 inch)-- after "18 mm"
- Line 58: Replace "4-8 mm" with --4-5 mm--

MAILING ADDRESS OF SENDER:
Mark D. Miller
Kimble, MacMichael & Upton
5260 N. Palm, Suite 221
Fresno, CA 93704

PATENT NO. PP12,102 P2

No. of additional copies

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : US PP12,102 P2
DATED : September 25, 2001
INVENTOR(S) : Alan R. Asdoorian; Lora A. Asdoorian

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

Column 5:
Line 15: Replace "SI" with --slightly--

Column 6:
Line 17: Replace "as" with --is--
Line 19: Insert --it-- between "which" and "is a bud"
Line 22: Insert --and-- between "quality" and "which"

MAILING ADDRESS OF SENDER:
Mark D. Miller
Kimble, MacMichael & Upton
5260 N. Palm, Suite 221
Fresno, CA 93704

PATENT NO. PP12,102 P2

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,430,531 :
Issue Date: September 30, 2008 :
Application No. 09/580,448 : NOTICE
Filed: May 30, 2000 :
Attorney Docket No. 026970-005510US

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.

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.

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

cc: Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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
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Paper No.

NIXON PEABODY, LLP
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN VA 22102

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JAN 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/580,485 : ON PETITION
Filed: May 30, 2000 :
Attorney Docket No. 740756-2154 :

This is a decision on the petition, filed January 10, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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Paper No. 44

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WASHINGTON DC 20004-2128

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JAN 12 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shunpei Yamazaki et al
Application No. 09/580,485
Filed: May 30, 2000
Attorney Docket No. 0756-2154

This is a decision on the petition, filed December 31, 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 November 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2829 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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NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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AUG 14 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Shunpei Yamazaki et al	:	
Application No. 09/580,485	:	
Filed: May 30, 2000	:	
Attorney Docket No. 0756-2154	:	

This is a decision on the petition, filed August 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2891 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Shunpei Yamazaki, et al.
Application No. 09/580,485
Filed: May 30, 2000
Attorney Docket No.: 0756-2154

This is a decision on the petition, filed December 12, 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 1, 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 2891 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

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Paper No. 8

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

COPY MAILED

OCT 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Branislav Petrovic :
Application No. 09/580,504 : ON PETITION
Filed: May 25, 2000 :
Attorney Docket No. 90205 :

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

The petition is **GRANTED** for the reasons stated below.

A Notice to File Missing Parts (Notice) was mailed to applicant on March 14, 2002, which set a two-month shortened statutory period within which to submit a reply. Although the Notice was mailed to the law firm of "Skjerven Morrill Macpherson LLP" (Skjerven) instead of the attorney of record at the time, "Richard Strawbrich," a reply and appropriate extension of time was timely filed on July 22, 2002. However, the check submitted to cover the required fees was deficient. As a result, a Notice of Incomplete Reply was mailed on July 31, 2002 that informed applicant of the fee deficiency. Nevertheless, it was mailed to Skjerven instead of the address listed on the declaration. The balance of the fee due was never received in the Office, which resulted in the abandonment of the application.

Petitioner argues that the Notice of Incomplete Reply was mailed to the wrong address and this error caused the abandonment of the application. While the Office mailed the Notice of Incomplete Reply to an incorrect address, that correspondence did not set a new statutory time period for submitting a reply. The original Notice informed applicant of the outstanding fee requirements, the time period in that Notice continued to run, and it was applicant's obligation to submit the correct fee when the reply was sent on July 22, 2002. Petitioner received adequate notice of the requirements to make the application whole. *Brenner v. Ebbert, 130 U.S. App. D.C. 168.* Failure to submit the proper fee amount is what caused the application to go abandoned. Moreover, it was applicant's responsibility to inform the Office of the correct correspondence address. Although the address was included in the declaration, applicant should have filed a separate change of address. MPEP 601.03 in pertinent part states:

> "The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

Accordingly, the application was properly abandoned and the petition fee of $665 will not be refunded, as requested by petitioner.

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

The application file is being forwarded to Technology Center 2800.

Marianne E. 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
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Gary M. Nath
Nath & Associates, PLLC
1030 15th Floor, NW
6th Floor
Washington, DC 20005

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Petrovic, et al.
Application No.: 09/580,513 : ON PETITION
Filed: May 25, 2000 :
Attorney Docket No: GHM-9521 US :

This is in response to the petition under 37 CFR 1.137(b) filed February 17, 2004.

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

On March 14, 2002, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two -month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration, $65.00 surcharge, and the filing fee for the application. An extension of time within the second month was obtained and amounts earmarked for the filing fee and surcharge were filed; they were insufficient, however. No further responses were received within the allowable period and the application became abandoned on July 15, 2002. A Notice of Abandonment was mailed on October 22, 2003.

Deposit account 14-0112 will be charged $25.00 for the remaining portion of the surcharge due because of the late filing of the oath or declaration and late payment of the filing fee.

The executed declaration filed July 22, 2002, is noted and made of record.

The power of attorney filed November 12, 2003, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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

9/4/04

Patent No. :6720014
Inventor(s) : JAY M. Short
Issued : 4/13/2004
Title : RECOMBINANT BACTERIAL PHYTSASES AND USES THEREOF
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [75] is printed in accordance with the record and the claims. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

VERENIUM CORPORATION
P.O. BOX 910550
SAN DIEGO, CALIFORNIA 92191-0550

HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080925

DATE : September 25, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 6,720,014

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Nashaat T Nashed/
Supervisory Patent Examiner.Art Unit 1652

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,515	05/25/2000	Jay M. Short	DIVER1370-4	9360

20985 7590 09/26/2008
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
RAMIREZ, DELIA M	
ART UNIT	PAPER NUMBER
1652	

NOTIFICATION DATE	DELIVERY MODE
09/26/2008	ELECTRONIC

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

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

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

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lynn Linkowski
Verenium Corporation
Intellectual Property Department

In re Patent No. 6,720,014 Keith A. Kretz
Issue Date: April 13, 2004
Appl No.: 09/580,515
Filed: May 25, 2000
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 19, 2008, to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: Septembre 24, 2008
TO: Certificates of Correction Branch
FROM: Nashaat T. Nashed
Supervisory Patent Examiner
Art Unit 1652, Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 6,720,014 as specified on the attached Certificate.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 6,720,014
Patented: April 13, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jay M. Short.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

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NOV 2 5 2008

OFFICE OF PETITIONS

In re Patent No. 6,720,014
Issue Date: April 13, 2004
Application No. 09/580,515
Filed: May 25, 2000
Attorney Docket No. DIVER1370-4

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 18, 2008.

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.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record. If appropriate the proper power attorney documents should also be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Gregory Einhorn
Morrison & Foerster LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/15/09

TO SPE OF : ART UNIT 1652 Ramirez Delia

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/580515 Patent No.: 6720014

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

SPE

1652
Art Unit

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
SUITE 800
WASHINGTON DC 20037

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Xiao-Mai Zhou	:	DECISION ON APPLICATION
Application No. 09/580,523	:	FOR
Filed: May 30, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. A7483	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed 9 November, 2006. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from zero (0) days to one hundred twenty (120) days.

The application for patent term adjustment is **GRANTED** to the extent indicated.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED SEVENTEEN (117) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 11 August, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term

adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed.[1]

Applicants state that the application is not subject to a terminal disclaimer.

Applicants dispute the reduction of 368 days of PTA for applicant delay in filing a response to the Notice of Informal or Non-Responsive Amendment mailed on 17 April, 2003. In particular, applicants state that a response was filed on 2 May, 2003, but was not entered due to Office error. Applicants assert that duplicate copy of the response was filed on 12 April, 2004, after the examiner stated that the response filed on 2 May, 2003, was not of record. Thus, applicants contend that there should be a PTA adjustment for PTO delay between the filing of the reply on 2 May, 2003, and the mailing of the non-final Office action on 9 July, 2004.

Applicants further dispute a reduction of 2 days of PTA for the filing of applicants' response to the non-final Office action mailed on 17 January, 2003. Specifically, it is asserted that "[a]s Applicant's Response to the Non-Final Rejection mailed January 13, 2003 was due April 15, 2003 (April 13th and 14th were a Saturday and a Sunday), Applicant's delay was 13 days."

With regard to the filing of a response to the Notice of Informal or Non-Responsive Amendment mailed on 17 April, 2003, a review of the record reveals that applicant's reply was in fact filed on 2 May, 2003, but was not entered due to Office error. As such, the reply filed on 19 April, 2004, was a duplicate copy of the response originally filed on 2 May, 2003. Therefore, applicants are entitled to a PTA adjustment of 314 days for PTO delay in mailing the Office action on 12 November, 2004, after the filing of applicant's reply on 2 May, 2003.

With regard to applicants' assertion that the reduction of 2 days of PTA for applicant delay is not warranted, applicants' position is not supported by the record. At the outset, the Non-Final Rejection was mailed on 17 January, 2003, not 13 January, 2003, as asserted by applicants. As such, the response was due on 17 January, 2003. Further, whether or not any days

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[1] PALM records indicate that the Issue Fee was also received on 9 November, 2006.

were Saturdays or Sundays has no bearing on PTA determination, as the date used in calculation under 37 CFR 1.704(b) is the actual date of receipt. See 1.703(f). As such, the correct reduction is fifteen (15) days for applicant delay.
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED SEVENTEEN (117) days (344 (30+314) of PTO delay, reduced by 227 (2+29+15+31+58+92) days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office will forward the file to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 09/580523			
Application Filing Date:	05/30/2000	PTO Delay (PTO):	30
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	580
Post-Issue Petitions:	0	Total PTA (days):	117
PTO Delay Adjustment:	667		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	02/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	368		
86	02/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		15	
85	02/15/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	314		
75	08/11/2006	MAIL NOTICE OF ALLOWANCE			
74	08/11/2006	MAIL EXAMINER'S AMENDMENT			
73	07/24/2006	ISSUE REVISION COMPLETED			
72	07/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	07/24/2006	EXAMINER'S AMENDMENT COMMUNICATION			
70	07/24/2006	NOTICE OF ALLOWABILITY			
69	07/08/2006	DATE FORWARDED TO EXAMINER			
68	06/29/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
67	07/08/2006	DATE FORWARDED TO EXAMINER			
66	06/29/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	56
65	07/08/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
64	06/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	06/29/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	06/02/2006	DATE FORWARDED TO EXAMINER			
61	05/26/2006	AMENDMENT AFTER FINAL REJECTION			
60	05/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	05/26/2006	MISCELLANEOUS INCOMING LETTER			
58	05/15/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

57	04/27/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	12/29/2005	MAIL FINAL REJECTION (PTOL - 326)			
55	12/23/2005	FINAL REJECTION			
54	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
53	11/30/2005	DATE FORWARDED TO EXAMINER			
52	11/22/2005	RESPONSE AFTER NON-FINAL ACTION			
51	08/25/2005	MAIL NON-FINAL REJECTION			
50	08/22/2005	NON-FINAL REJECTION			
49	07/15/2005	DATE FORWARDED TO EXAMINER			
48	07/07/2005	RESPONSE AFTER NON-FINAL ACTION		58	45
47	07/07/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	05/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	02/10/2005	MAIL NON-FINAL REJECTION			
44	02/07/2005	NON-FINAL REJECTION			
43	11/27/2004	DATE FORWARDED TO EXAMINER			
42	11/12/2004	RESPONSE AFTER NON-FINAL ACTION		31	39
41	11/12/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	11/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
39	07/12/2004	MAIL NON-FINAL REJECTION			
38	07/09/2004	NON-FINAL REJECTION			
37	05/12/2004	DATE FORWARDED TO EXAMINER			
36	04/19/2004	RESPONSE AFTER NON-FINAL ACTION		368	31
35	04/29/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	04/24/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	04/24/2003	DATE FORWARDED TO EXAMINER			
31.1	04/17/2003	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
31	04/17/2003	RESPONSE AFTER NON-FINAL ACTION			
30	01/17/2003	MAIL NON-FINAL REJECTION			
29	01/13/2003	NON-FINAL REJECTION			
28	12/19/2002	NOTICE OF APPEAL FILED			

27	12/19/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	10/24/2002	DATE FORWARDED TO EXAMINER			
25	10/18/2002	AMENDMENT AFTER FINAL REJECTION		29	23
24	10/18/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/19/2002	MAIL FINAL REJECTION (PTOL - 326)			
22	06/17/2002	FINAL REJECTION			
21	04/17/2002	DATE FORWARDED TO EXAMINER			
20	03/21/2002	RESPONSE AFTER NON-FINAL ACTION		2	18
19	03/21/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	12/19/2001	MAIL NON-FINAL REJECTION			
17	12/17/2001	NON-FINAL REJECTION			
16	10/04/2001	DATE FORWARDED TO EXAMINER			
15	09/26/2001	RESPONSE TO ELECTION / RESTRICTION FILED			
14	08/29/2001	MAIL RESTRICTION REQUIREMENT	30		-1
13	08/27/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
12	02/13/2001	CASE DOCKETED TO EXAMINER IN GAU			
11	02/01/2001	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
10	10/17/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/12/2000	CASE DOCKETED TO EXAMINER IN GAU			
8	08/31/2000	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	08/17/2000	APPLICATION DISPATCHED FROM OIPE			
6	08/17/2000	APPLICATION IS NOW COMPLETE			
5	07/31/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/31/2000	CORRESPONDENCE ADDRESS CHANGE			
3	06/20/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/30/2000	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
1	05/30/2000	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JAN 07 2008

OFFICE OF PETITIONS

In re Patent No. 7,193,044	:	
Xiao-Mai Zhou	:	DECISION ON REQUEST
Issue Date: March 20, 2007	:	FOR RECONSIDERATION OF
Application No. 09/580,523	:	PATENT TERM ADJUSTMENT
Filed: May 30, 2000	:	
Attorney Docket No. A7483	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d)" filed May 7, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 1224 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under § 1.136.

On March 20, 2007, the above-identified application matured into U.S. Patent No. 7,193,044. The instant request for reconsideration filed May 7, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 1104 days. This revised determination was calculated as follows: The initial determination of PTA of 0 days was increased by 987 days for Office delay in issuing the patent, and by 117 days pursuant to the Decision on Application for Patent Term Adjustment mailed on February 16, 2007.

Patentee contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the Request for Notice of Recordation of Assignment filed on September 20, 2006. Patentee avers that these papers are examples of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentee's contention is not well taken. The OG Notice states that:

> Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

A Request for Notice of Recordation of Assignment is not among those examples. Furthermore, patentee's contention that the paper should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10), is not warranted. While patentee contends that the "[t]he Examiner just needed to ignore the paper, as he did," the paper is styled as a request, requiring the examiner to at least review the

paper to determine if a response was necessary. Furthermore, the filing of this paper was unnecessary. 37 CFR § 3.27, 3.28, and 3.31 sets forth the procedure for filing assignment documents and cover sheets to be recorded. In summary, while it is unfortunate that this paper was inadvertently filed, such inadvertence does not overcome a presumption that the filing of this paper constitutes "a failure to engage in reasonable efforts" to conclude processing or examination of an application.

In view thereof, the patent term adjustment was properly indicated on the patent as 1104 days.

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE A. Kalinowski

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/580,536

Paper No.: _____

DATE : 6/15/05

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction on Patent No.: 6868397

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.

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

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 3627 **Art Unit**

PTOL-306 (REV. 7/03) ALEXANDER KALINOWSKI PRIMARY EXAMINER U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SQUIRE, SANDERS & DEMPSEY, L.L.P.
14TH FLOOR
8000 TOWERS CRESENT
TYSONS CORNER, VA 22182

MAILED

MAY 18 2007

Technology Center 2100

In Re Application:
Ian Crayford
Appl No. 09/580,665 : WITHDRAW FROM ISSUE
Filed: May 26, 2000 : FEE NOT PAID
Attorney Docket No.: 58268.00157
For: METHOD AND APPARATUS FOR A NETWORK HUB TO DIAGNOSE NETWORK OPERATION AND BROADCAST INFORMATION TO A REMOTE HOST OR MONITORING DEVICE

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313(a).

The above-identified application is withdrawn from issue before payment of the issue fee to determine patentability.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Paul Sewell
Acting Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Samuel H. Dworetsky
AT&T Corp.
P.O. Box 4110
Middletown, NJ 07748-4110

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Charles Douglas Blewett, et. al. :
Application No. 09/580,685 : ON PETITION
Filed: May 30, 2000 :
Attorney Docket No. 1999-0076 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2005, to revive the above-identified application.

In response to the final Office action mailed January 20, 2004, petitioner submitted an amendment, a Request for Continued Examination, and an authorization to charge, the listed deposit account, $1500 for the petition to revive fee and $790 for the Request for Continued Examination fee. As authorized, the above fees have been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b), t he petition is **GRANTED**.

Petitioner should note that the address of record, the address given in the petition, and the address given in the Request for Continued Examination are all different. 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 in the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to Technology Center Art Unit 2683, for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

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

cc: Canavan & Monka, LLC
805 Partridge Drive
Bridgewater, NJ 08807

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Arturo Maria	:	
Application No.: 09/580689	:	DECISION ON
Filing or 371(c) Date: 05/30/2000	:	PETITION
Attorney Docket Number: 83531-231	:	

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed January 27, 2009.

This Petition is hereby **dismissed**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before December 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2008. Accordingly, the date of abandonment of this application is December 23, 2008.

The present petition

Applicant files the present petition and asserts that the Notice of Allowance was not received. Applicant alludes to the filing of a Revocation/Substitute Power of Attorney and Change of Correspondence Address in 2007, and Applicant's subsequent receipt of a Notice of Acceptance of Power of Attorney, mailed to the correct correspondence address on July 2, 2007.

A Grantable Petition Under 37 CFR 1.137(a)

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 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(c). Applicant lacks item (**3**).

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> 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 at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) 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. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c)

Analysis and conclusion

Regrettably, the petition is not grantable at this time. Applicant has failed to demonstrate that the office action was not received. In addition to the statement from practitioner attesting to non-receipt of the Notice, Applicant must provide a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed. As stated above, a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Arturo Maria	:	
Application No.: 09/580689	:	DECISION ON
Filing or 371(c) Date: 05/30/2000	:	PETITION
Attorney Docket Number: 83531-231	:	

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed May 13, 2009.

This Petition is hereby **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2008. Accordingly, the date of abandonment of this application is December 23, 2008.

A petition to revive the application based upon unavoidable delay filed on January 27, 2009 was dismissed in a Decision mailed March 16, 2009, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

The renewed petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply (filed January 27, 2009); (2) the petition fee (filed January 27, 2009); and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The application will be referred to the Office of Data Management for processing into a patent.

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

Paper No. 6

PETER G. CARROLL
MEDLEN & CARROLL, LLP
SUITE 2200
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104

COPY MAILED

AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of :
LOMONOSSOFF AND JOHNSON :
Application No. 09/580,704 : DECISION GRANTING
Filed: May 30, 2000 : PETITION UNDER
Attorney Docket No. DOW-04647 : 37 CFR 1.47(a)
For: MODIFIED PLANT VIRUSES AS :
VECTORS :

This is in response to the petition under 37 CFR 1.47(a), filed February 15, 2001 (certificate of mailing February 12, 2001.) The application file was recently forwarded to the Office of Petitions for consideration of the petition. The Office sincerely apologizes for any inconvenience caused to applicants.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

The application file is being forwarded to Technology Center 1600 for examination in due course.

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

Christina T. Tartera

Christina T. Tartera
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

STANLEY D. FERENCE III
FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH, PENNSYLVANNIA 15143

MAILED

DEC 2 3 2004

Technology Center 2100

In re Application of: Kanevsky Application No. 09/580,720 Attorney Docket No. YOR920000132US1 Filed: May 30, 2000 For: INTELLIGENT AGENT AUTHENTICATION VIA POSITION LOCATOR SYSTEM	))))))	DECISION ON REQUEST TO WITHDRAWAL HOLDING OF ABANDONMENT

This is a decision on the request to withdraw the holding of abandonment, filed November 22, 2004, which is treated as a petition under 37 C.F.R. §1.181(a) and M.P.E.P. §711.03 (c): Petitions Relating to Abandonment, to withdraw holding of abandonment.

The petition is **GRANTED.**

Applicable Prosecution History

January 30, 2004	Non-final rejection mailed (Paper No. 9).
September 20, 2004	Notice of Abandonment (Paper No. 10).
November 22, 2004	Request to withdraw holding of abandonment (Paper No. 11) which includes a copy of the PAIR system report, a copy of the auto-reply facsimile transmission, a copy of the April 30, 2004 amendment transmittal and amendment.

A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used Certificate of mail transmission that includes a 37 CFR 1.8 (b) (3) Statement or an Office generated FAX receipt that properly identifies the contents of the submission is acceptable. No fee is required.

The petition and the copy of the auto-reply facsimile both indicate that an Amendment transmittal, amendment and deposit account authorization for any extensions were timely filed

on April 30, 2004. Copies of these papers were filed with the petition and thus serve as a record of the contents of these papers in the file jacket.

The Auto-Reply facsimile cover page which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has established that a response was filed on April 30, 2004 with the authorization to charge the requisite fee for extensions of time necessary for the response to be considered timely. Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Technology Center support staff with instructions to withdraw the holding of abandonment and for processing of the amendment. After processing, the application will then be forwarded to the Examiner for appropriate action.

12/23/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 12/22/04

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

JEFFREY S. WHITTLE, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 S. ORANGE AVE., SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802-3791

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APR 2 5 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Haberland, Marchand, Nilson,
Hagen & Gladdish
Application No. 09/580,721
Filed: May 30, 2000
For: Trocar System Having Shielded
Trocar

DECISION ON PETITION

This is in response to the petition to correct inventorship under 37 CFR 1.48(a), filed January 29, 2001.

This is also in response to the petition under 37 CFR 1.47(a), filed January 29, 2001.

The petition to correct inventorship is **dismissed as moot**.

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

Under 37 CFR 1.48(a)

Applicants petition to include Bennie W. Gladdish, Jr., as an inventor because he was inadvertently omitted from the original filing of the subject patent application. The Office notes that applicants did not submit an executed oath or declaration with the original application papers filed on May 30, 2000. Pursuant to 37 CFR 1.48(f)(1): "If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship."

Accordingly, the executed declaration submitted with the present petition will act to correct the omission of Mr. Gladdish as an inventor. In view of the circumstances, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 01-0484.

Under 37 CFR 1.47(a)

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 30, 2000, without an executed oath or declaration. Accordingly, on August 16, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, the statutory basic filing fee, and a surcharge for their late filing.

In response, on January 29, 2001, applicants filed the present petition, a request for a four (4) month extension of time, a Declaration and Power of Attorney, the requisite fees, and a Statement of Facts of Gary Haberland, a joint inventor. In the Statement of Facts, Mr. Haberland states a package containing a draft of the subject patent application and supporting documents, e.g., the Declaration and Power of Attorney and Assignments documents were sent to joint inventors, Messrs. Marchand and Hagen, by U.S. Mail on August 22, 2000. A copy of the cover letter to Mr. Haberland, and carbon copied to the other four joint inventors, from Jeffrey S. Whittle, the attorney of record, accompanies the petition. Mr. Haberland further states that on January 12, 2001, a second package containing a draft of the subject patent application, as well as supporting documents was sent to Mr. Marchand via UPS next day air service. A copy of the cover letter sent to Mr. Marchand from Mr. Haberland, as well as a copy of the UPS label accompanies the petition.

As evidence of Mr. Hagen's refusal to join in the application, Mr. Haberland asserts: "I tried on several occasions to set up an appointment with Mr. Robert Sean Hagen to review the subject patent application and acquire his signature on the supporting documents." *Statement of Facts, dated 01/24/01, p. 2.* "Mr. Hagen repeatedly put me off asking me to try another day or call back at a more convenient time." *Id.* As to Mr. Marchand's refusal, Mr. Haberland simply states that Mr. Marchand has refused to join in the application.

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. Applicants lack item (1) as set forth above.

As to item (1), applicants failed to demonstrate that the nonsigning inventor, Mr. Hagen, was presented with a complete copy of the application papers for review. Applicants submitted a cover letter address to Mr. Haberland, which was carbon copied to Mr. Hagen with enclosures.

However, applicants did not submit a copy of the cover letter to Mr. Hagen or indicate the enclosures sent to Mr. Hagen. Unless Mr. Hagen was presented with a copy of the application papers (specification, claims and drawings), Mr. Hagen could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration which he was given.

Additionally, applicants did not set forth a detailed account of the events that surrounded the refusal of Messrs. Hagen and Marchand to join in the application. Accordingly, applicants failed to show or provide proof that Messrs. Hagen and Marchand have refused to sign the declaration. Applicants should show that a copy of the application papers were presented to Messrs. Hagen and Marchand, but that they did not respond to the request that they sign the oath/declaration in order to prove that they have refused to join in the application. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events.

Section 409.03(d) of the Manual of Patent Examining Procedure states:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, Mr. Haberland does not specify the circumstances of the refusal of Messrs. Hagen and Marchand to join in the application. As to Mr. Hagen's refusal, it is unclear whether his request for Mr. Haberland to

call back at a more convenient time constitutes a refusal. Applicants should set forth the time period which the telephone calls were made, as well as the nature of the conversations.

As to Mr. Marchand's refusal, applicants fail to explain whether Mr. Marchand refused to join in the application or did not respond to their request to join in the application after a reasonable time from the mailing of the second package.

Accordingly, applicants have not met the requirements of 37 CFR 1.47(a), and thus, the petition must be dismissed.

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

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

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

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

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

ALLEN DYER DOPPELT MILBRATH & GILCHRIST
255 S ORANGE AVENUE
P O BOX 3791, SUITE 1401
ORLANDO, FL 32892-3791

COPY MAILED

SEP 1 4 2001

OFFICE OF PETITIONS

In re Application of :
Haberland, Marchand, Nilson, :
Hagen & Gladdish : ON PETITION
Application No. 09/580,721 :
Filed: May 30, 2000 :
For: TROCAR SYSTEM HAVING SHIELDED :
TROCAR :

This is in response to the request for reconsideration of the petition under 37 CFR 1.47(a), filed August 20, 2001.

The petition is granted.

Applicants have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Christina T. Tartera

Christina T. Tartera
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

Sam R. Marchand
1170 Robmar Road
Dunedin, FL 34698

COPY MAILED

SEP 14 2001

OFFICE OF PETITIONS

In re Application of :
Haberland, Marchand, Nilson, :
Hagen & Gladdish : LETTER
Application No. 09/580,721 :
Filed: May 30, 2000 :
For: TROCAR SYSTEM HAVING SHIELDED :
TROCAR :

Mr. Marchand:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Tartera

Christina T. Tartera
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JEFFREY S. WHITTLE, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
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P.O. BOX 3791
ORLANDO, FL 32802-3791

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JEFFREY S. WHITTLE
BRACEWELL AND PATTERSON, LLP
PO BOX 61389
HOUSTON, TX 77208-1389

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MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Haberland et al. :
Application No. 09/580,721 : ON PETITION
Filed: May 30, 2000 :
Attorney Docket No.: 032528.007 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 7, 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 February 25, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned May 26, 2004. A Notice of Abandonment was mailed October 6, 2004.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 3731 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 18

Karen A. Lowney, Esq.
Estee Lauder Companies
125 Pinelawn Road
Melville, NY 11747

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JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of
Liliana George, et. al.
Application No. 09/580,743
Filed: May 26, 2000
Attorney Docket No. 99.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on May 23, 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 October 23, 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 January 23, 2003.

The Associate Power of Attorney filed with the instant petition has been entered, and made of record.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 1700, for 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

US 6,872,523 **Paper No.**:0406

DATE : April 12, 2006

TO SPE OF : ART UNIT 1634

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 - 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:

Each of the corrections requested appear to have been an error on the part of the office in printing the allowed claims.

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER
Art Unit 1634

SPE: Ram Shukla

PTO/SB/44 (04-05)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,872,523 B1

APPLICATION NO.: 09/580,797

ISSUE DATE : March 29, 2005

INVENTOR(S) : Peter C. Iwen, Steven H. Hinrichs, Travis Henry

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

Column 1, line 52: with invasive disease. Early recognition of invasive fungal
Column 2, line 48: Aspergillus fumigatus, Aspergillus flavus, Pseudallescheria
Column 2, line 61: tained in the sample; b) adding two known oligonucleotide
Column 3, line 18: probes are used in step (d each being connection to (a) a
Column 3, line 24: Penicillium spp., having the nucleotide sequence of (SEQ
Column 3, line 63: is separated from sequences with which it is immediately
Column 3, line 64: contiguous (in the 5' and 3' directions) in the naturally
Column 4, line 42: homology is set forth below (Sambrook et al., Molecular
Column 5, line 38: or similar activity to yield a primer extension product. The
Column 5, line 44: plate to prime the synthesis of the desired extension
Column 5, line 45: product, that is, to be able to anneal with the desired template
Column 5, line 50: an exact complement of the desired template. For example,
Column 6, line 46: I. Preparation of Nucleic Acid Molecules and Primers
Column 6, line 64: Inc., Valencia, CA) and protocols for crude cell lysates as
Column 7, line 16: used according to methods known in the art, such as the
Column 7, line 17: polymerase chain reaction (PCR) method.
Column 7, line 22: In accordance with the present invention, nucleic acid
Column 7, line 40: cDNA, genomic DNA, RNA, and fragments thereof which
Column 8, line 11: fungi is DNA sequence analysis, however, the methodology
Column 8, line 27: either the pathogenic nucleic acid sequence, the
Column 8, line 40: e) using PCR involving one or more primer-based
Column 9, line 68: et al. were made to optimize the amplification procedure
Column 10, line 26: purified and ligated into the PCR 2.1 plasmid vector using

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

DANN, DORFMAN, HERRELL AND SKILLMAN, P.C.
1601 Market Street, Suite 2400
Philadelphia, PA 19103

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.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,872,523 B1

APPLICATION NO.: 09/580,797

ISSUE DATE : March 29, 2005

INVENTOR(S) : Peter C. Iwen, Steven H. Hinrichs, Travis Henry

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

Column 10, line 28: Diego, CA. Competent INV F' One Shot cells were
Column 11, line 5: Sequence Analysis
Column 11, line 36: Sequence analysis of Aspergillus specimens was per-
Column 12, line 15 of text under table: that both single nucleotide differences and short lengths of
Column 15, line 60: Abbreviations: ATCC, American Type Culture Collection; IMI, Invasive Mold Infections (UMNC); a As compared to A. fumigatus ATCC 36607. b Sequence deposited into GenBank as part of this study. c Reference strain sequenced but not deposited into GenBank.
Column 16, line 11: infectious molds from clinical samples. The number of cases
Column 16, line 60: 1 and 2 regions (21). Gaskell et al. investigated sequence
Column 18, line 24: results available within 48 h, confirmed the value of this
Column 18, line 63: facilitates the species specific identification of fungi. Addi-
Column 29, line 1 of text following addendum 1: References
Column 61, line 1: What is claimed is:
Column 61, line 4: method comprising the following steps:
Column 61, line 5: a) extracting nucleic acid material from fungi contained in
Column 61, line 9: ers consisting of SEQ ID NO:1 and the other primer
Column 61, line 10: consisting of SEQ ID NO:2, said primers bracketing a
Column 61, line 14: Aspergillus terreus (SEQ ID NO:4), Aspergillus niger
Column 61, line 15: (SEQ ID NO:5), Aspergillus nigulans (SEQ ID NO:6),
Column 61, line 20: a portion of the hypervariable region bracketed by said
Column 61, line 21: primers, said probes being selected from the group con-
Column 61, line 22: sisting of at least 15-25 contiguous nucleotides of SEQ

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1601 Market Street, Suite 2400
Philadelphia, PA 19103

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.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,872,523 B1

APPLICATION NO.: 09/580,797

ISSUE DATE : March 29, 2005

INVENTOR(S) : Peter C. Iwen, Steven H. Hinrichs, Travis Henry

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

Column 61, line 26: one of said fungal species from said group, to deter-
Column 61, line 27: mine whether said fungal species identified by each
Column 61, line 30: procedure in the polymerase chain reaction.
Column 61, line 39: different signal moiety or (b) a moiety which allows separ-
Column 61, line 40: ation of said probes.
Column 61, line 49: nucleic acid sequences of SEQ ID NOs: 3-8 to determine
Column 61, line 58: (SEQ ID NO: 5), Aspergillus nidulans (SEQ ID NO: 6),
Column 61, line 59: Aspergillus fumigatus (SEQ ID NO: 7), and Aspergillus
Column 61, line 60: flavus (SEQ ID NO: 8), said method comprising the step of:
Column 62, line 2: sample and amplifying said fungal nucleic acid with polymerase chain
Column 62, line 3: reaction using a primer set consisting of SEQ ID NO:
Column 62, line 7: c) comparing said restriction mapping patterns of said
Column 62, line 13: 7. A method for determining which Aspergillus species
Column 62, line 18: flavus (SEQ ID NO: 8), is present in a biological sample, said
Column 62, line 25: ID NOs: 3-8; and
Column 62, line 26: c) analyzing said permeabilized tissue sections with said
Column 62, line 30: 8. A universal primer set for amplification of a target
Column 62, line 34: GTATCCCTACCTGATCCGAGG (SEQ ID NO: 2).
Column 62, line 37: a) a universal primer set, said primer set consisting of the
Column 62, line 38: sequence of SEQ ID NO: 1 and SEQ ID NO: 2;
Column 62, line 44: d) means for contacting said released DNA with a primer
Column 62, line 53: apparatus for performing gel electrophoresis of said ampli-
Column 62, line 55: 12. A kit as claimed in claim 9, further comprising nucleic
Column 62, line 56: acids having sequences of SEQ ID NOs: 3-8.

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

DANN, DORFMAN, HERRELL AND SKILLMAN, P.C.
1601 Market Street, Suite 2400
Philadelphia, PA 19103

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.**

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Paper No. 11

UNITED STATES SURGICAL A DIVISION OF
TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK CT 06856

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DEC 17 2003
OFFICE OF PETITIONS

In re Application of :
Guanghui Zhang :
Application No. 09/580,884 : ON PETITION
Filed: May 30, 2000 :
Attorney Docket No. 2373 :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed December 2, 2003.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." As the petition fee has already been paid, there is no further fee for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment, mailed May 14, 2001, which set an extendable period for reply of one month. This notice indicated that an amendment filed on May 7, 2001 was non-compliant because it was not submitted in the format required by 37 CFR 1.121 (the amendment did not include a marked up version of the amended claims). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice of Non Compliant Amendment having been received, the above-identified application became abandoned on June 15, 2001. A Notice of Abandonment was mailed on January 29, 2003.

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 set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner contends that he never received the Notice of Non-Compliant Amendment. Petitioner has not met the showing required to establish nonreceipt of an Office action. In addition to stating that an Office action was not received, a practitioner must attest to the fact that a search of the file jacket and docket records indicates nonreceipt. Furthermore, a practitioner must include a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.[3] For example, where an Office action sets a period for reply of one month, "a copy of the docket report showing **all** replies docketed for a date [one month] from the mail date of the nonreceived [Office action] must be submitted as documentary proof of nonreceipt of the [Office action]."[4] Here, petitioner has not submitted a copy of a docket record.

Furthermore, petitioner has not accounted for the ten month delay in filing the petition. As the Notice of Abandonment was mailed on January 29, 2003, and the instant petition was not filed until

---

[1] In re Mattulath, 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).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] Id (emphasis added).

December 2, 2003, petitioner must show that this period of delay was unavoidable.

If petitioner can not meet the showing required to establish non receipt of the Notice of Non-Compliant Amendment, and can not show unavoidable delay in filing the petition, petitioner may file a petition to revive pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A copy of the Notice of Non-Compliant Amendment mailed on May 14, 2001 is enclosed for petitioner's convenience.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Office action mailed May 14, 2001 (1 page)

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

PATENT COUNSEL
UNITED STATES SURGICAL A DIVISION OF
TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK CT 06856

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Guanghui Zhang :
Application No. 09/580,884 : ON PETITION
Filed: May 30, 2000 :
Attorney Docket No. 2373 :

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 May 20, 2004.

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

The above-identified application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment, mailed May 14, 2001, which set an extendable period for reply of one month. This notice indicated that an amendment filed on May 7, 2001 was non-compliant because it was not submitted in the format required by 37 CFR 1.121 (the amendment did not include a marked up version of the amended claims). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice of Non Compliant Amendment having been received, the above-identified application became abandoned on June 15, 2001. A Notice of Abandonment was mailed on January 29, 2003. Applicant filed a petition to revive under 37 CFR 1.137(a) on December 2, 2003. However, this petition was dismissed in a decision mailed on December 17, 2003.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment containing a marked up version of the amended claim.

The application file is being forwarded to Group Art Unit 1714 for consideration of the amendment filed May 20, 2004.

Telephone inquiries should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COWAN LIEBOWITZ & LATMAN PC
JOHN J. TORRENTE
1122 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of :
Tsuyoshi Fukuda :
Application No. 09/580,892 : DECISION GRANTING PETITION
Filed: May 30, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. B208-1094 :

This is a decision on the petition, filed November 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 October 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 22

Hale & Dorr
60 State Street
Boston, MA 02109

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OCT 23 2003

OFFICE OF PETITIONS

In re Application of :
Chengcai Chu et al. :
Application No. 09/581,036 : ON PETITION
Filed: August 8, 2000 :
Attorney Docket No. PPD50288UST :

This is a decision on the petition under 37 CFR 1.137(b) filed June 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 Notice of Non-Responsive Amendment mailed May 14, 2003, which set a shortened statutory period for reply of ONE (1) Month or Thirty (30) days from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 were submitted. Accordingly, the application became abandoned on June 15, 2003.

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 Bruce Vrana appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Bruce Vrana desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application file is being forwarded to Technology Center AU 1638 for further processing.

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

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

cc: Syngenta Biotechnology, Inc.
PO Box 12257
Research Triangle Park, NC 27709-2257

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

Hale and Dorr
60 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Chengcai Chu, et al. :
Application No. 09/581,036 : ON PETITION
Filed: August 8, 2000 :
Attorney Docket No. PPD50288UST :

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed June 25, 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** a final agency action within the meaning of 5 U.S.C. § 704.

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

The Office erred on October 23, 2003 in granting the petition.

MPEP 711.03(c) in pertinent part states:

> "An application subject to a final action in which a proposed amendment under 37 CFR 1.116 is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC) to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application...If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. Form PTOL-303 should not be mailed to the applicant by the examiner. **In this situation, the Office of Petitions will not grant the petition.**" (Emphasis supplied)

Unfortunately, the examiner, prior to the last decision, did not review the amendment, as required by MPEP 711.03(c). Since the decision mailed October 23, 2003 improperly stated the petition was granted, it is hereby vacated. The Office sincerely apologizes for this error and any inconvenience caused to petitioner is extremely regretted.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a continuation application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE under 37 CFR 1.114, or the filing of a continuation application. A copy of the examiner's Advisory Action (Form PTOL-303) is attached herewith. It is suggested that petitioner consider filing an RCE using the amendment already filed as the submission required under 37 CFR 1.114.

It is uncertain if the person signing the petition has filed an appropriate power of attorney in this case (as mentioned in the previous decision). Accordingly, a courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

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

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

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

U. S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

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

Randall Green
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action (Form PTOL-303)

cc: Syngenta Biotechnology, Inc.
P. O. Box 12257
Research Triangle Park, NC 27709-2257

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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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

COPY MAILED

MAY 27 2008

In re Application of :
Chu et al :
Application No. 09/581,036 : DECISION ON PETITION
Filed: 08/08/2000 :
Attorney Docket No. PPD50288UST :

This is a decision on the petition under 37 CFR 1.181, filed March 20, 2008, to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.137(b), filed March 20, 2008, to revive the application.

On November 6, 2002, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On March 6, 2003, petitioners submitted an amendment in response to the final Office action, accompanied by a request for an extension of time for response within the first month. Unfortunately, the amendment did not place the application in condition for allowance. As petitioners did not file a proper and timely reply to the final Office action within the six-month statutory period to respond, the application became abandoned by operation of law[1] on March 7, 2003.

On May, 14, 2003, after the application had become abandoned, the examiner mailed a Notice of Bona Fide, Non-Responsive Amendment, which stated:

> The reply filed on 3/06/2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): form PTO-326 contained an error indicating that the action was non-final, however the office action itself contained no new rejections and indicated in the conclusion that the action was final. The proper response is a REPLY UNDER 37 C.F.R. (i.e. Rule 116 amendment after final action). See 37 CFR 1.111. Since the above- mentioned reply appears to be *bona fide,* applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within

[1] When an application is abandoned by the operation of law, applicant's remedy to restore the application to pending status is by filing a petition to revive the abandoned application.

which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

On June 6, 2003, the examiner issued and mailed an Advisory Action, indicating that the amendment of March 6, 2003, did not place the application in condition for allowance. The examiner explained that the application had gone abandoned for failure to submit a proper and timely response to the final Office action. Further, the examiner acknowledged "his errors in marking the Office Action Summary of the final action dated 11/06/2002 and in sending a non-responsive letter requesting a reply under 37 C.F.R. 1.116 after the six month deadline of 5/06/2003." On June 6, 2003, the Office mailed a Notice of Abandonment.

On June 25, 2003, petitioner filed a petition under 37 CFR 1.137(b), which was granted by the decision of October 23, 2003. However, the Office subsequently determined that petitioner did not submit a proper reply with the original petition. Consequently, the Office mailed a Corrected Decision vacating the decision of October 23, 2003, and dismissing the petition of June 25, 2003. Additionally, the Correct Decision stated: "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)."

On December 23, 2004, petitioner submitted a response in the form of a Request for Continued Examination ("RCE"), submission, and a request for extension of time for response within the second month. Unfortunately, petitioner did not provide the Office with a request for reconsideration of the Corrected Decision on September 15, 2004, dismissing the petition of June 25, 2003, accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" as indicated by the Office. Thereafter, on February 2, 2005, the Office mailed a Notice of Improper Request for Continued Examination, stating that the RCE was improper because the request was not filed before abandonment of the application. The Notice advised petitioner to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.

On March 20, 2008, petitioner filed the present petition. Petitioner asserted that petitioner did not receive the Notice of Improper Request for Continued Examination or the Notice of Abandonment as evidenced by the petitioner's docket records. Petitioner requested that the Office withdraw the holding of abandonment. The Office notes that the failure to respond to the Notice of Improper Request for Continued Examination did not form the basis for the abandonment of the application. The Notice of Improper Request for Continued Examination did not set any period for reply. That is, the mailing of the Notice did not change the fact that the application had become abandoned on March 7, 2003, by operation of law. The application was properly held abandoned because of petitioner's failure to submit a timely and proper response to the final Office action of November 6, 2002.

As there is no dispute that the application is abandoned, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is inappropriate. See MPEP 711.03(c)(I). The only remedy available to petitioner to revive the application is to file a grantable "Renewed Petition under 37 CFR 1.137(b)."

In view of the above, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

As to the petition under 37 CFR 1.137(b), petitioner has satisfied the requirements of 37 CFR 1.137(b) in that petitioner supplied (1) the reply in the form of a RCE, the RCE fee, and a submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the renewed petition under 37 CFR 1.137(b) is **granted**.

The Office notes that petitioner submitted a request for an extension of time within the second month on December 23, 2004, after the application became abandoned. However, any request for 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 $450.00 extension of time fee was paid on December 23, 2004, after the maximum extendable period for reply, the fee is inappropriate. Accordingly, the $450.00 extension of time fee will be refunded to petitioner's credit card. Furthermore, no petition fee is required for filing a petition to withdraw the holding of abandonment or a renewed petition under 37 CFR 1.137(b). Thus, the petition fees in the amount of $130.00 and $1,540.00 submitted on March 20, 2008 will also be refunded to the petitioner's credit card.

This application is being referred to Technology Center AU 1638 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 related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

23 JUL 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Joseph S. Tripoli - Patent Operations
THOMSON MULTIMEDIA LICENSING, INC.
PO Box 5312
Princeton, New Jersey 08540

In re Application of
ESKICIOGLU, Ahmet, Mursit, et al.
U.S. Application No.: 09/581,064
PCT No.: PCT/US98/26069
International Filing Date: 09 December 1998
Priority Date: 10 December 1997
Attorney's Docket No.: RCA 88783
For: CONDITIONAL ACCESS SYSTEM FOR DIGITAL RECEIVERS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the "Petition Under 37 CFR 1.47(a)" filed 20 November 2000. Applicant has paid the required petition fee.

BACKGROUND

On 09 December 1998, applicants filed international application PCT/US98/26069 which claimed a priority date of 10 December 1997 and which designated the United States.

On 17 June 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 10 June 2000.

On 08 June 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 24 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notification also informed applicant that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 10 November 2000, applicant's filed a response to the Notification Of Missing Requirements which included a declaration executed by two of the three inventors, and the petition considered herein. The petition seeks acceptance of the application without the signature of the third inventor pursuant to 37 CFR 1.47(a). The submission also included a petition and fee for a three month extension of time to respond to the Notification Of Missing Requirements.

On 23 January 2001, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that, as of 13 November 2000, applicants had satisfied the requirements of 35 U.S.C. 371(c).

DISCUSSION

A. Notification Of Acceptance Mailed 23 January 2001

35 U.S.C. 371(c)(4) requires an applicant to file in the Patent and Trademark Office:

> An oath or declaration of the inventor ... complying with the requirements of section 115 of this title and with the regulations prescribed for oaths or declarations of applicants.

Applicants here did have not submitted a fully executed declaration; and no decision has been issued permitting acceptance of the 10 November 2000 declaration under 37 CFR 1.47(a). Accordingly, applicants have not yet satisfied all the requirements of 35 U.S.C. 371(c). The Notification of Acceptance (Form PCT/DO/EO/903) mailed to applicants on 23 January 2001, which indicated 13 November 2000 as the date of receipt of the 35 U.S.C. 371(c) requirements, is therefore appropriately vacated.

B. Petition Under 37 CFR 1.47(a)

In order for the application to be accepted without the signature of the nonsigning inventor, applicants must submit a grantable petition under 37 CFR 1.47(a). A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the proper petition fee, (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. As set forth below, applicants here have satisfied items (1) and (2), but have failed to satisfy items (3) and (4).

The petition included payment of the $130 petition fee, and it sets forth the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

With respect to item (3), applicants section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicant has submitted a declaration that contains an unexecuted signature block for the nonsigning inventor and is executed by the two other inventors. Accordingly, item (3) has been satisfied.

Regarding item (4), the proof required to show that a nonsigning inventor cannot be reached after diligent effort is set forth in section 409.03(d) of the MPEP, which states:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. ...
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Here, the attempts to locate the nonsigning inventor are set forth in the petition and the accompanying declaration of Davida Fornarotto. These materials reveal that the nonsigning inventor was provided with the application materials and seemed prepared to execute the materials before applicants lost contact with him. After losing contact with the nonsigning inventor, Ms. Fornarotto states that she forwarded further mail to the inventor's last known address (which was undeliverable) and emails to his last known email address (none of which were returned). She also contacted a Mr. William Lagoni, the "liaison between the Intellectual Property Legal Office ... and the main office" who serves as an aid 'in locating past and present employees." Mr. Lagoni provided Ms. Fornarotto with contact information for the nonsigning inventor (including a business address and telephone number). No firsthand information is provided with respect to the specific efforts made by Mr. Lagoni to locate the nonsigning inventor. Ms. Fornarotto refers to further attempts to reach the inventor by email, but no mention is made as to whether other attempts were made to locate the inventor (i.e., telephone or mail inquiries to the last known business address and telephone numbers provided by Mr. Lagoni). Under the circumstances present here, evidence is required of some additional diligent effort made by applicants to locate the nonsigning inventor after his apparent change of address. Until such evidence is provided, item (4) is not considered satisfied.

Based on the foregoing, applicants have failed to satisfy all the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the petition must be dismissed.

CONCLUSION

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

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 23 January 2001 is hereby **VACATED**.

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

22 OCT 200[redacted]

UNITED STATES PATENT AN[redacted]DEMARK OFFICE

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

Joseph S. Tripoli - Patent Operations
THOMSON MULTIMEDIA LICENSING, INC.
PO Box 5312
Princeton, New Jersey 08540

In re Application of
ESKICIOGLU, Ahmet, Mursit, et al.
U.S. Application No.: 09/581,064
PCT No.: PCT/US98/26069
International Filing Date: 09 December 1998
Priority Date: 10 December 1997
Attorney's Docket No.: RCA 88783
For: CONDITIONAL ACCESS SYSTEM FOR DIGITAL RECEIVERS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 23 July 2002, applicants' petition under 37 CFR 1.47(a) was dismissed for failure to satisfy all the requirements of a grantable petition. The petition had sought acceptance of the application without the signature of co-inventor/applicant Mehmet Kemal OZKAN.

On 07 October 2002, applicants filed the Renewed Petition considered herein, accompanied by a declaration executed by Mehmet Kemal OZKAN. Based on this submission, applicants have now submitted a declaration executed by all three named co-inventors and which is in compliance with 37 CFR 1.497.

Based on the submission of a fully executed declaration, applicants' petition under 37 CFR 1.47(a) is now **MOOT**.

Applicants have now submitted all the requirements of 35 U.S.C. 371.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371 date is **07 October 2002**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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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JOSEPH J. LAKS, VICE PRESIDENT
THOMSON LICENSING LLC
PATENT OPERATIONS
P O BOX 5312
PRINCETON, NJ 08543-5312

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APR 24 2007

OFFICE OF PETITIONS

In re Application of :
Ahmet Mursit Eskicioglu et al :
Application No. 09/581,064 : DECISION ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. RCA88783 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 4, 2005, the appeal is dismissed and the proceedings as to the rejected claims terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 5, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an appeal brief (an amended appeal brief was filed on September 11, 2006), (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely file an appeal brief within the period provided by 37 CFR 41.37(a)(1) is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2135 for appropriate action in the normal course of business on the appeal brief.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Robert D. Shedd
Thomson Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Ahmet Mursit Eskicioglu et al. :
Application No. 09/581,064 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. RCA88783 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is June 4, 2008.

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

As to item (3) the statement of unintentional delay is presently not acceptable since there was no indication if the petition was signed by a registered attorney since no registration number was provided. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further 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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Ahmet Mursit Eskicioglu et al. :
Application No. 09/581,064 : ON PETITION
Filed: October 7, 2002 :
Attorney Docket No. RCA88783 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is June 4, 2008. A Notice of Abandonment was mailed on March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition decision mailed February 17, 2009, dismissed the petition filed January 6, 2009 for failure to provide a proper statement of unintentional delay. The renewed petition includes a proper statement.

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.

An additional petition was charged to petitioner's deposit account on April 17, 2009. No fee was necessary. This amount will be credited to deposit account no. 070832.

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

This application is being referred to Technology Center AU 2435 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/23/2010

Applicant	: Ahmet Mursit Eskicioglu	: DECISION ON REQUEST FOR
Patent Number	: 7664268	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/581,064	: OF WYETH
Filed	: 10/07/2002	:
		:

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.

JUN 1 2 2001

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James E. Nilles
Nilles & Nilles
Firstar Center, Suite 2000
777 Wisconsin Avenue
Milwaukee, WI 53202

In re Application of :
JALALI et al. :
U.S. Application No. 09/581,272 : DECISION ON PETITION
PCT No.: PCT/FR98/02636 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 December 1998 :
Priority Date: 08 December 1997 :
Atty. Docket No.: 136.147 :
For: METHOD FOR CALCULATING THE FAST FOURIER TRANSFORM AND THE INVERSE FAST FOURIER TRANSFORM :

This is a decision on applicant's "Response to Notification of a Defective Oath or Declaration" which is being treated as a petition under 37 CFR 1.47(a) filed 16 February 2001 to accept the application without the signature of joint inventor, Al Jalali. The required petition fee of $130.00 (37 CFR 1.17(i)) has been charged to Deposit Account No. 14-1080.

BACKGROUND

On 07 December 1998, applicant filed international application PCT/FR98/02636 which claimed a priority date of 08 December 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 17 June 1999. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 08 June 2000.

On 25 May 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); a translation of the international application; an unexecuted declaration; and a first preliminary amendment.

On 26 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 01 September 2000, applicant filed a second transmittal letter which included a declaration executed by two of the three inventors.

On 12 January 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was

not in compliance with 37 CFR 1.66 or 1.68, and that a new oath or declaration in compliance with 37 CFR 1.497 along with a surcharge for providing the oath or declaration later than 20 months from the priority date were required.

On 16 February 2001, applicant filed a "Response to Notification of a Defective Oath or Declaration" which states "they (Cabinet Ballot-Schmit) are unable to obtain the signature of the first named inventor, Ali Jalali...," and therefore, this response has been treated as a Petition under 37 CFR 1.47(a).

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.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The 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 this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Al Jalali. Petitioner states that "[a] registered letter enclosing a Declaration and an Assignment (copies attached) was sent to

Mr. Jalai on September 28, 2000, but no response was received from Mr. Jalia." The petition fails to state what application papers were sent to the missing inventor. Was a complete application (specification, claims, and drawings) mailed to the missing inventor? Additionally, petitioner has provided copies of letters to Mr. Jalia, however, these letters have not been translated into English. Furthermore, it does not appear that the petitioner has first hand knowledge of all the facts.

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 Mr. Jalali and when such papers were sent and that Mr. Jalali has 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.

Concerning Item (3), a statement of the last known address of the missing inventor has not been submitted.

Item (4) has been satisfied by the declaration filed 01 September 2000.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Al Jalali under 37 CFR 1.47(a) at this time.

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.

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
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Tel.: 703-308-6314
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FEB 2 0 2002

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777 Wisconsin Avenue
Milwaukee, WI 53202

In re Application of :
JALALI et al. :
U.S. Application No. 09/581,272 : DECISION ON PETITION
PCT No.: PCT/FR98/02636 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 December 1998 :
Priority Date: 08 December 1997 :
Atty. Docket No.: 136.147 :
For: METHOD FOR CALCULATING THE FAST FOURIER TRANSFORM AND THE INVERSE FAST FOURIER TRANSFORM :

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 10 January 2002. In a decision dated 25 October 2001, the "PETITION UNDER 37 CFR 1.47(a))" filed 16 February 2001 was dismissed because: (1) applicant did not provide adequate proof that the missing inventor, Al Jalali, refused to execute the application or could not be reached after diligent effort and (2) applicant did not provide the missing inventor's last known address.

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), (3), and (4) have been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application paper should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above. Petitioner has provided "Declaration and Statement of Facts by Christian Hamon in Re 37 CFR 1.47(a) and Section 409.03(d) MPEP" which states that "I . . . state that two letter dated September 28, 2000 and February 1, 2001 enclosing a Declaration in each, and a complete copy of the application . . . were sent to Mr. Jalali . . . and that Mr. Jalali has not responded to any of the letters and has subsequently refused to execute the application." However, no documentary evidence to support the refusal or the attempt was provided with Mr. Hamon's declaration. Petitioner stated in the petition dated 16 February 2001, "[a] registered letter enclosing a Declaration and an Assignment (copies attached) was sent to Mr. Jalali on September 28, 2000, but no response was received from Mr. Jalali." Was the registered letter(s) returned as undeliverable? Was the letter(s) received by Mr. Jalali or by someone at the last known address?

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 Mr. Jalali and when such papers were sent and that Mr. Jalali has 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.

With regard to Item (3), applicant has submitted the last known address of the missing inventor.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Al Jalali under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) 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.

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PCT Legal Examiner
PCT Legal Office

Anthony Smith
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25 JUN 2002

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Milwaukee, WI 53202

In re Application of :
JALALI et al. :
U.S. Application No. 09/581,272 : DECISION ON PETITION
PCT No.: PCT/FR98/02636 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 December 1998 :
Priority Date: 08 December 1997 :
Atty. Docket No.: 136.147 :
For: METHOD FOR CALCULATING THE :
FAST FOURIER TRANSFORM AND
THE INVERSE FAST FOURIER
TRANSFORM

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 23 April 2002. In a decision dated 20 February 2002, the "RENEWED PETITION UNDER 37 CFR 1.47(a))" filed 10 January 2002 was dismissed without prejudice because: applicant did not provide adequate proof that the missing inventor, Al Jalali, refused to execute the application or could not be reached after diligent effort.

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), (3), and (4) have been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application

> papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application paper should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above. Petitioner has provided "Declaration and Statement of Facts by Christian Hamon in Re 37 CFR 1.47(a) and Section 409.03(d) MPEP" which states that "[t]wo registered letters dated September 28, 2000 and February 1, 2001 enclosing a Declaration in each, and a complete copy of the application were sent to Ali Jalali and that the declaration enclosed with the letter be signed by him and returned to me. Enclosed is a certified mail return receipt postcard showing that the February 1, 2001 letter was received." However, a copy of the certified mail return receipt postcard has not been included as an exhibit to the present petition. Additionally, no documentary evidence to support the refusal or the attempt was provided with Mr. Hamon's declaration. As stated in the previous decision, was the registered letter(s) returned as undeliverable? Was the letter(s) received by Mr. Jalali or by someone at the last known address?

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 Mr. Jalali and when such papers were sent and that Mr. Jalali has 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 reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Al Jalali under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) 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.

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25 OCT 2002

#9

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Milwaukee, WI 53202

In re Application of	:	
JALALI et al.	:	
U.S. Application No. 09/581,272	:	DECISION ON PETITION
PCT No.: PCT/FR98/02636	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 December 1998	:	
Priority Date: 08 December 1997	:	
Atty. Docket No.: 136.147	:	
For: METHOD FOR CALCULATING THE FAST FOURIER TRANSFORM AND THE INVERSE FAST FOURIER TRANSFORM	:	

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 16 September 2002 and "Letter" filed via facsimile on 17 October 2002. In a decision dated 25 June 2002, the "RENEWED PETITION UNDER 37 CFR 1.47(a))" filed 23 April 2002 was dismissed without prejudice because: applicant did not provide adequate proof that the missing inventor, Al Jalali, 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 17 October 2002 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Ali Jalali. The declaration filed 17 October 2002 is acceptable under 37 CFR 1.497.

For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

The application has an international filing date of 07 December 1998 under 35 U.S.C. 363 and a date of **17 October 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
PCT Legal Office

Anthony Smith
Attorney-Advisor
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Tel.: 703-308-6314
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In re Application of :
JALALI et al. :
U.S. Application No. 09/581,272 : DECISION ON PETITION
PCT No.: PCT/FR98/02636 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 December 1998 :
Priority Date: 08 December 1997 :
Atty. Docket No.: 136.147 :
For: METHOD FOR CALCULATING THE FAST FOURIER TRANSFORM AND THE INVERSE FAST FOURIER TRANSFORM :

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 13 August 2001. In a decision dated 12 June 2001, the "PETITION UNDER 37 CFR 1.47(a))" filed 16 February 2001 was dismissed because: (1) applicant did not provide adequate proof that the missing inventor, Al Jalali, refused to execute the application or could not be reached after diligent effort and (2) applicant did not provide the missing inventor's last known address.

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.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application paper should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above. Petitioner states that "that two letters dated September 28, 2000 and February 1, 2001 enclosing a Declaration in each, and a letter dated June 26, 2001 . . . were sent to Mr. Jalali by registered mail and Mr. Jalali has not responded to any of the three letters." However, as stated in previous decision, it does not appear that the petitioner has first hand knowledge of all the facts. 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 (i.e. Mr. Christian Hamon) having first hand knowledge of the facts that a complete copy of the application papers was sent to Mr. Jalali and when such papers were sent and that Mr. Jalali has subsequently refused to execute the application.

Concerning Item (3), a statement of the last known address of the missing inventor has been submitted.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Al Jalali under 37 CFR 1.47(a) at this time.

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.

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
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TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

Crowell & Moring LLP
P.O. Box 14300
Washington, DC 20044-4300

In re Application of)
REIMER et al.)
Application No. 09/581,287)
Filed: September 7, 2000)
For: Device for Supplying Electricity to a Motor Vehicle)

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on February 1, 2002, requesting that the shortened statutory period for reply set forth in the Office action mailed on December 5, 2001, be reset to run from the date on which the Office action was actually received at the correspondence address of record.

The petition is **granted**.

Petitioner has provided a statement that the Office action in question was received at the correspondence address of record on January 9, 2002.

Petitions to reset the period for reply to an Office action due to late receipt of the action are treated in MPEP § 710.06. As set forth in MPEP § 710.06, a petition to restart the previously set period for reply should be filed within two weeks of the date of receipt of the Office action at the correspondence address. In view of the fact that the Office action 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, this requirement will be waived. Petitioner is advised that any future petition to reset the period for reply to an Office action may not receive favorable consideration unless filed within two weeks of the date of receipt.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on December 5, 2001, is hereby reset to run FROM THE RECEIPT DATE OF January 9, 2002.

The application file is being forwarded to the Central Files of Technology Center 2800 to await a response to the Office action. No fee is required for the petition.

Clayton E. LeBlanc

For Edward Glick, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical and Optical Systems and Components
(703) 308-4858

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Paper No. 24

Syngenta Biotechnology Inc.
Patent Department
3054 Cornwallis Road
PO Box 12257
Research Triangle Park, NC 27709-2257

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OFFICE OF PETITIONS

In re Application of :
Maarten H. Stuiver et al. :
Application No. 09/581,331 : ON PETITION
Filed: July 21, 2000 :
Attorney Docket No. MOG57701/UST :

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice of Non-Responsive Amendment (Notice) filed November 4, 2002, which set a shortened statutory period for reply of (1) One Month or (30) Thirty Days 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 5, 2002.

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

The application file is being forwarded to Technology Center AU 1635 for further processing.

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
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JUL 2 2003
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Paper Number: _____

In re application of :
Edward Jobson et al : DECISION ON
Serial No. 09/581,333 : PETITION
Filed: October 6, 2000 :
For: POROUS MATERIAL, METHOD AND ARRANGEMENT FOR CATALYTIC CONVERSION OF EXHAUST GASES :

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT, filed April 1, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 18, 2003, for failure to timely file a proper response to the Office letter mailed July 22, 2002 be withdrawn. The petitioner asserts that the Office letter was not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the above noted Office letter was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office letter mailed July 22, 2002 was not received, a statement by the petitioner that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provide are a copy of the attorney's docket records and a copy of the firm's back-up docketing system maintained "by hand", where the Office letter dated July 22, 2002 would have been posted had it been timely received .

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt

remailing of the Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
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22 AUG 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Laurence J. Hyman
TOWNSEND, TOWNSEND & CREW
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of :
PASTAN, Ira H. *et al* :
U.S. Application No.: 09/581,345 :
PCT No.: PCT/US98/25270 :
Int. Filing Date: 25 November 1998 : DECISION
Priority Date: 01 December 1997 :
Attorney Docket No.: 15280-339PC :
For: ANTIBODIES, INCLUDING FV MOLECULES . . . :

The petition to revive pursuant to 37 CFR 1.137(b) filed on 31 March 2000 in the above-captioned application is hereby **GRANTED** as follows:

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). The petition fee and basic national fee have been paid. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

No declaration was included with the documents filed 31 March 2000. Accordingly, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 (a) and (b), a surcharge fee pursuant to 37 CFR 1.492(e).

James Thomson
PCT Attorney
PCT Legal Office

Tel.: (703) 308-6457

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 8

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MAR 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Sato, et al. :
Application No. 09/581,468 : DECISION ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. 1111.64360 :

This is a decision on the "Petition to Reinstate Proceedings and Grant Filing Date Pursuant to 37 C.F.R. §1.181(f), Petition to Withdraw and Reissue Notice, Resetting Response Time, Pursuant to 37 C.F.R. §1.182, and Petition for Suspension of Rules Pursuant to 37 C.F.R. §1.183," filed July 5, 2001. This petition is properly considered as a petition under §1.53(e)(2).[1]

Application papers in the above-identified application were filed on June 12, 2000. However, on April 3, 2001, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112 and without drawings as required by 35 U.S.C. 113. In addition, the statutory basic filing fee and an executed oath or declaration in compliance with 1.63 were missing. This Notice set a **TWO MONTH** period for reply to avoid termination of proceedings on the application.

On July 5, 2001, applicants filed the instant petition, with a copy of the application as applicants maintain it was filed. Also included with the petition was a request to, and arguments for, not dismissing the petition as untimely filed. Having considered the arguments on petition and the circumstances of the delay, it is preliminarily concluded that the Commissioner's discretion with respect to dismissing this petition filed three

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[1] 1.53(e) Failure to meet filing date requirements .
(1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.
(2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

months after the action complained of will be exercised in favor of the applicants. The petition will be considered on the merits.

On petition, applicants maintain that the application as filed on June 12, 2000, included 67 pages of specification, claims and an abstract and 25 sheets of formal drawings. A review of the Official record of the application as filed, the Official file, reveals that 67 pages of specification, claims and an abstract, as well as, 25 sheets of formal drawings were present in the application on filing. These papers are present in the application file and bear a PCT/PTO rec'vd stamp of 12 June 2000. It is further noted that applicants' evidence, though unnecessary to a decision, is persuasive[2]. Applicant has shown that the application as filed on June 12, 2000 included a complete specification with at least one claim and drawings, and thus, is entitled to a filing date of June 12, 2000.

In view thereof, the petition is **GRANTED**. Giving the basis for granting the petition, the petition fees submitted ($390) have been refunded to Deposit Account No. 07-2069, as authorized.

The "Notice of Incomplete Nonprovisional Application" mailed April 3, 2001 was mailed in error, and to the extent that it states that the subject application is not entitled to a filing date, it is hereby **VACATED**.

However, it is noted that the requirement set forth therein to supply an executed declaration and pay the filing fee (and late surcharge) was proper. Receipt of these responses filed July 5, 2001, is acknowledged. To make these responses timely, the fee for an extension for response within the first month ($110) has been charged to Deposit Account No. 07-2069, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of June 12, 2000, using the application papers received in the Office on that date (including 67 pp. Spec., claims and an abstract, and 25 sheets of drawings); and
- processing of the executed declaration filed July 5, 2001.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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[2]In support thereof, petitioner submitted *inter alia* a copy of their postcard receipt identifying this application by serial number, itemizing "... Patent application including 67 pages of spec. And claims and an abstract; .... 25 sheets of formal drawings ..." among the enclosures, bearing a United States Patent and Trademark Office receipt date-stamp of June 12, 2000, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

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

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OFFICE OF PETITIONS

In re Application of :
Masashige Sato et al :
Application No. 09/581,468 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. 1111.64360

This is a decision on the petition, filed November 4, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Paper No. 14

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MAR 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Peter V. Coveney, et al. :
Application No. 09/581,485 : ON PETITION
Filed: July 31, 2000 :
Attorney Docket No. 57.0265USPCT :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 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 July 31, 2002, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 1, 2003.

Receipt is acknowledged of the Information Disclosure Statement filed with the instant petition on February 28, 203

Since the present RCE was filed without a submission, the unentered amendment filed January 28, 2003, with a certificate of mailing dated January 22, 2003, will be considered the submission required under 37 CFR 1.114.

The application file is being forwarded to Technology Center 2100, Art Unit 2151 for processing the Request for Continued Examination under 37 CFR 1.114, filed on February 28, 2003.

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

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

Sherry D. Brinkley
Petitions Examiner

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Paper No. 29

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OFFICE OF PETITIONS

In re Application of :
Schor, et al. :
Application No. 09/581,651 : ON PETITION
Filed: October 10, 2000 :
Attorney Docket No. 002.00120 :

This is a decision on the petition under 37 CFR 1.137(a), filed November 6, 2003, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed January 14, 2003, which set a one-month period to reply. Accordingly, this application became abandoned on February 15, 2003. A Notice of Abandonment was mailed on September 12, 2003.

Petitioner contends the Office action was never received by applicant. 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).

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such, the holding of abandonment is withdrawn.

Please note, 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.

The $110.00 petition fee, submitted November 6, 2003, will be refunded to deposit account no. 16-2230.

This application is being forwarded to Technology Center 1600 for further examination *in due course*.

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

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

cc.
OPPENHEIMER WOLFFE & DONNELLY, LLP
233 WILSHIRE BLVD., SUITE 700
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James W. McKee
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1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114-2518

In re Application of :
Wolfgang PRIESEMUTH :
U.S. Application No.: 09/581,793 : DECISION
PCT No.: PCT/EP98/08266 :
International Filing Date: 16 December 1998 :
Priority Date: 17 December 1997 :
Attorney's Docket No.: TRW 2 0258 :
For: MULTIFUNCTION SWITCH :

This decision is issued in response to petitioner's filing of a declaration executed on behalf of the deceased sole inventor by counsel for the purported assignee, which has been treated as a submission under 37 CFR 1.42 and a petition under 37 CFR 1.47(b), and petitioner's request for a Continued Prosecution Application ("CPA"), all filed on 16 January 2001. Per the authorization, Petitioner's deposit account has been charged the required petition fee.

BACKGROUND

On 16 December 1998, applicant filed international application PCT/EP98/08266, which claimed a priority date of 17 December 1997 and which designated the United States. On 24 June 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 16 June 1999, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 19 June 2000 (17 June 2000 was a Saturday and 18 June 2000 was a Sunday).

On 16 June 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, payment of the basic national fee and a translation of the international application into English. The transmittal letter noted that the international application had already been transmitted by the IB.

On 14 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the

oath or declaration later than 30 months from the priority date were required. The Notification also informed applicant that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 16 January 2001, applicants filed the papers considered herein, including: (1) a request for a five-month extension of time to respond to the Notification Of Missing Requirements, with the required fee; (2) a declaration executed on behalf of the deceased sole inventor by Michael E. Hudzinski, counsel for the employer of the deceased inventor; and (3) a request for a CPA, with the required filing fee. Based on the five-month extension of time, these papers are considered a timely response to the Notification Of Missing Requirements mailed 14 July 2000.

DISCUSSION

A. Status Under 37 CFR 1.42

The sole inventor for this application is apparently deceased. 37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 16 January 2001 was executed by Michael E. Hudzinski, counsel for the deceased inventor's employer, the purported assignee of the application. Mr. Hudzinski is admittedly not the legal representative of the deceased inventor. Pursuant to 37 CFR 1.47(b), the assignee may execute the declaration on behalf of the legal representative if the legal representative refuses to join in the application or cannot be located after a diligent effort. For reasons set forth below, such has not been established here. Accordingly, the declaration cannot be accepted under 37 CFR 1.42.

B. Petition Under 37 CFR 1.47(b)

The declaration states that it is executed "Under 37 CFR 1.47(b)." Accordingly, the submission has been treated as a petition under 37 CFR 1.47(b) for acceptance of the declaration without the signature of the legal representative of the deceased inventor.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor (or the legal representative of a deceased inventor) refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor (or the nonsigning legal representative of a deceased inventor); (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor (or the nonsigning legal

representative of a deceased inventor); (5) proof of proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The present petition satisfies items (1) and (6), above.

Regarding item (2), section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) describes the evidence generally required to establish that a nonsigning legal representative of a deceased inventor cannot be found after diligent effort or refuses to execute the application. This would include, for example, statements from persons having firsthand knowledge of the efforts made to contact the nonsigning party, where it is alleged that the nonsigning representative cannot be found or reached after diligent effort, or, where a refusal is alleged, evidence that the nonsigning party has been presented with a copy of the complete application papers (specification, including claims, drawings, and oath or declaration). Here, petitioner has presented no evidence with respect to any inability to contact the legal representative of the deceased inventor, or of any refusal by such legal representative to execute the application. Rather, the declaration contains the following statement:

> This is a hardship situation. Time and circumstances do not permit execution and return of the formal papers by the legal representative of the deceased inventor within the response period.

In this regard, section 409.03(c) of the MPEP states the following:

> Also, in hardship situations where time or circumstances do not permit appointment of a legal representative to make application, 37 CFR 1.47 may apply. *In re Schwarz*, 147 USPQ 394 (Comm'r Pat. 1960). In such situations, however, subsequent joinder of a properly authorized legal representative will normally be required before the grant of a patent.

In the *Schwarz* case, one of the joint inventors died barely one month before the declaration was due. The other inventor signed the declaration on behalf of the deceased inventor, noting that "the succession to [the deceased inventor's] estate has not yet been settled and therefore authority to sign on his behalf has not yet been established; that a supplemental oath bearing the signatures of the heir or heirs or other person authorized to sign will be submitted in due course." In *Schwarz*, a legal representative was in fact appointed approximately two months after the original declaration was submitted, and less than one month later, the legal representative submitted an executed oath. Under these circumstances, it was found that applicants had done all they could to comply with the applicable statutes, and that the filing date based on the original declaration was appropriate. Here, petitioner has provided no explanation as to what facts preclude the "execution and return of the formal papers by the legal representative of the deceased inventor."

Based on the above, petitioner has failed to establish that the legal representative refuses to join in the application or could not be reached after diligent effort, or that the facts here

constitute a "hardship" case under *Schwarz*. Accordingly, item (2) above of a grantable petition has not been satisfied.

Regarding item (3), the declaration submitted lists the last known address for the nonsigning inventor. However, because it is the legal representative of the deceased inventor who cannot be located or refuses to sign the application, and not the deceased inventor himself, the last known address for the legal representative is also required. Item (3) is therefore not satisfied.

Regarding item (4), the declaration submitted is executed by Michael E. Hudzinski, outside patent counsel for TRW Automotive Electronics & Components GmbH & Co. KG ("TRW"). The declaration asserts that TRW is the employer of the deceased inventor and that the inventor has agreed in writing to assign the invention to TRW; the declaration also asserts that Mr. Hudzinski is "authorized to sign" on behalf of both the deceased inventor and TRW. However, while the declaration does set forth the nonsigning inventor's "full name, residence, post office address, and citizenship," it does not set forth such information for the nonsigning legal representative. Since it is the legal representative whom petitioner is asserting cannot be located or refuses to sign, such information is also required. (See MPEP section 409.03(b), page 400-24; see also 37 CFR 1.497(b)(2)). Thus, item (4) has not been satisfied.

Item (5) above is discussed in section 409.03(f) of the MPEP, which states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Here, the declaration asserts that the deceased inventor agreed in writing to assign the invention to TRW. For such circumstances, the MPEP states the following:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an

> agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Petitioner here has not provided a copy of the purported agreement to assign the invention, nor any other evidence with respect to this purported agreement. Accordingly, item (5) has not been satisfied.

Because applicants have failed to satisfy items (2), (3), (4) and (5) for a grantable petition under 37 CFR 1.47(b), it is inappropriate to accord the national stage application status at this time. The petition under 37 CFR 1.47(b) is dismissed.

C. Request For A CPA

Applicant has also submitted a request for a CPA under 37 CFR 1.53(d). 37 CFR 1.53(d) sets forth the following requirements for such an application:

> (1) A continuation or divisional application (but not a continuation-in-part) of a prior non-provisional application may be filed as a continued prosecution application under this paragraph, provided that:
>
> (I) The prior nonprovisional application is either:
>
> (A) Complete as defined by § 1.51(b); or
> (B) The national stage of an international application **in compliance with 35 U.S.C. 371**; and
>
> (ii) The application under this paragraph is filed before the earliest of:
>
> (A) Payment of the issue fee on the prior application ...;
> (B) Abandonment of the prior application; or
> (C) Termination of proceedings on the prior application.

(Emphasis added.)

Here, applicant has paid for a five-month extension of time to respond to the Notification Of Missing Requirements mailed on 14 July 2000. The present request for a CPA was therefore filed prior to abandonment of the national stage application. However, this national stage application is not "in compliance with 35 U.S.C. 371." Specifically, applicant has not submitted the oath or declaration required under 35 U.S.C. 371(c)(4). (See above).

Accordingly, applicants may not file a CPA of this national stage application under 37 CFR 1.53(d). The request for the CPA is therefore dismissed. Deposit Account No. 06-0308 has

been credited with a refund of the $710 filing fee submitted with the CPA request.

CONCLUSION

The request for status under 37 CFR 1.42, the petition under 37 CFR 1.47(b), and the request for CPA are **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Failure to timely file a proper response will result in abandonment of the application.

Deposit Account No. 06-0308 has been charged $130 as the petition fee for the petition under 37 CFR 1.47(b) and credited with a refund of the $710 filing fee submitted with the CPA request.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Cynthia M. Kratz
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#7

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In re Application of	:	
Wolfgang PRIESEMUTH (Deceased)	:	
U.S. Application No.: 09/581,793	:	DECISION
PCT No.: PCT/EP98/08266	:	
International Filing Date: 16 December 1998	:	
Priority Date: 17 December 1997	:	
Attorney's Docket No.: TRW 2 0258	:	
For: MULTIFUNCTION SWITCH	:	

This decision is issued in response to petitioner's filing of a declaration executed on behalf of the deceased sole inventor by the legal representative, which is being treated as a submission under 37 CFR 1.42.

BACKGROUND

On 14 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicant that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application. Extensions of time were available under 37 CFR 1.136(a).

On 16 January 2001, applicant filed the papers including: (1) a request for a five-month extension of time to respond to the Notification Of Missing Requirements, with the required fee; (2) a declaration executed on behalf of the deceased sole inventor by Michael E. Hudzinski, counsel for the employer of the deceased inventor; and (3) a request for a CPA, with the required filing fee. Based on the five-month extension of time, these papers are considered a timely response to the Notification Of Missing Requirements mailed 14 July 2000.

On 01 June 2001, a decision on applicant's petition was mailed indicating that the declaration could not be accepted under 37 CFR 1.42 or under 37 CFR 1.47(b) since applicant failed to provide a declaration signed by the legal representative on behalf of the deceased inventor or establish that the legal representative refused to join in the application or could not be reached after diligent effort, or that the facts here constituted a "hardship" case. Furthermore, applicant request for a CPA under 37 CFR 1.53(d) was also dismissed since the national stage

application was not "in compliance with 35 U.S.C. 371".

On 06 August 2001, applicant filed a Response to the decision along with the declaration of the legal representative of deceased inventor Wolfgang Priesemuth.

DISCUSSION

The declaration submitted on 06 August 2001 identifies Wolfgang Priesemuth as the inventor and his country of citizenship and states the relationship of Danuta Renata Priesemuth as legal representative for the deceased inventor Wolfgang Priesemuth. The declaration also states the citizenship, residency and mailing address of the legal representative. Thus, the requirements of 37 CFR 1.497 have been met and the declaration is acceptable under 37 CFR 1.42.

Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

The request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **06 August 2001**.

Boris Milef
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

CMK/BM:cmk

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. 21

JOHN D REILLY
C/O MERCK & CO INC
PATENT DEPT
RY60-30 PO BOX 2000
RAHWAY NJ 07065-0907

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MAY 17 2004
OFFICE OF PETITIONS

In re Application of :
Fong, et al. :
Application No. 09/581,894 : ON PETITION
Filed: August 21, 2000 :
Attorney Docket No. 20146P :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, 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 timely file a response to the non-final Office action mailed August 14, 2002. This Office action set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on November 15, 2002. A Notice of Abandonment was mailed on April 8, 2003.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made a proper statement of unintentional delay

The application file is being forwarded to Group Art Unit 1646 for consideration of the amendment and IDS filed April 12, 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

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

SEP 26 2005

#17

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of :
Jose Francisco Garcia Martin, et al. :
Application No. 09/581,946 :
Filed: November 8, 2000 :
For: DOOR MODULE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on October 18, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt dated September 20, 2002.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/rwg: 1/18/05

Randolph A. Reese
Special Programs Examiner
Group 3600

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ALEXANDRIA, VA 22313-1450
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Paper No. 13

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Beale, Glenn Robert
Application No. 09/581,956
Filed: November 17, 2000
Attorney Docket No. WDUMR-003US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 2, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed August 16, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 17, 2002. A Notice of Abandonment was mailed on March 20, 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 3700 for further examination on the merits.

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

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

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Paper No. 15

THERESE A HENDRICKS
WOLF GREENFIELD & SACKS
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of	:	
Norman William Macleod	:	
Application No. 09/581,978	:	DECISION GRANTING
Filed: 20 June, 2000	:	PETITION
Attorney Docket No. P0557/7030	:	

This is a decision on the petition filed on 28 April, 2003, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 20 June, 2000, rather than the presently accorded filing date of 21 August, 2000.

Petitioner alleges that the application was deposited in Express Mail service on 20 June, 2000. In support, on 28 April, 2003, petitioner supplied a copy of a USPS Express Mail Post Office to Addressee label bearing Express Mail label No. EM529190415US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) and a "date-in" and official USPS postmark of 20 June, 2000.

In view of the above, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 20 June, 2000, and for issuance of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center 1700 for further examination.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MAR 2 6 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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

ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3606

In re Application of	:	
ROLF LARSSON	:	
Application No.: 09/582,003	:	DECISION ON PETITION
PCT No.: PCT/SE98/02302	:	
Int. Filing Date: 15 December 1998	:	UNDER 37 CFR 1.181
Priority Date: 19 December 1997	:	
Attorney Docket No.: 11412	:	
For: WELDING APPARATUS	:	

This is a decision on applicants' "Petition Under 37 CFR 1.182 [sic]" requesting the withdrawal of abandonment in the above referenced application filed on 26 February 2002 in the United States Patent and Trademark Office (USPTO) and also filed as a communication on 23 January 2002. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 12 July 2000, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. A one month period of time was set to respond to the Notification.

On 11 January 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements.

Applicant submitted a communication on 23 January 2002 and the instant petition under 37 CFR 1.182 on 26 February 2002, requesting withdrawal of the holding of abandonment along with a copy of the declaration, assignment and canceled check in the amount of $280 allegedly deposited on 01 September 2000 in the USPTO.

DISCUSSION

A review of the USPTO application file reveals that Notification of Missing

Requirements (Form PCT/DO/EO/905) was mailed to applicants on 12 July 2000. A review of the finance records for this application do not indicate that the $130 surcharge or $40 assignment fee were paid.

In his 23 January 2002 and 26 February 2002 submissions, applicant alleges that he mailed an executed declaration on 01 September 2000. However, the 01 September 2000 submission is not found in the application file. The 23 January 2002 submission includes a copy of the allegedly earlier filed declaration but does not include "a copy of the date-stamped postcard receipt " for 01 September 2000.

Without the 01 September 2000 submission, the application must be considered abandoned for failure to timely respond to the Notification of Missing Requirements. In requesting withdrawal of the abandonment of the application, applicant must file a petition under 37 CFR 1.181 providing a true copy of the USPTO date-stamped itemized postcard receipt indicating the filing of the declaration on 01 September 2000 along with a copy of the declaration as filed.

The evidence submitted is insufficient to establish that the declaration for this application was received in the USPTO on 01 September 2000. Accordingly, it is inappropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 01 September 2000 at this time.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**.

The application remains **ABANDONED**.

Any reconsideration on the merits of this petition should be entitled "Renewed Petition under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/cmk

Telephone: (703) 306-5467

03 DEC 2002
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WASHINGTON, D.C. 20231
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ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3606

In re Application of :
ROLF LARSSON :
Application No.: 09/582,003 : DECISION ON PETITION
PCT No.: PCT/SE98/02302 :
Int. Filing Date: 15 December 1998 :
Priority Date: 19 December 1997 :
Attorney Docket No.: 11412 :
For: WELDING APPARATUS :

This is a decision on applicants' "Petition Under 37 CFR 1.137(b)" requesting the revival of abandoned application. The petition was filed on 18 April 2002 in the United States Patent and Trademark Office (USPTO). However, the petition is being treated as a petition under 37 CFR 1.182 for reasons explained below. A $130 petition fee is required and will be charged to applicant's deposit account per their authorization.

BACKGROUND

On 12 July 2000, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. A one month period of time was set to respond to the Notification.

On 11 January 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements.

Applicant submitted a communication on 23 January 2002 and a petition under 37 CFR 1.182 on 26 February 2002, requesting withdrawal of the holding of abandonment along with a copy of the declaration, assignment and canceled check in the amount of $280 allegedly deposited on 01 September 2000 in the USPTO.

In his 23 January 2002 and 26 February 2002 submissions, applicant alleged that he mailed an executed declaration on 01 September 2000. However, the 01 September 2000 submission was not found in the application file. The 23 January 2002 submission included a

copy of the allegedly earlier filed declaration but did not include "a copy of the date-stamped postcard receipt " for 01 September 2000.

In a decision mailed on 26 March 2002, applicant was advised that without the 01 September 2000 submission, the application must be considered abandoned for failure to timely respond to the Notification of Missing Requirements. Applicant was further advised that in requesting withdrawal of the abandonment of the application, he must file a petition under 37 CFR 1.181 providing a true copy of the USPTO date-stamped itemized postcard receipt indicating the filing of the declaration on 01 September 2000 along with a copy of the declaration as filed.

Thereafter, in a telephone conversation with the undersigned, attorney of record Keith Orum indicated that he believed that the declaration had been inadvertently directed to another of the firm's applications, 09/582,005. A review of that application file did indeed result in locating the missing declaration, which was mailed on 01 September 2000 and received in the USPTO on 05 September 2000. The "Response to Notification of Missing Requirements and Assignment" referenced application no. 09/582,005; however, attached to the response was a copy of the Notification of Missing Requirements for application no. 09/582,003 and a declaration directed to the specification attached hereto and claiming benefit under 35 U.S.C. 120 to PCT/SE98/02390. A specification was not attached to the declaration. A request for a one month extension of time was requested, which is granted. A review of the finance records for application 09/582,005 indicated that the $130 surcharge, $110 extension of time fee and $40 assignment fee were paid.

On 18 April 2002, applicant filed the instant petition to revive the abandoned application under 37 CFR 1.137(b), which is treated as a petition under 37 CFR 1.182 to correct the application number on the 05 September 2000 filing.

DISCUSSION

A review of the USPTO application file for 09/582,003 reveals that Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants on 12 July 2000.

As indicated above, a review of the finance records for 09/582,005 indicates that the surcharge for filing the declaration after the thirty month period ($130) was paid on 05 September 2000. Upon a review of the application file for 09/582,005, a response to the Notification of Missing Requirements for 09/582,003 was located along with an executed declaration. The declaration was dated-stamped 05 September 2000 by the USPTO. Accordingly, it is appropriate grant applicant's petition under 37 CFR 1.182 and to docket the declaration in 09/582,003 with a deposit date of 05 September 2000.

Thus, the renewed petition under 37 CFR 1.137(b) is considered moot, as the declaration, executed by the inventor and submitted on 05 September 2000 and request for extension of time, is considered responsive to the 12 July 2000 Notification of Missing Requirements. The $1280 fee for a petition to revive under 37 CFR 1.137(b) is refunded to applicant's deposit account.

The declaration submitted on 05 September 2000 indicates that it is directed to the "attached specification"; however, no specification was attached to the declaration nor was U.S. application number 09/582,003 referenced. Moreover, the declaration references the wrong PCT application number (PCT/SE98/02390). The declaration is unacceptable under 37 CFR 1.497(a), which requires that the declaration identify the specification to which it is directed.

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 18 April 2002 in the above-captioned application is **DISMISSED AS MOOT**.

The 11 January 2002 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

The petition under 37 CFR 1.182 is **GRANTED**. However, as discussed above, the declaration as submitted is unacceptable under 37 CFR 1.497.

It is noted that the time within which to respond to the Notification of Missing Requirements (Form PCT/DO/EO 905) mailed on 12 July 2000 has expired. Applicant must correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.497 within **ONE (1) MONTH** from the mail date of this Decision. No extensions of time may be obtained under 37 CFR 1.136(a). Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Request Under 37 CFR 1.497" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

The application will be held in the PCT Legal Office to await applicant's response.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Boris Milef
Legal Examiner
PCT Legal Office

Telephone: (703) 306-5467
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05 MAR 2003

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WASHINGTON, D.C. 20231
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05 MAR 2003

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ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3606

In re Application of	:	
ROLF LARSSON	:	
Application No.: 09/582,003	:	DECISION ON PETITION
PCT No.: PCT/SE98/02302	:	
Int. Filing Date: 15 December 1998	:	
Priority Date: 19 December 1997	:	
Attorney Docket No.: 11412	:	
For: WELDING APPARATUS	:	

This is a decision on applicants' "Renewed Request Under 37 CFR 1.497" filed in the United States Patent and Trademark Office (USPTO) on 19 December 2002 requesting the acceptance of the declaration filed on 27 November 2002 and the refund of the $130 petition fee. A copy of the declaration accompanied the request.

In a 03 December 2002 decision on a petition to revive under 37 CFR 1.137(b), which dismissed the petition as moot, applicant was advised that a new declaration identifying the specification to which it is directed was required. However, on 02 December 2002, applicant had filed a petition under 37 CFR 1.182 to Correct the Serial Number on Response and for Refund of Fee accompanied by a newly executed declaration and petition fee.

On 19 December 2002, applicant filed the instant Petition under 37 CFR 1.497 along with a copy of the declaration, filed on 02 December 2002. A review of the declaration reveals that it identifies the specification 09/582,003 and PCT application number (PCT/SE98/02302) to which it is directed. The declaration filed on 02 December 2002 is acceptable under 37 CFR 1.497.

A review of the finance records for 09/582,003 indicates that the surcharge for filing the declaration after the thirty month period ($130) was paid on 05 September 2000. A $130 fee for petition under 37 CFR 1.182 to correct the serial number on the 05 September 2000 filing has been paid.

With regard to the request for a refund of the petition fee charged on 02 December 2002, the $130 petition fee was refunded as it was a duplicate fee and charged in error. A refund of $1,280 for the petition to revive under 37 CFR 1.137(b) filed on 18 April 2002 was also refunded as the petition was dismissed as moot on 03 December 2002.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.497 to accept the newly executed declaration filed 02 December 2002 in the above-captioned application is **GRANTED**.

A refund of the $130 petition fee charged on 02 December 2002 and $1,280 for petition to revive under 37 CFR 1.137(b) charged on 18 April 2002 have bee refunded to applicant's deposit account.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **02 December 2002.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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Washington, D.C. 20231
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NOV 23 2001

Alan W. Young
YOUNG LAW FIRM
4370 Alpine Road, Suite 106
Portola Valley, CA 94028

In re Application of
HELLE, Jacky, et al.
U.S. Application No.: 09/582,006
PCT No.: PCT/FR98/02776
International Filing Date: 18 December 1998
Priority Date: 19 December 1997
Attorney's Docket No.: MUNR5702
For: DEVICE AND METHOD FOR MOUNTING A SADDLE HUB ON A PIPE AND CORRESPONDING TYPE

DECISION ON PETITION

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and the papers submitted seeking acceptance of the application without the signature of all the applicants (treated as a petition under 37 CFR 1.47(a)) filed 09 July 2001. Applicants have paid the required petition fees.

BACKGROUND

The procedural background for this application was set forth in the Communication mailed 08 May 2001. That communication noted that applicants did not pay the basic national fee prior to the expiration of thirty months from the priority date, and that the application was therefore abandoned. The communication also noted that the materials submitted by applicants seeking acceptance of the application without the signature of all the applicants did not constitute a grantable petition under 37 CFR 1.47(a).

On 09 July 2001, applicants filed the petitions addressed below. At this time, applicants also submitted a translation of the international application into English, and the surcharge for filing this translation after the thirty month deadline.

DISCUSSION

A. Petition For Revival

Applicants' statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

B. Petition Under 37 CFR 1.47(a)

Applicants seek acceptance of the application under 37 CFR 1.47(a) without the signature of applicant Alain CALCA. As set forth in the previous communication, a grantable petition under 37 CFR 1.47(a) requires the following: (1) the fee under 37 CFR 1.17(I), (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The declaration filed by applicants on 30 October 2000 satisfied item (3) above. Applicants' present submission satisfies the remaining requirements. Accordingly, this application may be accepted under 37 CFR 1.47(a) without the signature of applicant Alain CALCA.

CONCLUSION

Applicants' petition to revive the application under 37 CFR 1.137(b) is **GRANTED**.

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of the nonsigning inventor, Alain CALCA.

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

The application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The 35 U.S.C. 371 date is 30 October 2000.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 23 2001

Alain CALCA
3 Route de Dargnies, F-80220
Bouvaincourt/Bresle
FRANCE

In re Application of: HELLE, Jacky, et al.
U.S. Application No.: 09/582,006
PCT No.: PCT/FR98/02776
International Filing Date: 18 December 1998
Priority Date: 19 December 1997
Attorney's Docket No.: MUNR5702
For: DEVICE AND METHOD FOR MOUNTING A SADDLE HUB ON A PIPE AND CORRESPONDING TYPE

Dear Mr. CALCA:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a). Should a patent be granted, you will be designated as an inventor.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

Counsel of Record:
Alan W. Young
YOUNG LAW FIRM
4370 Alpine Road, Suite 106
Portola Valley, CA 94028

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Director's Office
Office of Patent Publication

STEPHEN D. SCANLON
JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

In re Application of :
MAIER, WILHELM F., et al. :
Application No. 09/582,116 : **DECISION ON PETITION**
Filed: September 18, 2000 :
Attorney Docket No. 975902600043 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 C.F.R. 1.181, received in the United States Patent and Trademark Office (USPTO) on May 14, 2004.

The petition is **DISMISSED**.

The application was held abandoned for Applicants failure to timely pay the issue fee and publication fee, if applicable, within the three (3) month statutory period to reply, as required in the Notice of Allowance and Fee(s) Due, mailed December 1, 2003.

The Office acknowledges receipt of PART B – FEE(S) TRANSMITTAL on March 1, 2004, as evidenced by the "Office Date" stamp thereon and thereafter scanned as a computer image into the Image File Wrapper (IFW) system. The FEE(S) TRANSMITTAL authorized that the Issue Fee, and Advance Order Copies Fee be charged to Deposit Account No. 50-1432.

Unfortunately, on March 4, 2004, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

The petitioner therefore has not complied with 37 CFR 1.25(b), which states in part:

> ... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.
> ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

In light of the non-compliance with 37 CFR 1.25(b), the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR 1.137 may be directed to the Office of Petitions at 703-305-9282 or 9285 or addressed as follows:

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

Telephone inquires concerning this decision matter 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

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www.uspto.gov

Stephen D. Scanlon
Jones Day
901 Lakeside Avenue
Cleveland OH 44114

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OFFICE OF PETITIONS

In re Application of :
Wilhelm F. MAIER et al. :
Application No. 09/582,116 : ON PETITION
Filed: September 18, 2000 :
Attorney Docket No. STUDIEN 272- :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 1, 2003, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 2, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Church Street Station
New York NY 10008-0770

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
Esch et al. :
Application No. 09/582,307 : DECISION ON PETITION
Filed: June 22, 2000 :
Attorney Docket :
No.20794/0205568-US0

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2008, 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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed May 24, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 25, 2001. A Notice of Abandonment was mailed on September 26, 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

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

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

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

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

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

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

As to Period (1):

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

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Although petitioner has provided evidence that an attempt has been made to obtain information from previous counsel as the cause of the delay in submitting a reply to the non-final Office action, applicants have not provided a statement.

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury

to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 5 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Darby and Darby and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

It appears that current counsel knew of the abandonment of the application by October 18, 2006. Petitioner states that the Office did not enter a change of address filed on October 18, 2006 until January 8, 2008. However, there is no explanation why a petition to revive was not filed in 2006.

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

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

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

Any renewed petition may be addressed as follows:

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
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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New York NY 10008-0770

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Esch et al. :
Application No. 09/582,307 : DECISION ON PETITION
Filed: June 22, 2000 :
Attorney Docket :
No.20794/0205568-US0

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed May 24, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 25, 2001. A Notice of Abandonment was mailed on September 26, 2002. A petition filed under 37 CFR 1.137(b) was dismissed on August 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema 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
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In re Patent No. 6247505
Issue Date: June 19,2001
Application No. 09582354
Filed: June 23,2000
Attorney Docket No. SWR-0008

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

This is a decision on the electronic petition, filed December 18,2006 ,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 18,2006. 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.

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)
6247505	2001-06-19	09582354	2000-06-23	

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

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	/Volker Herwig/	Date (YYYY-MM-DD)	2006-12-18
Name	Volker Herwig, for Frotteirweberei Vossen GmbH		
Enter Reel and Frame Number		Remove	
Reel Number	010930	Frame Number	0761
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.

#3

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address:Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

AUG 17 2000

Bruce D. Gray
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

In re Application of :
JOSHI, Harish C. *et al* :
U.S. Application No.: 09/582,375 :
PCT No.: PCT/US98/14979 :
Int. Filing Date: 20 July 1998 : DECISION ON PETITION
Priority Date: 19 August 1997 : UNDER 37 CFR 1.181
Attorney's Docket No.: EMU144NAT :
For: NOSCAPINE DERIVATIVES, USEFUL :
AS ANTICANCER AGENTS :

The decision is in response to applicants' "Submission of Photocopies of Transmittal Documents and Request for Entry Into National Phase Under 35 U.S.C. 371" filed on 08 June 2000. This is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 20 July 1998, applicants filed international application PCT/US98/14979 claiming priority to a United States patent application filed 19 August 1997.

On 17 March 1999, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, *i.e.*, 22 February 2000 (19 February 2000 was a Saturday and 21 February 2000 was a holiday).

On 18 February 2000, applicants purportedly filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an unexecuted declaration, a signed small entity statement, copies of the international preliminary examination report, and a check of $87.00 for the basic national fee and independent claim fee.

On 21 June 2000, applicants submitted the instant "Submission of Photocopies of Transmittal Documents and Request for Entry Into National Phase Under 35 U.S.C. 371" which was accompanied by, *inter alia*, copies of the documents purportedly filed 18 February 2000, the stamped postcard receipt for the 18 February 2000 documents, and a copy of Express Mail Receipt No. EL209596617US.

DISCUSSION

MPEP 503 lists procedures for applicants to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. For example, the MPEP states each separate component, *e.g.*, the number of pages of specification, number of claims (nonprovisional applications), number of sheets of drawings, cover sheet (provisional applications), etc. should be itemized on the postcard.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt clearly identifies the application by PCT number, title, applicant and docket number. The receipt itemizes all papers filed in the PTO including the transmittal letter, unexecuted declaration, small entity statement, and a check for $87.00. The receipt is stamped "418 Rec'd PCT/PTO 18 FEB 2000" across its face.

Applicants also included a copy of Express Mail Receipt No. EL209596617US indicating that the documents were deposited with the USPS on "2 - 18 - 00." Furthermore, Express Mail Receipt No. EL209596617US was listed on the "Certificate of Mailing" and postcard receipt of the documents purportedly filed 18 February 2000.

Thus, applicants have submitted *prima facie* evidence of receipt in the PTO of those items listed on the postcard receipt. Moreover, a review of PTO financial records indicate that a check of $87.00 was received on 18 February 2000 and placed in the financial records of PCT/US98/14979. The $87.00 in fees have been removed and placed in the above-captioned application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 to accept the documents as filed on 18 February 2000 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for

further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 and surcharge fee pursuant to 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Attorney
PCT Legal Office

Tel.: (703) 308-6457

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COMMISSIONER FOR PATENTS
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8TH FLOOR
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Yamashita, et al.	:	DECISION ON APPLICATION FOR
Application No. 09/582,404	:	PATENT TERM ADJUSTMENT
Filed: June 23, 2000	:	
Atty. Dkt. No.: 19941A-00030	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed February 28, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705 is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days as indicated on the Determination of Patent Term Extension mailed December 28, 2004 to an adjustment of 246 days.

Applicants argue that the instant application was filed after May 29, 2000, not between June 7, 1995 and May 29, 2000 and is thus subject to the provisions of 37 CFR 1.702.

The instant application is a national stage entry of PCT/JP98/05915, filed December 28, 1998. In order for a national stage entry of an international application to be subject to the PTA provisions of 35 USC 154(b), the international application must have an international filing date of May 29, 2000 or later. The date on which the international application either complies with 35 USC 371(c) or enters the National Stage is not relevant for determining eligibility for PTA. See, § 4405(a) of the American Inventor's Protection Act ("AIPA"), 35 USC § 363, and 37 CFR § 1.702(f). As the instant application is a national stage entry of an international application filed prior to May 29, 2000, the instant application is not eligible for PTA.

The Office acknowledges receipt of the required $200.00 application for patent term adjustment fee.

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.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of 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. 26

SUGHRUE MION ZINN
MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3202

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Kazuhiko Ohga, et al. :
Application No. 09/582,495 : ON PETITION
Filed: June 27, 2000 :
Attorney Docket No. Q59644 :

This is a decision on the petition, filed March 26, 2004, which is being treated under 37 CFR(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 4, 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1625 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/25/06 EXPEDITE Paper No.: _____

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No.: 09582512 Patent No.: 6350791

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

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

Valerie Sacks
Certificates of Correction Branch
703-308-9390 ext. 114

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 1711 Art Unit

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SUITE 300
WASHINGTON, DC 20001-5303

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Zeev, MAOR, et al :
Application No. 09/582,522 : ON PETITION
Filed: August 24, 2000 :
Attorney Docket No. MAOR2 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 8, 2006.

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), (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Since the $130 petition fee submitted with the petition on February 9, 2007 is unnecessary, it will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

MAIL

JAN 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVENS DAVIS MILLER & MOSHER
1615 L STREET NW SUITE 850
WASHINGTON DC 20036

In re Application of :
Sudo et al. :
Application No. 09/582,558 :
Filed: June 29, 2000 :
For: **TRANSMITTING/RECEIVING DEVICE AND TRANSMITTING/RECEIVING METHOD** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 20, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition 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 petitioner 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. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

BAKER BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

APR 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Gunter Fuhr et al :
Application No. 09/582,609 :
Filed: September 6, 2000 :
Attorney Docket No. A33331-PCT :

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 1641.

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

May 3, 2006

Bradley B. Geist
Baker Botts, LLP
30 Rockefeller Plaza
New York, NY 10112

Patent No.: 6991906 B1
Application No.: 09/582609
Inventor(s): **Gunter Fuhr, et al.**
Issued: January 31, 2006
Title: **METHOD AND DEVICE FOR MEASURING, CALIBRATING AND USING LASER TWEEZERS**

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 & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,391,799	:	
Issue Date: May 21, 2002	:	
Application No. 09/582,630	:	ON PETITION
Filed: July 26, 2000	:	
Patentee: Lea Di Cioccio	:	

This is a decision in response to the petitions, filed July 31, 2006, August 17, 2006, August 30, 2006 and September 13, 2006, which are collectively being treated as a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 22, 2006 for failure to pay the 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 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Since it is noted that counsel's deposit account was charged $2,540 for the maintenance fee and surcharge on July 31, 2006, August 17, 2006 and August 30, 2006, the $5,080 overpayment is being refunded to counsel's deposit account.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

#12

December 9, 2002

Patent No.: 6,454,680
Inventor(s): Taimela
Issued: September 24, 2002
APPARATUS FOR EXERCISE AND/OR REHABILITATION OF NECK EXTENSORS

Re: Request for Certificate of Correction

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

Respecting the correction to the priority data, the alleged error, resulted from applicant's failure to fully comply with 35 U.S.C. 119, requiring that both a claim for priority and a certified copy of the foreign application be filed for a patent to issue with such information.

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

However, relief can be sought through filing a petition under 37 CFR 1.182, petition should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or Fax number.

By Mail: Commissioner of Patent and Trademarks
Box DAC
Washington, D.C. 20231

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

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

Michelle Williams For
Cecelia B. Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 305-8309 or (703) 305-8364

YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

mw

#14

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 09/22/04

Patent No.: 6454680 B1
Inventor(s): TAIMELA, SIMO
Patent Issued: 09/24/02
Title: **APPARATUS FOR EXERCISE AND/OR REHABILITATION OF NECK EXTENSORS**
Docket No.: **13530J**

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.

Respecting the correction to the priority data, the alleged error, resulted from applicant's failure to fully comply with 35 U.S.C. 119, requiring that both a claim for priority and a certified copy the foreign application be filed for a patent to issue with such information.

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

However, relief can be sought through filing a petition under 37 CFR 1.182, petition should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or fax number.

By Mail: Commissioner of Patents and Trademarks
Mail Stop: Petitions
Alexandria, VA 22313

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

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-305-5358

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

LMN

09 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

In re Application of	:	DECISION ON
TAIMELA	:	
Application No.: 09/582,718	:	
PCT No.: PCT/FI98/01024	:	PETITION
Int. Filing Date: 28 June 1998	:	
Priority Date: 30 December 1997	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 13530J	:	
For: APPARATUS FOR EXERCISE AND/OR REHABILITATION OF NECK EXTENSORS	:	

Applicant's petition under 37 CFR 1.182, filed 07 October 2004, requesting a certificate of correction to add foreign priority, has been treated under 37 CFR 1.181 and is **GRANTED.** No fee is required.

BACKGROUND

On 28 December 1998, applicant filed international application PCT/FI98/01024, which claimed priority of Finnish application 974645 filed 30 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 July 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 July 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 30 June 2000.

On 30 June 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); a declaration as required by 35 U.S.C. 371(c)(4); and an application data sheet.

DISCUSSION

A review of the file clearly indicates that the claim to foreign priority was made in the application data sheet and a copy of the certified copy of the Finnish document received by

the International Bureau in compliance with Rule 17 was in the US file as of 30 June 2000. Accordingly, the USPTO erred in not printing the patent with the foreign priority information and in dismissing the previous requests for a certificate of correction.

CONCLUSION

Certificate of Corrections Branch is directed to print the Certificate of Corrections as requested by applicant.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : June 8, 2006

TO SPE OF : ART UNIT 2617 **(S.P.E. George Eng)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/582,721 Patent No.: 6871068

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**.

Madras (electronic system) shows no doc. Abstract, and after searching every document, an Abstract still is not in the system, I snagged the contents of the IFW application. Please see entire 1050 form. Thank you.

Stacy Powell
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: The request for Certificate of correction under C.F.R 1.322 has been reviewed and approved. The "abstract" is in page 3 of "Documents submitted with 371 Application" filed 6/29/2000.

George Eng
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

DATE: June 28, 2006
TO: Certificates of Correction Branch
FROM: George Eng
SPE, Art Unit 2617
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,871,068 as specified on the attached Certificate.

George Eng, SPE
Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,871,068

APPLICATION NO.: 09/582,721

ISSUE DATE : March 22, 2005

INVENTOR(S) : O'Neill

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:

Cover page, title (54), delete "Updated" and insert --Updating--

Cover page, § 371 (c)(1), (2), (4) date (86), delete "Jun. 29, 2000" and insert --Jun. 28, 2000--

Cover page, Abstract (57), line 1, delete "date" and insert --data--

Cover page, Abstract (57), line 12, delete "Tee" and insert --The--

Column 3, line 26, delete "tone" and insert --the--

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

TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/582,746	**10/18/05**	**MALCOLM CARTER, ET AL.**	**2801-0209X**

Title: **HETEROCYCLIC COMPOUNDS**

Art Unit	Paper Number

Correspondence Address:
MARYANNE ARMSTRONG
P.O. BOX 747
FALLS CHURCH, VA. 22040

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: 536,195
Grant Date: 05-Apr-06

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:
for Commissioner of Patents and Trademar

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 aplication or applications.

This license is granted under 37 CFR 5.15(a).

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

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 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 Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Petitioner:	Carter et al.	:DECISION ON REQUEST
Petition No.:	09/582,746	:UNDER 37 CFR 5.25
Petition Filing Date:	18 October 2005	
Docket No.:	2801-0209X	

Title: HETEROCYCLIC COMPOUNDS

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Foreign Filing Location	**Date**
SEE APPLICANTS' ATTACHMENT "A" (attached)	

Yvonne R. Abbott, Esq.
Patent Examiner
Licensing & Review
(571) 272-6896

Attachment A

Case Report PG3416 23apr04

PG3416

Country	Filing No.	Rel Type	Filing Type	Appln. No.	Appln. Date
Argentina		ORG	NAT	P990100083	11-Jan-1999
A.R.I.P.O.		ORG	B	AP.P.00.01861	08-Jan-1999
Armenia		ORG	Z	EA200000637	08-Jan-1999
Australia		ORG	P	749549	08-Jan-1999
Azerbaijan		ORG	Z	EA200000637	08-Jan-1999
Belarus		ORG	Z	EA200000637	08-Jan-1999
Brazil		ORG	P	PI9906904.0	08-Jan-1999
Bulgaria		ORG	P	104668	08-Jan-1999
Canada		ORG	P	2317589	08-Jan-1999
Chile		ORG	NAT	1999.049	12-Jan-1999
China P.R.		ORG	P	99803887.3	08-Jan-1999
Colombia		ORG	NAT	99.001.037	08-Jan-1999
Croatia		ORG	P	P20000469A	08-Jan-1999
Czech Republic		ORG	P	PV2000.2587	08-Jan-1999
Egypt	BB	ORG	NAT	26.99	11-Jan-1999
Estonia		ORG	P	P200000411	08-Jan-1999
Eurasian Patent Convention		ORG	Z	EA200000637	08-Jan-1999

European Patent Convention		ORG	X	99902522.4	08-Jan-1999
Georgia		ORG	P	GEAP1999004014	08-Jan-1999
Great Britain		ORG	NAT	9800569.7	12-Jan-1998
Gulf Cooperation Council		ORG	G	MTKH/B/99/92	20-Feb-1999
Hong Kong		ORG	NAT	01102589.2	08-Jan-1999
Hungary		ORG	P	P0100941	08-Jan-1999
Iceland		ORG	P	5549	08-Jan-1999
India		ORG	P	INPCT.2000.00130	08-Jan-1999
Indonesia		ORG	P	W.20001353	08-Jan-1999
Israel		ORG	P	137041	08-Jan-1999
Jamaica		ORG	NAT	18.1.4068	13-Nov-2000
Japan	2	D	NAT	092102.02	28-Mar-2002
Japan		ORG	P	2000.527545	08-Jan-1999
Kazakhstan		ORG	Z	EA200000637	08-Jan-1999
Korea South		ORG	P	1020007007635	08-Jan-1999
Kyrgyzstan		ORG	Z	EA200000637	08-Jan-1999
Malaysia		ORG	NAT	PI99000090	11-Jan-1999
Mexico		ORG	P	6824	08-Jan-1999

Moldova		ORG	Z	EA200000637	08-Jan-1999
Morocco	BB	ORG	NAT	PV.25422	08-Jan-1999
New Zealand		ORG	P	505456	08-Jan-1999
Norway		ORG	P	2000.3561	08-Jan-1999
O.A.P.I.		ORG	P	1200000202	08-Jan-1999
Patent Cooperation Treaty		ORG	P	PCT.EP99.00048	08-Jan-1999
Peru		ORG	NAT	000020.1999.OIN	11-Jan-1999
Philippines		ORG	NAT	I.1999.00059	11-Jan-1999
Poland		ORG	P	P.341595	08-Jan-1999
Russian Federation		ORG	Z	EA200000637	08-Jan-1999
Serbia-Montenegro		ORG	P	P448.00	08-Jan-1999
Singapore		ORG	P	200003600.4	08-Jan-1999
Slovak Republic		ORG	P	PV1050.2000	08-Jan-1999
South Africa		ORG	NAT	99.0172	11-Jan-1999
Sri Lanka		ORG	P	12133	08-Jan-1999
Taiwan		ORG	NAT	88100388	12-Jan-1999
Tajikistan		ORG	NAT	EA200000637	08-Jan-1999
Thailand		ORG	NAT	048150	11-Jan-1999

Turkey		ORG	P	2000.02015	08-Jan-1999
Turkmenistan		ORG	Z	EA200000637	08-Jan-1999
Ukraine		ORG	P	UA.200074012/M	08-Jan-1999
United States		ORG	P	09.582746	08-Jan-1999
United States	2	C	NAT	10.071358	08-Feb-2002
United States	3	C	NAT	10/342810	15-Jan-2003
Venezuela		ORG	NAT	37.99	11-Jan-1999

MS LICENSING AND REVIEW
PATENT
2801-0209X

IN THE U.S. PATENT AND TRADEMARK OFFICE

RECEIVED
OCT 18 2005
LICENSING & REVIEW

Applicant: Malcolm CARTER et al.

Patent No.: 6,727,256 B1

Filed: January 8, 1999

Issued: April 27, 2004

For: HETEROCYCLIC COMPOUNDS

09/858,946

PETITION FOR RETROACTIVE FOREIGN FILING
LICENSE UNDER 37 C.F.R. §§ 5.13, 5.14, & 5.25

MS LICENSING AND REVIEW
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 25, 2004

Sir:

Applicants respectfully petition under 37 C.F.R.§§ 5.13, 5.14, and 5.25 for a retroactive foreign filing license for the subject matter of U.S. Patent No. 6,727,256 B1 (the '256 patent).

(1) Listing of each of the foreign countries in which the unlicensed patent application material was filed

Attached hereto as "Attachment A" is a list of each country in which patent applications containing the subject matter the '256 patent, was filed.

(2) The dates on which the material was filed each country

Please also see Attachment A for the dates on which each corresponding foreign application was filed.

(3) Verified Statement

Attached hereto is a Verified Statement/Declaration of Mr. Michael Antony Reed, who has first hand knowledge of the events surrounding the foreign filing of the subject matter of the '256 patent. The Verified Statement of Mr. Reed, states the following:

(i) The subject matter disclosed in the '256 patent was not under a secrecy order when it was filed abroad and is not now under a secrecy order.

(ii) Paragraph 6), beginning at page 5 of the Verified Statement, details how the foreign filing license has been diligently sought, with the inclusion of the present petition, after the discovery of the proscribed filings. Briefly, after the application that issued into the '256 patent was allowed (February 2004), the Assignee, conducted an internal audit of the prosecution files of both App. No. 09/582,746 (now issued as the '256 patent) and App. No. 10/071,358 (now U.S. Pat. No.

6,713,485 B2), which was filed as a continuation application of App. No. 09/582,746 (now the '256 patent).

During that audit it was determined that the possible need for a foreign filing license was inadvertently not considered when the PCT application was filed in a non-U.S. receiving office. In March, 2004, the Assignee contacted their outside counsel (the undersigned) to look into this matter.

After reviewing the documents associated with the filing of the '256 patent, the undersigned determined that due to the inclusion of work by Karen Lackey (a U.S. inventor, whose work was conducted in the U.S.) in the PCT application, a foreign filing license should have been obtained. The present petition and Verified Statement of Mr. Reed have been diligently prepared since this determination.

(iii) The Verified Statement of Mr. Reed further details how the material contained in the '256 patent was filed abroad through error and without deceptive intent without the required foreign filing license.

Briefly, on January 12, 1998 British App. No. 9800569 was filed. The British application disclosed only subject matter developed outside the U.S. by non-U.S. inventors. Thus, no

foreign filing license from the U.S. was needed for the British filing.

During the priority year, additional research was done, including work done by co-inventor Karen Lackey in the U.S. This additional work was added to the specification of the British application in preparation for the PCT filing. When the PCT specification was finalized for filing in late December, it was determined that Karen Lackey should be named as an inventor because of the added subject matter to the specification. However, Mr. Reed's office overlooked the issue that by including the work by Karen Lackey in the PCT specification, the PCT application may need a foreign filing license if not filed in the U.S. receiving office.

The PCT filing proceeded and the U.S. national stage was entered on June 30, 2000 as U.S. Application No. 09/582,746 (the '746 application), which later issued as the '256 patent. Subsequently, U.S. App. No. 10/071,358 (issued as U.S. Pat. No. 6,713,485 B2) was filed on February 8, 2002 as a continuation application of the '746 application.

The Assignee first became aware of the oversight when an internal file audit was done upon receiving the Notice of Allowance. As soon as the possible error was identified, the Assignee immediately began steps to address and correct the

error, culminating in the present petition. As noted in the Verified Statement, the failure to obtain the foreign filing license was an earnest oversight, which was addressed as quickly as possible upon discovery. As such, it is respectfully requested that the present petition for a retroactive foreign filing license for the subject matter of the '256 patent (also disclosed in the continuation '485 patent) be granted.

(4) Petition fee

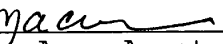
The petition fee of $130.00 required under 37 C.F.R.§1.17(h) is attached hereto.

If there are any questions regarding the present petition or the Examiner requires any additional information, please contact MaryAnne Armstrong, PhD (Reg. No. 40,069) at (703) 205-8063.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
MaryAnne Armstrong, #40,069

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

GMM/MAA
2801-0209X

Attachments:
- ☒ Fee Payment
- ☒ Verified Statement
- ☒ List of countries in the subject matter was filed

(Rev. 02/18/2004)

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- Sales Receipt -

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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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Paper No. 21

SUGHRUE MION ZINN
MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3202

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AUG 12 2002

OFFICE OF PETITIONS

In re Application of :
Akihiko Uchiyama et al :
Application No. 09/582,756 : ON PETITION
Filed: June 30, 2000 :
Attorney Docket No. Q59834 :

This is a decision on the petition, filed by facsimile transmission on August 9, 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 July 30, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Tighe et al. :
Application No. 09/582,760 : Corrected Letter Regarding
International Filing Date: May 25, 2000 : Patent Term Extension
Docket No. 540-204 :
For: AIRCRAFT STRUCTURE FATIGUE :
ALLEVIATION

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on February 15, 2006, which incorrectly states the patent term is extended by 1074 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)[1] and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on April 2, 2002. On March 10, 2005, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on April 2, 2002, the date that the Notice of Appeal was filed, and ending on March 10, 2005, the date of the final decision in favor of the applicant. Three years after the international filing date of the application is May 25, 2003. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **656 days**, not 1074 days, as

[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.

printed on the Notice of Allowance, which is the period from May 25, 2004 to March 10, 2005, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **656 days**.

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

By fax: Attn: Patent Term Extension Reply
(571) 273-8300

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

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

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

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Commissioner for Patents
United States Patent and Trademark Office
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THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH PA 15219-1425

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Norbert W. Quast :
Application No.: 09/582,771 :
Filed: August 29, 2000 :
Attorney Docket No.: DB000852-000 :
For: PROGRAM FLOW METHOD AND :
METHOD FOR EXPANDING A :
PROGRAM COMPONENT SYSTEM :

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 September 13, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance mailed April 3, 2006 which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on July 3, 2006.

On September 13, 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; and (3) the required reply in the form of the corrected drawing sheets. Accordingly, the corrected drawing sheets are accepted as having been unintentionally delayed.

The application is being referred to the Office of Publications. Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Koppel, Jacobs, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Andrew R. Searle, et al. :
Application No. 09/582,796 : ON PETITION
Filed: August 23, 2000 :
Attorney Docket No. 938 26 005 :

This is a decision on the petition under 37 CFR 1.137(a), or in the alternative, 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

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

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

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

A final Office action was mailed to applicant on June 7, 2004, which set a three (3) month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on September 8, 2004.

With regard to item (1):

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in

[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.

condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). **Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), a request for continued examination under 37 CFR 1.114, or the filing of a continuing application.** A copy of the Examiner's Advisory Action is attached herewith.

With regard 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 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner alleges that an amendment was timely filed via facsimile transmission on August 5, 2004. Petitioner also alleges the fax was successfully transmitted and has provided a copy of a "Call Detail Page 2" (hereinafter "Call Detail") to support that the fax was transmitted to the Office. Additionally, petitioner submits a copy of the 9-page amendment with the instant petition.

While the amendment contains a certificate of facsimile transmission under 37 CFR 1.8 dated August 5, 2004 and the Call Detail shows a fax was sent to the USPTO on August 5, 2004, the Call Detail also shows that the fax was transmitted in 18 seconds. It is reasonable to conclude that a 9-page document cannot be transmitted in 18 seconds, which further shows the amendment was not successfully transmitted, as petitioner suggests. 37 CFR 1.8(b) in pertinent part states:

> "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...includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. **If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. ...The Office may require additional evidence to determine if the correspondence was timely filed."** (Emphasis added)

Although petitioner has provided the Call Detail, it does not verify successful facsimile transmission of the amendment. A transmission confirmation report would be more suitable in this instance.

In view of the above, petitioner has not established that the delay in submitting a reply to the outstanding office action was unavoidable.

Moreover, 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 lacks item (1) as already stated. Again, the application will not be revived until a proper reply is received.

Since the petitions under 37 CFR 1.137(a) and 1.137(b) have both been considered by the Office, the petition fees of $500 and $1500, respectively, will be charged to petitioner's deposit account, as authorized.

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

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

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

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

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

Attachment: Examiner's Advisory Action

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

Koppel, Jacobs, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

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JUL 06 2005

OFFICE OF PETITIONS

In re Application of :
Andrew R. Searle, et al. :
Application No. 09/582,796 : ON PETITION
Filed: August 23, 2000 :
Attorney Docket No. 938 26 005 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

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

The application file is being referred to Technology Center 2800.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address:Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

#3

18 OCT 2000

William B. Bond
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427

In re Application of
Kazumori KONDO, et al.
Application No.: 09/582,838
PCT No.: PCT/US98/25736
Int. Filing Date: 04 December 1998
Priority Date: 05 December 1997
Attorney Docket No.: 53859USA2A.008
For: OIL CLEANING SHEETS FOR MAKEUP

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 June 2000 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3) at the time of filing this petition.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/ EO/905) to notify applicants that an oath or declaration of the inventors along with the $130.00 surcharge for submitting an oath or declaration after 30 months from the priority date must be provided in order to avoid

abandonment of the application as to the national stage in the United States.

Boris Milef
PCT Legal Examiner
PCT Legal Office

NNH/BM:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508
Fax: (703) 308-6459

AUG 14 2001
UNITED STATES PATENT AND TRADEMARK OFFICE

#9

Commissioner for Patents
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AUG 14 2001

William J. Bond
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. box 33427
St. Paul, MN 55133-3427

In re Application of KONDO et al	:	
U.S. Application No.: 09/582,838	:	
Int. Application No.: PCT/US98/25736	:	DECISION
Int. Filing Date: 04 December 1998	:	
Priority Date: 05 December 1997	:	
Attorney Docket No.: 53859USA2A.008	:	
For: OIL CLEANING SHEETS FOR MAKEUP	:	

This is in response to applicants' "Request for Corrected Filing Receipt" filed 02 March 2001.

BACKGROUND

On 04 December 1998, applicants filed international application PCT/US98/25736, which claimed priority of an earlier Japan application filed 05 December 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 17 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 June 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 05 June 2000.

International application PCT/US98/25736 became abandoned as to the United States at midnight on 05 June 2000 for failure to file the basic national fee under 35 U.S.C. 371.

On 30 June 2000, applicants filed a petition to revive the present application under 37 CFR 1.137(b). The petition was accompanied by the requisite basic national fee.

On 18 October 2000, the PCT Legal Office of the USPTO mailed a decision granting the 30 June 2000 petition to revive the present application.

On 30 November 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed along with a

surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty (30) months from the priority date.

On 04 January 2001, applicants filed the requisite declaration and surcharge.

On 10 January 2001, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating 04 January 2001 as the date of receipt of 35 U.S.C. 371 requirements.

On 02 March 2001, applicants filed the present request. The request states that the filing date listed on the filing receipt for the present application should be changed to 30 June 2000.

DISCUSSION

For a United States national stage application filed under 35 U.S.C. 371, the filing date listed on the filing receipt is the date the requirements of 35 U.S.C. 371 are satisfied. In the present case, the 35 U.S.C. 371 requirements were fully met on 04 January 2001 as set forth in the Notification of Acceptance of Application mailed 10 January 2001. Thus, 30 June 2000 is not the proper filing date to be listed on the filing receipt.

CONCLUSION

For the reasons above, the request for a corrected filing receipt is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained pursuant to 37 CFR 1.136(a).

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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RICHARD BAUER, ESQ.
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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OFFICE OF PETITIONS

In re Patent No. 6,824,035
Issue Date: November 30, 2004
Application No. 09/582,890
Filed: July 7, 2000
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed January 23, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and
3. a copy of the docket record where the non-received Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the proper evidence required to establish non-receipt of the original Letters Patent. In this regard, the petition lacks item 3 above. Office records reflect that

the Letters Patent was mailed to the address of record at the time; namely, Richard Bauer, Esq.; Katten Muchin Zavis Rosenman; 525 West Monroe Street; Chicago, IL 60661-3693. The evidence submitted does not establish non-receipt of the Letters Patent at that address.

It is noted that petitioner submitted docket records for the above-noted patent. However, the docket records necessary to establish non-receipt must include a copy of the **list** of all papers received in the practitioner's office between November 30, 2004, the date the Letters Patents was mailed, and December 3, 2004, the date of receipt of the soft copies.

In view of the above, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted.

If petitioner cannot submit the required evidence to establish non-receipt of the original Letters Patent or simply does not wish to, petitioner may request reconsideration of the petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the remaining balance of $270 ($400 required petition fee - $130 previously submitted).

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

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

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

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

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

Patent Administrator
Katten Muchin Rosenman, LLP
East Lobby, Suite 700
1025 Thomas Jefferson Street
Washington, DC 20007

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OFFICE OF PETITIONS

In re Patent No. 6,824,035 :
Issue Date: November 30, 2004 :
Application No. 09/582,890 : DECISION ON PETITION
Filed: July 7, 2000 :
Attorney Docket No. 310493.00001 :

This is a decision on the renewed petition under 37 CFR 1.182, filed July 24, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

As authorized, the difference of $270 to complete the required petition fee of $400 (400-130) has been assessed to petitioner's deposit account. Therefore, the petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of the duplicate Letters Patent may be directed to Krystal Paige in the Office of Data Management at (703) 308-9250, Ext. 139.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 Fax No. - (571) 270-9937

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADAMS & WILKS
17 BATTERY PLACE
SUITE 1231
NEW YORK, NY 10004

Mail Date: 04/23/2010

Applicant	: KENJI KATO	: DECISION ON REQUEST FOR
Patent Number	: 7599277	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/582,903	: OF WYETH
Filed	: 08/11/2000	:
		:

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.

20 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fennemore Craig
3003 N. Central Avenue
Suite 2600
Phoenix AZ 85012

In re Application of	:	
PETTIT, George R.	:	
Application No.: 09/582,950	:	
PCT No.: PCT/US99/00419	:	
Int. Filing Date: 08 January 1999	:	DECISION
Priority Date: 09 January 1998	:	
Attorney Docket No.: 12504.355	:	
For: SYNTHESIS OF COMBRETASTATIN A-4 PRODRUGS AND TRANS-ISOMERS THEREOF	:	

This decision is in response to applicant's "Petition Regarding Small Entity Status," filed on 18 July 2005.

On 07 July 2000, applicants filed a transmittal letter for entry into the national stage, accompanied by the fees for a small entity.

On 18 July 2005, applicants submitted the instant petition regarding small entity status and additional fees.

Applicant claims to have established applicant's small entity status in good faith and paid the small entity fees in good faith, but nonetheless, to have done so in error. Applicant has itemized, calculated and paid the deficiency. Applicant has satisfied the provisions of 37 CFR 1.28(c).

For the reasons discussed above, applicant's request under 37 CFR 1.28(c) is **GRANTED**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090811

DATE : August 20, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 6620911

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: Cecilia Tsang **Art Unit** 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090811

DATE : August 14, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 6620911

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: Cecilia Tsang **Art Unit** 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ____

ERIC J. ROBINSON
NIXON PEABODY LLP
8180 GREENSBORO DRIVE, SUITE 800
McLEAN, VIRGINIA 22102

COPY MAILED

SEP 12 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Shunpei Yamazaki :
Application No. 08/962,601 :
Filed: October 31, 1997 :
Attorney Docket No. 0756-1711 :

AND

DECISION ON PETITION

In re Application of :
Shunpei Yamazaki :
Application No. 09/583,087 :
Filed: February 1, 2000 :
Attorney Docket No. 0756-2203 :

This is a decision on the petition under 37 CFR 1.53(e), filed September 5, 2000, requesting, in effect, a filing date of February 1, 2000 of the continued prosecution application (CPA) papers filed in parent Application No. 08/962,601 and that the CPA papers be accepted as a continuation application under 37 CFR 1.53(b) of parent Application No. 08/962,601, filed October 31, 1997.

The petition is **granted**.

A request for a CPA based on prior application No. 08/962,601 was deposited on February 1, 2000. However, the issue fee was paid in the prior application on September 3, 1999. On February 1, 2000, a petition under 37 CFR 1.313(b)(5) was filed in the prior application. However, the petition and the file of the prior application were not received by the appropriate official within sufficient time to avert issuance of the prior application and the prior application was patented on February 8, 2000. Accordingly, the petition to withdraw from issue filed on February 1, 2000 was dismissed as moot on March 27, 2000.

Since the prior application has issued as a patent, the CPA request filed on February 1, 2000 cannot be processed as a proper CPA.

The present petition requests that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b). The petition is accompanied by what applicant claims as a copy of original Application No. 08/962,601 (specification, claims, and drawings), along with a copy of a signed Declaration and Power of Attorney filed in the parent application, and a preliminary amendment.

The instant continuation application under 37 CFR 1.53(b) filed on February 1, 2000 has been assigned application No. 09/583,087. All further communications regarding this application should be directed to Application No. 09/583,087.

The CPA papers filed in the parent application have been placed in Application No. 09/583,087. Receipt is acknowledged of the box of IDS papers filed on September 5, 2000.

Application No. 08/962,201 is being forwarded to Files Repository.

Application No. 09/583,087 is being forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), not as a CPA under 37 CFR 1.53(d), with a filing date of February 1, 2000, using the copy of the specification, claims, drawings and declaration supplied on September 5, 2000. No surcharge is required in Application No. 09/583,087.

Any questions concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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MAY 03 2005
OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 09/583,087	:	ON PETITION
Filed: February 1, 2000	:	
Attorney Docket No. 0756-2203	:	

This is a decision on the petition filed May 3, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARD C. KWOK
SKJERVEN, MORRILL, MACPHERSON,
FRANKLIN & FRIEL
25 METRO DRIVE SUITE 700
SAN JOSE, CA 95110-1349

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SEP 0 5 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Mark Treemblay
Application No. 08/662,582
Filed: June 11, 1996
Attorney Docket No. M-387-US

In re Application of
Mark Treemblay
Application No. 09/583,097
Filed: August 2, 1999
Attorney Docket No. SP-1391 US

DECISION GRANTING
PETITION

This is a decision on the petition filed July 25, 2000, requesting that a Continued Prosecution Application (CPA) filed August 2, 1999, based on prior application No. 08/662,582 be treated as an application under 37 CFR 1.53(b) and be accorded a filing date of August 2, 1999.

The request for a CPA based on prior application No. 08/662,582 was deposited on August 2, 1999. However, the issue fee was paid in the prior application on June 14, 1999. A CPA must be filed before payment of the issue fee in the prior application. See 37 CFR 1.53(d)(1)(ii)(A). Since the prior application has issued as a patent, the CPA request cannot be processed as a proper CPA.

The present petition (including the requisite petition fee) requests that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b). A copy of a specification and drawings, *inter alia*, were provided by Attorney Edward C. Kwok on August 4, 2000, in response to a request by the undersigned for a true copy of the prior complete application. However, there was no signed declaration under 37 CFR 1.63 included therewith. A copy of the declaration from the prior application was provided, via facsimile transmission, on August 15, 2000.

The petition is granted.

The continuation application under 37 CFR 1.53(b) has been assigned application No. 09/583,097. All further correspondence concerning the continuation application filed on August 2, 1999, should be directed to application No. 09/583,097.

In view of this decision, the CPA request filed on August 2, 1999, and the petition filed on July 25, 2000, have been removed

from the file of application No. 08/662,582 and placed in the file of application No. 09/583,097.

The $760.00 CPA filing fee paid in Application No. 08/662,582 will be applied to Application No. 09/583,097.

Thereafter Application No. 08/662,582 will be returned to the files repository.

Application No. 09/583,097 will then be returned to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), not as a CPA under 37 CFR 1.53(d), with a filing date of August 2, 1999, using the copy of the specification, drawings filed August 4, 2000 and the declaration supplied August 15, 2000.

Telephone inquires specific to this matter should be directed to the undersigned at (703) 305-9285.

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

Conferee: F.A. Silverberg

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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Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Application of

Marc Tremblay

Application No. 09/583,097

Filed: August 2, 1999

Attorney Docket No. 33227/189003; P13691-DIV

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April 30, 2008.

The petition is **granted**.

This application was held abandoned on January 6, 2008, after no reply was received to the non-final Office action mailed October 5, 2007. The notice set forth a shortened statutory period for reply of three-months from its mailing date. A Notice of Abandonment was mailed on March 12, 2008. The instant petition was filed on April 30, 2008. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded Technology Center 2100, GAU 2183 for further processing including remailing of the non-final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

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Technology Center 2100

In re Application of: Lane W. Lee, et al.)
Application No. 09/583,133)
Filed: May 30, 2000) **DECISION ON REQUEST FOR**
For: METHOD AND APPARATUS FOR) **WITHDRAWAL AS ATTORNEY**
EMULATING READ/WRITE FILE)
SYSTEM ON A WRITE-ONCE)
STORAGE DISK)

This is a decision on the Request To Withdraw from Representation filed October 30, 2002.

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

The request is **GRANTED**.

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

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

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Technology Center 2100

Paper No. 8

James E. Parsons
SKJERVEN MORRILL LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

In re Application of:)
Lee, Lane W. Et al.)
Application No. 09/583,133) **DECISION ON REQUEST FOR**
Filed: May 30, 2000) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR)
EMULATING READ/WRITE FILE
SYSTEM ON A WRITE-ONCE
STORAGE DISK

This is a decision on the Request To Withdraw from Representation filed December 24, 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 filed December 24, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Alan MacPherson
MACPHERSON KWOK CHEN & HEID LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES G. CALL
215 W. HURON ST APT 2
CHICAGO IL 60610-3331

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Wai-Kwong (Sam) Lee et al :
Application No. 09/583,245 : DECISION GRANTING PETITION
Filed: May 31, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 99,027 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of November 15, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
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

November 13, 2005

Eugene Lieberstein
ANDERSON KILL &OLICK, P. C.
1251 Avenue of the Americas
New York, NY 10020

Patent No.: **7020780 B1**
Application No.: 09/583261
Inventor(s): **Masaki Mochizuki**
Issued: March 28, 2006
Title: **METHOD APPARATUS AND SYSTEMS FOR PRODUCING AND WRITING CIPHER KEYS, REPRODUCING INFORMATION WITH A CIPHER KEY, AND FOR PERMITTING REPRODUCTION OF INFORMATION WITH A CIPHER KEY, AND PERMITTING REPRODUCTION OF INFORMATION WITH A CIPHER KEY, AND OPTICAL DISC RECORDED**

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:	(571) 273-0025 ATTN: Office of Petitions

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

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 19

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

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OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 09/583,263 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. ACS 59046 (1873P) :

This is a decision on the petition under 37 CFR 1.183 filed September 26, 2003, requesting waiver of 37 CFR 1.48.

On October 24, 2003, petitioner filed a paper stating that relief under 37 CFR 1.183 was no longer necessary and requesting withdrawal of the petition and a refund of the petition fee.

Upon consideration of the October 24, 2003 paper, the petition is **dismissed as moot**.

Since the Office has not considered the merits of the petition, the petition fee of $130 will be credited to petitioner's deposit account.

The file will now be forwarded to the examiner in Art Unit 3731 for consideration of the amendment filed October 24, 2003, and the petition under 37 CFR 1.48 filed September 26, 2003. The examiner should note that applicant plans to file a supplement to the petition under 37 CFR 1.48.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/583,301	05/30/2000	Robert Seliger	S1389/7009	2275

7590 12/02/2009

Gary S Engelson
Wolf Greenfield & Sacks P C
600 Atlantic Avenue
Boston, MA 02210

EXAMINER	
JACOBS, LASHONDA T	

ART UNIT	PAPER NUMBER
2157	

MAIL DATE	DELIVERY MODE
12/02/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7,346,648 SELIGER, ROBERT	:	
Issue Date: March 18, 2008	:	**DECISION GRANTING**
Appl No.: 09/583,301	:	**PETITION**
Filed: May 30, 2000	:	*37 CFR 1.324*
For: Correction of Inventorship Under 37 CFR 1.324	:	
	:	
	:	
	:	

This is a decision on the petition filed November 11, 2008 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.

/ARIO ETIENNE/

Ario Etienne
Supervisory Patent Examiner
Art Unit 2457
Technology Center 2400

Gary S Engelson
Wolf Greenfield & Sacks P C
600 Atlantic Avenue
Boston, MA 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

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NOV 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Boulevard , 7th Floor
Los Angeles, Ca 90025

In re Application of:
Barnett, et al.
Application No. 09/583,311
Filed: May 30, 2000
For: METHOD AND APPARATUS FOR AUTOMATING TESTING OF JAVA BEANS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 28, 2004.

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

The request filed October 28, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
121 South Eight Street
Suite 1600
Minneapolis, MN 55402

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 18 2001

Martin J. Hirsch
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6402

In re Application of	:
Berg, et al.	:On Petition
Application No. 09/583,321	:
Filed: May 30, 2000	:
For: Method of Playing a Game Involving Questions And Answers	:

A petition was filed by Martin J. Hirsch on behalf of International Game Technology. for access to the assignment records of the above referenced application on September 17, 2001.

The petition is **GRANTED**.

The petition indicates that International Game Technology (IGT) is the owner of the above referenced application having been acquired from Silicon Gaming, Inc. The petition asserts that Mr. Hirsch is empowered to act on behalf of IGT.

The attorney of record, Mr. Robert Purcell, in a communication to Michael L. Lewis of this office on December 14, 2001, gave his consent to have Mr. Hirsch review the assignment records for the above referenced application.

Accordingly, the petition is granted. A copy of this letter should be included with any request for access to the assignment records.

Any 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 Patent Legal Administration/Michael L. Lewis
By hand:	Crystal Plaza 4, CP4-3C23 2201 South Clark Place Arlington, VA

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Karin Tyson
Senior Legal Advisor

cc: Wall, Marjama & Bilinski
101 South Salina Street
Suite 400
Syracuse, NY 13202

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KNOBBE MARTENS OLSON & BEAR
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,244,655 :
Issue Date: June 12, 2001 :
Application No. 09/583,348 :
Filed: May 31, 2000 :
Attorney Docket No. SPECBIC.017C2 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORP. (DHJ)
c/o DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

COPY MAILED

FEB 19 2008

In re Application of :
Hinton, et al. :
Application No. 09/583,406 : DECISION
Filed: 31 May, 2000 :
Attorney Docket No. AUS919990922US1 :

This is a decision on the petition filed on 23 October, 2006, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

It appears that the Power of Attorney filed of record on 31 October, 2006, has been entered.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on 9 February, 2005, with reply due absent extension of time on or before 9 May, 2005;

- the application went abandoned by operation of law after midnight 9 May, 2005;

- the Office mailed the Notice of Abandonment on 7 February, 2006;

- on 23 October, 2006, Petitioner submitted the instant petition under 37 C.F.R. §1.137(b) with fee and reply in the form of an amendment, and made the statement of unintentional delay—it is noted that while the Office action was mailed to what was then the associate of the Power of Attorney, Petitioner herein, Jeffrey S. Labaw (Reg. No. 31,633) has been authorized Counsel from the outset of prosecution of the instant application, and therefore also was/is in a position to make the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

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

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

[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).

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations
of Unintentional Delay

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

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

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

The instant application is released to Technology Center/AU 2135 for further processing in due course.

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[4] 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.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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.

09/583502

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-6-05

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6898560

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 3-922

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 on Title page of Patent

E Young

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

☒ **Approved** — All changes apply.

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

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

Comments:

The written consent of 5/6/04 completed the requirements under 37 CFR 1.48

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: 1-13-06

In re application of:	Ingram S. Chodorow, et al.	:	DECISION ON
Serial No.	09/583,626	:	PETITION
Filed:	May 31, 2000	:	
For:	AUTOMATIC PRESSURE RELEASE TOOTHBRUSH	:	

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT BASED ON APPLICANT'S FAILURE TO RECEIVE ORIGINAL NOTICE OF NON-COMPLIANCE AMENDMENT filed on June 15, 2005. The petition requests that the abandonment be withdrawn since the applicant did not receive the Notice of Non-Compliant Amendment mailed January 17, 2005.

DECISION

Since the petitioner asserts that the applicant did not receive the Non-Compliant Amendment mailed January 17, 2005, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

The evidence presented by the petitioner complies with the requirements set forth in MPEP § 711.03(c). The evidence presented is sufficient to establish that the Non-Compliant Amendment mailed January 17, 2005 was not received at the correspondence address. The evidence provided includes a statement by the petitioner that the Non-Compliant Amendment mailed January 17, 2005 was not received. Also provided is a copy of the application docket records where the Non-Compliant Amendment would have been posted had it been timely received. The instant petition also contains a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c).

Therefore any holding of abandonment for failure to timely file a proper response to the Non-Compliant Amendment mailed January 17, 2005 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for consideration of the substitute amendment submitted with the petition.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

caf

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. 8

Daniel C. Schultz
KAGAN BINDER, PLLC
Intellectual Property Attorneys
Suite 200 Maple Island Building
211 Main Street North
Stillwater, MN 55082

JUL - 9 2002

In re Application of:
Cooper *et al.*
Application No. 09/583,629
Filed: May 31, 2000
Attorney Docket No. FSI0030/US

DECISION
ON
PETITION

This is a decision on the petition filed May 07, 2002, to withdraw the holding of abandonment of the above-identified application. No petition fee is required.

The petition is **granted**.

The application was held abandoned for failure to timely respond to the an Office action mailed on June 21, 2001. A Notice of Abandonment was mailed on April 09, 2002.

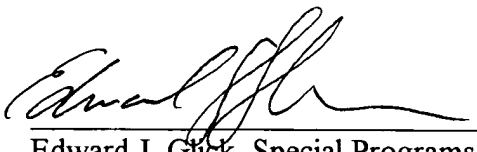
Petitioner contends that the above-identified Office action was not received. To support the petition, petitioner states that the Office action was not received and that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's docket records was submitted with the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition and supporting evidence satisfy the above-stated requirements. Accordingly, the petition is **granted**.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action dated June 21, 2001. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is remailed.

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



Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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)
6701313	2004-03-02	09/583,718	2000-05-30	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Glenn Smith/	Date (YYYY-MM-DD)	2008-11-03
Name	Glenn Smih		

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. 6701313
Issue Date: March 2,2004
Application No. 09583718
Filed: May 30,2000
Attorney Docket No. 72470-2

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

This is a decision on the electronic petition, filed November 3,2008 ,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 November 3,2008 . 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

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DIW Nov-06

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Fujii et al.	:	DECISION ON PETITION TO
Application No. 09/583,882	:	WITHDRAW HOLDING OF
Filed: 31 May, 2000	:	ABANDONMENT
Attorney Docket No. 1460.1006	:	

This is a decision on the petition filed on 5 September, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on non-final Office action mailed on 21 March, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 3 August, 2006.

Petitioners assert that the Notice mailed on 21 March, 2006, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When

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

A review of the record indicates that the Office communication was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent attorney Temnit Afework, attests that a search of the file and docket records indicate that the Notice of Allowance was not received. A copy of the docket record where the non-receipt Notice of Allowance would have been entered, and thereby docketed for response, is attached to the petition.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center's Technical Support Staff for remailing of the Notice of Allowance and Fee(s) Due. The period for reply will be reset from the mailing date thereof.

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

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of :
Ron Campbell et al :
Application No. 09/583,958 : DECISION ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. :
AUS9-2000-0254-US1

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 30, 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 March 31, 2005. A Notice of Abandonment was mailed on November 16, 2005.

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

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C). The instant petition lacks items (1) and (3).

DISCUSSION OF REPLY REQUIREMENT

The reply filed with the petition to revive is the filing of an Appeal Brief (no fee therefor received). However, pursuant to MPEP 711.03(c)(II)(A)(2)(b), the reply to a final Office action must be (1) a Notice of Appeal and fee; (2) an amendment under 37 CFR 1.115 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; (3) the filing of an RCE, fee therefor, and submission meeting the requirements of 37 CFR 1.111; or (4) the filing of a continuing application under the provisions of 37 CFR 1.53(d).

Therefore, the filing of an Appeal Brief is not a proper reply to the final Office action of November 30, 2004. It is noted that the petition references the filing of an amendment as the reply. However, there is no indication that an amendment was filed with the petition to revive. Accordingly, the petition is not accompanied by a proper reply to the final Office action of November 16, 2005.

DISCUSSION OF UNINTENTIONAL DELAY SHOWING

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 19 months from the due date for replying to the final Office action of November 30, 2004) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. It is noted, as further set out below, that Mr. Burwell, who was counsel of record at the time this application became abandoned, was contacted by the Examiner on August 31, 2005, and Mr. Burwell

confirmed to the Examiner that the application was abandoned. Therefore, in view of the protracted delay in filing the petition to revive, a question exists as to whether the delay in filing the reply was in fact intentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on February 28, 2005, the due date for replying to the final Office action of November 30, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Joseph R. Burwell was counsel of record on the date of abandonment of this application, Mr. Burwell should explain why this application became abandoned while it was under his control and what efforts Mr. Burwell made to further reply of itself and with whom this matter was discussed outside of his office. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Burwell, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Mr. Burwell's firm, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Mr. Burwell's firm and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. As discussed above, the Notice of Abandonment discloses that the Examiner in this case contacted Mr. Burwell, who confirmed on August 31, 2005 that no reply to the final Office action of November 30, 2004 had been filed. Therefore, petitioner must explain why the Office should not consider the protracted delay in seeking revival of this application to be intentional, especially in view of Mr. Burwell's confirmation to the Examiner that this application was abandoned as of August 31, 2005.

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

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Ron Campbell Allen et al. :
Application No. 09/583,958 : ON PETITION
Filed: May 31,2000 :
Attorney Docket No. AUS920000254US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 11, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely reply to the final Office action mailed November 30, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 28, 2005.

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

The petition decision mailed August 15, 2007 explained in detail how the petition filed October 24, 2006 failed to show to the satisfaction of the Director that the entire delay in filing the petition was unintentional. The instant renewed petition fails to address this issue and thus as noted above, item (3) is missing. Any further renewed petition that lacks the requirement of item (3) above may be construed as an intentional delay in reviving the above-identified application. Any such intentional delay may preclude the granting of a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

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

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Alexandria, VA 22313-1450

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

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APR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Ron Campbell Allen et al. :
Application No. 09/583,958 : ON PETITION
Filed: May 31,2000 :
Attorney Docket No. AUS920000254US1 :

This is a decision on the second renewed petition under 37 CFR 1.137(b), filed March 6, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely reply to the final Office action mailed November 30, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 28, 2005.

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

The petition decision mailed August 15, 2007 explained in detail how the petition filed October 24, 2006 failed to show to the satisfaction of the Director that the entire delay in filing the petition was unintentional. The renewed petition filed Sept 11, 2007 failed to address this issue and was dismissed in a decision mailed January 11, 2008.

The instant renewed petition includes a declaration from Martha Acosta concerning the delay in filing a response to the Office action and the delay in filing the initial petition. However, the declaration merely establishes that Ms. Acosta was not involved with the prosecution of the application at the time it went abandoned and does not specifically indicate when she became aware the application was abandoned.

In regard to the delay in filing a timely response to the final Office action mailed November 30, 2004, petitioner needs to make a statement to the fact that after a reasonable investigation into the facts and circumstances of the delay that petitioner has determined that the delay in filing the response was unintentional.

In regard to the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the Application, petitioner needs to make a statement to the fact that after a reasonable investigation into the facts and circumstances of the delay that petitioner has determined that the delay in filing an initial petitioner under 37 CFR 1.137(b) was unintentional.

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

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401 Dulany Street
Alexandria, VA 22314

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

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

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Ron Campbell Allan et al. :
Application No. 09/583,958 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. AUS920000254US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the final Office action mailed November 30, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 28, 2005.

The petition decision mailed April 24, 2008 dismissed the petition under 37 CFR 1.137(b) filed March 6, 2008 for failure to provide the required proper statement of unintentional delay under 37 CFR 1.137(b)(3).

The instant renewed petition includes a statement of unintentional delay.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal Brief; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Appeal Brief is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center Art Unit 2154 for appropriate action on the Appeal Brief filed October 24, 2006.

Carl Friedman
Petitions Examiner
Office of Petitions

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Mail Date: 04/20/2010

Applicant	: Ron Campbell Allan	: DECISION ON REQUEST FOR
Patent Number	: 7580996	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/583,958	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 10395
CHICAGO, IL 60610

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In re Application of :
Collodi : LETTER REGARDING PTA
Application No. 09/584,025 :
Filed: May 30, 2000 :
Atty. Dkt. No.: 7871/4 :

This letter is in response to "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 14, 2005. The Office thanks applicant for applicant's good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 342 days.

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 342 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant has requested reconsideration of the patent term adjustment for the above-identified application. Applicant has not specified which adjustments and/or reductions applicant is contesting.

Nonetheless, a review of the application history reveals an adjustment of 409 days under 37 CFR 1.702(a)(1). In accordance with 37 CFR 1.703(a)(1), the reduction began July 31, 2001, the day after the date that is 14 months after the day upon which the application was filed, and ended September 12, 2002, the date of mailing of non-final Office action.

A further adjustment of 66 days under 37 CFR 1.702(a)(2) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began November 4, 2003, the day after the date that is four months after the date a reply under 37 CFR 1.111 was filed, and ended January 8, 2004, the date the second non-final Office action was mailed.

There were no further adjustments for Office delay.

The adjustment 475 days was reduced 36 days in accordance with 37 CFR 1.704(b) in connection with applicant's reply to the non-final Office action mailed September 12, 2002. The reduction began December 13, 2002, the day after the date that is three months after the date the non-final Office action was mailed, and ended January 17, 2003, the date a reply was submitted.

The adjustment of 475 days was further reduced 37 days in accordance with 37 CFR 1.704(b) in connection with applicant's reply to the second non-final Office action mailed February 27, 2003. The reduction began May 28, 2003, the day after the date that is three months after the date the second non-final Office action was mailed, and ended July 3, 2003, the date a reply was submitted.

The adjustment of 475 days was further reduced 60 days in accordance with 37 CFR 1.704(b) in connection with applicant's reply to the final Office action mailed January 8, 2004. The reduction began April 9, 2004, the day after the date that is three months after the date the final Office action was mailed, and ended June 7, 2004, the date a reply was submitted.

Accordingly, at the time of Allowance, applicant was entitled to a patent term adjustment of 342 days.

As applicant has alerted us of the error in providing too much patent term adjustment in this application, no fee is due in connection to this matter

This application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment shown on the patent (and in the Issue Notification) will include any additional patent term accrued pursuant to §§1.702(a)(4) and 1.703(b).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 2/16/2006

PALM INTRANET

Time: 13:53:47

PTA Calculations for Application: 09/584025			
Application Filing Date:	05/30/2000	PTO Delay (PTO):	539
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	133
Post-Issue Petitions:	0	Total PTA (days):	342
PTO Delay Adjustment:	-64		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
49	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
43	12/10/2004	MAIL NOTICE OF ALLOWANCE			
42	12/10/2004	MAIL FORMAL DRAWINGS REQUIRED	64		27
41	12/08/2004	ISSUE REVISION COMPLETED			
40	12/08/2004	FORMAL DRAWINGS REQUIRED			
39	12/08/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	12/08/2004	NOTICE OF ALLOWABILITY			
37	10/24/2004	DATE FORWARDED TO EXAMINER			
36	09/09/2004	SUPPLEMENTAL RESPONSE			
35	01/17/2003	REFERENCE CAPTURE ON IDS			
34	09/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
33	08/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
32	06/07/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	08/04/2004	MAIL ADVISORY ACTION (PTOL - 303)			
30	08/02/2004	ADVISORY ACTION (PTOL-303)			
29	06/07/2004	NOTICE OF APPEAL FILED			
28	07/30/2004	DATE FORWARDED TO EXAMINER			
27	06/07/2004	AMENDMENT AFTER FINAL REJECTION		60	23
26	06/07/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	03/01/2004	NEW OR ADDITIONAL DRAWING FILED			
23	01/08/2004	MAIL FINAL REJECTION (PTOL - 326)	66		20

22	01/07/2004	FINAL REJECTION			
21	10/02/2003	DATE FORWARDED TO EXAMINER			
20	07/03/2003	RESPONSE AFTER NON-FINAL ACTION		37	17
18	07/03/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	02/27/2003	MAIL NON-FINAL REJECTION			
16	02/24/2003	NON-FINAL REJECTION			
15	01/24/2003	DATE FORWARDED TO EXAMINER			
14	01/17/2003	RESPONSE AFTER NON-FINAL ACTION		36	10
13	01/17/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
11	01/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/12/2002	MAIL NON-FINAL REJECTION	409		-1
9	09/09/2002	NON-FINAL REJECTION			
8	03/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/23/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	10/24/2000	CASE DOCKETED TO EXAMINER IN GAU			
5	09/07/2000	TRANSFER INQUIRY			
4	08/15/2000	APPLICATION DISPATCHED FROM OIPE			
3	07/25/2000	CORRESPONDENCE ADDRESS CHANGE			
2	06/19/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/30/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DEC 31 2007

OFFICE OF PETITIONS

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

In re Patent No. 7,071,937 :
Issued: June 4, 2006 : DECISION REGARDING PTA and
Application No. 09/584,025 : NOTICE OF INTENT TO ISSUE
Filed: May 30, 2000 : CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 7871/4 :

This decision is in response to "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed July 31, 2006. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(d).

The above-identified application matured into U.S. Patent No. 7,071,937 on June 4, 2006. The patent issued with a PTA of 930 days. Patentees suggest that the adjustment may extend the term of the patent by too many days.

However, a review of the calculation of adjustment reveals that the patent is entitled to an adjustment of 994 days.

An overall adjustment of 1131 days can be attributed to the Office in accordance with 37 CFR 1.702(a) and 1.702(b).

An adjustment of 409 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on September 12, 2002.

A further adjustment of 66 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the final Office action on January 8, 2004.

A further adjustment of 355 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(4) in connection with the issuance of the patent more than four months after receipt of the issue fee payment.

A further adjustment of 237 days can be attributed to the Office in accordance with 37 CFR 1.702(b) for failure to issue the patent within three years of the date upon which the application was filed. The overall delay under 37 CFR 1.702(b) is 1131 days. Accordingly, the amount of PTA delay is 1131 days.

The adjustment of 1131 days is properly reduced a total of 137 days for failure to engage in reasonable efforts to conclude prosecution.

The adjustment is properly reduced 36 days in accordance with 37 CFR 1.704(b) in connection with the response filed January 17, 2003.

The adjustment is further reduced 37 days in accordance with 37 CFR 1.704(b) in connection with the response filed July 3, 2003.

The adjustment is further reduced 60 days in accordance with 37 CFR 1.704(b) in connection with the response filed June 7, 2004.

Accordingly, the patent is entitled to an adjustment of 994 days (adjustments of 1131 days less reductions of 137 days).

The required application fee of $200.00 has been charged to patentees' deposit account.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 994 days.

Applicants are given 30 days to file a request for reconsideration of the instant decision. No additional time will be granted under 37 CFR 1.136.

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

Kery A. Fries

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,071,937 B2
DATED	:	June 4, 2006
INVENTOR(S)	:	Collodi

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 930 days

Delete the phrase "by 900 days" and insert – by 994 days--

Day : Friday
Date: 12/28/2007

PALM INTRANET

Time: 13:06:29

Calculations for Application: 09/584025			
Application Filing Date:	05/30/2000	PTO Delay (PTO):	1131
Issue Date of Patent:	07/04/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	137
Post-Issue Petitions:	0	Total (days):	994
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	12/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	64		
63.5	06/14/2006	PTA 36 MONTHS	237		
63	07/04/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	355		57
62	06/13/2006	DISPATCH TO FDC			
61	06/13/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	05/04/2006	RECEIPT INTO PUBS			
58	03/14/2005	ISSUE FEE PAYMENT VERIFIED			
57	03/14/2005	ISSUE FEE PAYMENT VERIFIED		4	43
56	05/01/2006	RECEIPT INTO PUBS			
55	04/28/2006	RECEIPT INTO PUBS			
54	04/24/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
54	04/24/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
53	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
52	01/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
50	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
49	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
49	10/04/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
48	03/14/2005	PETITION ENTERED			
47	03/14/2005	ISSUE FEE PAYMENT RECEIVED			
46	02/15/2005	RECEIPT INTO PUBS			
45	12/17/2004	EXPORT TO INITIAL DATA CAPTURE			

44	12/29/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
43	12/10/2004	MAIL NOTICE OF ALLOWANCE			
42	12/10/2004	MAIL FORMAL DRAWINGS REQUIRED	64		27
41	12/08/2004	ISSUE REVISION COMPLETED			
40	12/08/2004	FORMAL DRAWINGS REQUIRED			
39	12/08/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	12/08/2004	NOTICE OF ALLOWABILITY			
37	10/24/2004	DATE FORWARDED TO EXAMINER			
36	09/09/2004	SUPPLEMENTAL RESPONSE			
35	01/17/2003	REFERENCE CAPTURE ON IDS			
34	09/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
33	08/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
32	06/07/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	08/04/2004	MAIL ADVISORY ACTION (PTOL - 303)			
30	08/02/2004	ADVISORY ACTION (PTOL-303)			
29	06/07/2004	NOTICE OF APPEAL FILED			
28	07/30/2004	DATE FORWARDED TO EXAMINER			
27	06/07/2004	AMENDMENT AFTER FINAL REJECTION		60	23
26	06/07/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	03/01/2004	NEW OR ADDITIONAL DRAWING FILED			
23	01/08/2004	MAIL FINAL REJECTION (PTOL - 326)	66		20
22	01/07/2004	FINAL REJECTION			
21	10/02/2003	DATE FORWARDED TO EXAMINER			
20	07/03/2003	RESPONSE AFTER NON-FINAL ACTION		37	17
18	07/03/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	02/27/2003	MAIL NON-FINAL REJECTION			
16	02/24/2003	NON-FINAL REJECTION			
15	01/24/2003	DATE FORWARDED TO EXAMINER			
14	01/17/2003	RESPONSE AFTER NON-FINAL ACTION		36	10
13	01/17/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
11	01/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

10	09/12/2002	MAIL NON-FINAL REJECTION	409		-1
9	09/09/2002	NON-FINAL REJECTION			
8	03/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/23/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	10/24/2000	CASE DOCKETED TO EXAMINER IN GAU			
5	09/07/2000	TRANSFER INQUIRY			
4	08/15/2000	APPLICATION DISPATCHED FROM OIPE			
3	07/25/2000	CORRESPONDENCE ADDRESS CHANGE			
2	06/19/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/30/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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SEP 05 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Brown, Raysman, Millstein, Felder & Steiner LLP
900 Third Avenue
New York, NY 10022

Paper No. 17

In re application of : **DECISION ON PETITION**
Andrew Hausman : **TO MAKE SPECIAL**
Application No. 09/584,045 : **(INFRINGEMENT)**
Filed: May 30, 2000
For: ELECTRONIC TRADING SYSTEM
FOR ELECTRICITY FORWARDS

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed August 7, 2002 to make the above-identified application special. A second petition fee is not needed for this renewed petition. The petition fee charged on August 12, 2002 will be refunded to applicant's deposit account.

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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 7, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

snm/snm : 8/31/02

JUN 13 2002

#15 DW

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TC 3600

Brown, Raysman, Millstein, Felder and Stei
900 Third Avenue
New York, NY 10022

In re application of Andrewe Hausman Application No. 09/584,045 Filed: May 30, 2000 For: ELECTRONIC TRADING SYSTEM FOR ELECTRICITY FORWARDS	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special, filed on May 1, 2002.

The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 1, 2002 lacks item (2) noted above. The required statements must be made by applicant, attorney, or assignee. The statements are made by Jessica Leerentveld. Although the declaration made by Ms. Leerenveld states: "I am authorized to make this statement on behalf of assignee Bloomberg,LP", such statement does not convey the actual authority to act on behalf of the assignee. An authorized officer of Bloomberg,LP or one having specific authority to act in behalf of the assignee must make the required statements. Furthermore, the statement regarding the rigid comparison of the claims of the application with the infringing system is based in part on hearsay and is therefore not acceptable.

In view of this deficiency, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should submit a renewed petition addressing the deficiency noted above.

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

kjd:6/12/02

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

MAIL

FEB 1 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:
M. C. Chen
Application No.: 09/584,120
Filed: May 31, 2000
For: SYSTEM AND METHOD FOR PROVIDING MULTIMEDIA JITTER BUFFER ADJUSTMENT FOR PACKET-SWITCHED NETWORKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw As Attorneys filed January 17, 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 associated with Customer Number 00758 filed July 13, 2001 have been withdrawn from the attorney of record.

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communication

cc: Baker Botts
Bart Showalter
2001 Ross Avenue
Dallas, TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

Michael C Barrett
Fulbright & Jaworski
Suite 1900
600 Congress Avenue
Austin, TX 78701

MAIL

SEP 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
David J. Kinsella
Application No.: 09/584,162
Filed: May 30, 2000
For: POINTING DEVICE WITH BIOMETRIC SENSOR

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney or Agent of record filed August 26, 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**.

It is noted that the Request for Withdrawal as Attorney or Agent is only effective for David D. Bahler, since he is the only attorney/agent specifically mentioned in the request and there is no other indication that he is signing on behalf of any other practitioners. The Patent and Trademark Office does not recognize law firms as such.

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: Mr. David Kinsella
117 Medalist
Austin, TX 78734

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3800

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of
Hashimoto et al.
Application No. 09584198
Filed: May 31, 2000
Attorney Docket No. 03500.014507

: DECISION GRANTING PTA REQUEST

This is a decision on the "REQUEST FOR RECONSIDERATION Of PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," timely[1] filed on March 28, 2006 requesting that the Office adjust the PTA calculation from 944 days to 994 days at the time of the issuance of the patent.

Patentees' request for reconsideration is **GRANTED.** The USPTO will adjust the PTA determination at the time of the issuance of the patent from a determination 944 to a determination of 994 days. The Office will also *sua sponte* issue a certificate of correction in the determined amount.

Patentees assert that the USPTO erred in assessing a 120-day reduction for the submission on February 10, 2005 of the request for IDS acknowledgment and the request for entry of the amendment filed September 3, 2004. Patentees believe that at most 70-days of PTA should have been assessed for the submission of such papers. Patentees assert that the Office mailed a reply to the acknowledgment request on April 20, 2005 and accordingly the reduction under 37 CFR 1.704(c)(10) should have ended on that specific date. Moreover, the patentees assert that the request that the amendment of September 3, 2004 be entered should not have been considered a reduction under 37 CFR 1.704(c)(10) because such request did not amount to an amendment.

Patentees' arguments are persuasive to the extent indicated herein. Specifically, the USPTO

[1]Patent issued on January 31, 2006.

agrees with patentees that the IDS submission should have received a reduction of only 70-days.[2]. As for the request for the amendment of September 3, 2004 to be entered, the Office does not find such request to be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10) because the letter of February 10, 2005 was the first opportunity to have such error brought to the attention of the USPTO. After the September 3, 2004 amendment , the Office mailed a notice of allowance on January 4, 2005 to the patentees without entering the amendment of September 3, 2004. Accordingly, patentees were diligent in having the matter addressed. Accordingly, the only reduction pursuant to 37 CFR 1.704(c)(10) is the IDS submission and such reduction accounted for a period of 70 days.

The determination was calculated in the following manner: USPTO delay= 904 days under 37 CFR 1.702(a)(1) and 178 days under 37 CFR 1.702(a)(4) and 11 days under 37 CFR 1.702(a)(2) and Applicant delay =29 days under 37 CFR 1.704(b) and 70 days under 37 CFR 1.704(c)(10). Thus the correct amount of PTA at the time of the issuance of the patent is (904 +178 + 11 -(70 + 29) = 994 days.

The Office acknowledges authorization to charge a fee of the $200.00 fee set forth in 37 CFR 1.18(e). The Office had assessed the $200.00 fee.

The application file is being forwarded to the Certificate of Correction branch for a prompt issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries at 571-272-7757.

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

cc: adjusted PAIR calculation
Draft Certificate of Correction

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[2]The reduction is for the period of February 10, 2005 until April 20, 2005. It is further noted that patentees did not provide a 1-month certification statement under 37 CFR 1.704(d) and accordingly the submission of an IDS after notice of allowance is considered an applicant delay pursuant to 37 CFR 1.704(c)(10).

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,992,714 B1
DATED	:	Jan. 31, 2006
INVENTOR(S)	:	Hashimoto et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (944) days

Delete the phrase "by 944 days" and insert – by 994 days--

PALM INTRANET

Day : Monday
Date: 9/4/2006
Time: 10:37:03

PTA Calculations for Application: 09/584198			
Application Filing Date:	05/31/2000	PTO Delay (PTO):	1093
Issue Date of Patent:	01/31/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	149
Post-Issue Petitions:	0	Total PTA (days):	994
PTO Delay Adjustment:	50		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	09/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	50		
49.5	01/11/2006	PTA 36 MONTHS			
49	01/31/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	178		46
48	12/02/2005	RECEIPT INTO PUBS			
47	12/02/2005	DISPATCH TO FDC			
46	04/06/2005	ISSUE FEE PAYMENT VERIFIED			
45	11/30/2005	DISPATCH TO FDC			
44	11/30/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
43	04/06/2005	ISSUE FEE PAYMENT VERIFIED			
42	12/01/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
41	11/30/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
40	02/10/2005	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	42
39	11/30/2005	RECEIPT INTO PUBS			
38	11/30/2005	TC RETURN TO PUBS			
37	11/17/2005	PUBS CASE REMAND TO TC			
36	09/14/2005	RECEIPT INTO PUBS			
35	02/10/2005	REFERENCE CAPTURE ON IDS			
34	02/10/2005	MISCELLANEOUS INCOMING LETTER		0	31
33	02/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	31
32	05/04/2005	RECEIPT INTO PUBS			
31	04/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
30	04/18/2005	MISCELLANEOUS COMMUNICATION TO			

		APPLICANT - NO ACTION COUNT			
29	04/06/2005	ISSUE FEE PAYMENT RECEIVED			
28	02/18/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
27	02/04/2005	EXPORT TO INITIAL DATA CAPTURE			
26	01/14/2005	MAIL NOTICE OF ALLOWANCE	11		20
25	01/11/2005	ISSUE REVISION COMPLETED			
24	01/11/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	01/11/2005	NOTICE OF ALLOWABILITY			
22	01/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	10/26/2004	DATE FORWARDED TO EXAMINER			
20	09/03/2004	RESPONSE AFTER NON-FINAL ACTION		29	17
19	09/03/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	09/03/2004	WORKFLOW INCOMING AMENDMENT IFW			
17	05/05/2004	MAIL NON-FINAL REJECTION			
16	05/03/2004	NON-FINAL REJECTION			
15	02/24/2004	DATE FORWARDED TO EXAMINER			
14	02/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
13	01/21/2004	MAIL RESTRICTION REQUIREMENT	904		-1
12	01/20/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
11	11/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	01/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	10/23/2000	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	05/04/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	10/23/2000	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	01/13/2001	APPLICATION DISPATCHED FROM OIPE			
5	01/13/2001	APPLICATION IS NOW COMPLETE			
4	08/22/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/27/2000	CORRESPONDENCE ADDRESS CHANGE			
2	06/20/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/31/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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CHARLES G. CALL
20 EAST GOETHE STREET, CH1
CHICAGO, IL 60610-2368

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OFFICE OF PETITIONS

In re Application of :
SRIVASTAVA, et al. :
Application No. 09/584,318 :
Filed: May 31, 2000 :
Attorney Docket No. **A-011** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 19, 2007. Accordingly, the date of abandonment of this application is April 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

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 Monica A. Graves at (571) 272-7253.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: **CHARLES G. CALL**
215 WEST HURON STREET, UNIT 2
CHICAGO, IL 60610-3331

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

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Kurt E. Petersen, et al. :
Application No. 09/584,328 : NOTICE
Filed: May 20, 2000 :
Attorney Docket No. 22660-0026US

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) 272-3201.

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

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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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JUL 1 1 2002

Office of the Director
Group 3600

Paper No. 16

Greenblum and Bernstein, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191

In re Application of:
Kettler
Application No. 09/584,497, Pat. No. 6,378,884
Filed: June 1, 2000
Attorney Docket No.: P19246.A15
For: VEHICLE STEERING HEAD

DECISION ON PETITION
TO ADD INVENTOR(S)
37 CFR 1.324

Patentee's petition under 37 C.F.R. 1.324(b) filed June 6, 2002 requests the addition of Joachim Kettler and Reinhard Rocholl as inventors in application Serial No. 09/584,497, now U.S. Patent No. 6,378,884.

A petition under 37 CFR 1.324(b) must include: (1) A statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part; (2) A statement from the current named inventor(s) who have not submitted a statement under paragraph (b)(1) of this section 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 paragraph (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of 3.73(b) of this chapter; and (4) The fee set forth in Section 1.20(b).

The petition filed June 6, 2002 includes the requisite fee, a statement from the added inventor stating that the error occurred without any deceptive intent, a statement from the remaining named inventors agreeing to the change, and the written consent of the assignee agreeing to the change.

SUMMARY: The petition is **GRANTED**.

The change in inventorship is from "Heinz Kettler" to --Heinz Kettler, Joachim Kettler and Reinhard Rocholl--.

Brian L. Johnson 7/10/02

Brian L. Johnson
Supervisory Patent Examiner
Patent Technology Center 3600
(703) 308-0885

Best Available Copy

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 15

GREENBLUM AND BERNSTEIN LLC
1941 ROLAND CLARKE PLACE
RESTON VA 20191

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JUN 19 2002

OFFICE OF PETITIONS

In re Patent No. 6,378,884	:
Issue Date: April 30, 2002	:DECISION GRANTING PETITION
Application No. 09/584,497	:UNDER 37 CFR 1.182 TO
Filed: June 1, 2000	:EXPEDITE CONSIDERATION OF
Attorney Docket No. P19246.A15	:PETITION UNDER 37 CFR 1.324

This is a decision on the petition under 37 CFR 1.182, filed by facsimile transmission on June 18, 2002, to expedite consideration of a petition to correct inventorship under 37 CFR 1.324, evidenced to have been filed in the USPTO on June 2, 2002 (a copy of which accompanied the instant petition).

The petition is **GRANTED**.

As authorized, the $130 fee for the petition under 37 CFR 1.182 will be charged to Deposit Account No. 19-0089.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-8680. Inquiries concerning the status of the petition to correct inventorship should be directed to Brian Johnson (703) 308-0885.

This file is being forwarded to Technology Center AU 3618 for appropriate action on the petition under 37 CFR 1.324 filed June 2, 2002.

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

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3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH MA 01752-3064

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MAY 23 2008

OFFICE OF PETITIONS

In re Application of :
Grabelsky, et al. :
Application No. 09/584,516 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. 2876-US-CIP :
For: METHOD FOR ADDRESS MAPPING IN A NETWORK ACCESS SYSTEM AND A NETWORK ACCESS DEVICE FOR USE THEREWITH

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2008, 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 respond in a timely manner to an Office letter purportedly mailed on September 11, 2007. The Office contended that this application became abandoned for failure to reply to the September 11, 2007 Office letter, as was explained in A Notice of Abandonment, mailed on December 13, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that no September 11, 2007 Office letter was received.

It is noted that a Notice to File Corrected Application Papers, dated September 11, 2007, is present in an internal Office generated document dated August 29, 2007. The Notice to File Corrected Application Papers is not present in the application file as a separate document. It appears the Notice to File Corrected Application Papers was never mailed to applicants.

In addition, petitioners have provided a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The showing does not satisfy the above-stated requirements because the attorney providing the showing appears to have been empowered after the mailing in question was purportedly made. In other words, the attorney providing the showing was not practicing at the then-correspondence address of record when the Notice was purportedly mailed. Which firm's/company's records did he review and reference in the petition?

The issue need not be resolved because the irregularity surrounding the purported mailing of the September 11, 2007 Notice is sufficient to warrant a withdrawal of the holding of abandonment. The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the December 13, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to the Office of Data Management for the mailing of the Notice to File Corrected Application Papers with a period for reply to run from the mail date of the Notice.

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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MARLBOROUGH MA 01752-3064

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OFFICE OF PETITIONS

In re Application of	:	
Azriel et al.	:	DECISION ON PETITION
Application No. 09/584,581	:	
Filed: 31 May, 2000	:	
Attorney Docket No. 2880 US	:	

This is a decision in reference to "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFCE ACTION (MPEP 711.03(c) II and 37 CFR § 1.181)" filed on 15 November, 2006.

The petition is **GRANTED**.

The application became abandoned on 24 September, 2006, for failure to timely file a response to the Notice of Allowance and Fee(s) Due mailed on 23 June, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 30 October, 2006.

Petitioners assert that a Power of Attorney and Change of Correspondence Address was filed on 20 June, 2006, prior to the mailing of the Notice of Allowance, but that the Notice of Allowance was subsequently mailed to the previous address of record due to Office error.

A review of the official record reveals that a revocation and power of attorney and change of correspondence address was filed on 20 June, 2006. The power of attorney and change of correspondence address was not entered until 7 July, 2006, however, after the mailing of the Notice of Allowance. The Notice of Allowance, consequently, was not mailed to the address indicated in the power of attorney and change of correspondence address filed on 20 June, 2006.

As such, the showing of record is that the Office erred in mailing the Notice of Allowance and Fee(s) Due mailed on 23 June, 2006, to the previous address rather than the current correspondence address. As the error in mailing is due to an Office error, it is appropriate to remail the Notice of Allowance to the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application is referred to the Technology Center Technical Support Staff for remailing of the Notice mailed on 23 June, 2006. The time period for reply to the Notice will be reset to run from the date the Notice is remailed.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LICATA & TYRRELL, P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of :
Brian Sorrentino, et. al. :
Application No. 09/584,586 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. 1340-1-021-CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2004, to revive the above-identified application.

In response to the Notice Regarding Drawings mailed March 29, 2004, petitioner hereby submits $685 for the petition to revive fee, a response in the form of drawings, and the statement of unintentional delay as required by 37 CFR 1.137(b).

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

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Paper No. 21

Hunton & Williams
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Edward M. Sellers, et al. :
Application No. 09/584,669 : ON PETITION
Filed: June 1, 2000 :
Attorney Docket No. 62805.00020 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 2, 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 October 3, 2002.

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

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

The application file is being forwarded to Technology Center 1600, Art Unit 1654 for processing the Request for Continued Examination under 37 CFR 1.114, filed on March 6, 2003.

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

Sherry D. Brinkley
Petitions Examiner

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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

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OFFICE OF PETITIONS

In re Application of :
Redling, et. al. :
Application No. 09/584,805 :
Filed: May 31, 2000 :
Attorney Docket No. 503121.20002 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on March 27, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer No. 26418 have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

This application file is being referred to Technology Center Art Unit 2623, for review of the amendment filed April 18, 2006.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: MANELLI DENISON & SELTER
2000 M STREET, NW - SUITE 700
WASHINGTON, DC 20036-3307

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)
6557030	2003-04-29	09/584,832	2000-05-31	Prediwave-8001.US01

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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 r. coleman/	Date (YYYY-MM-DD)	2008-06-12
Name	Brian Coleman	Registration Number	39145

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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In re Patent No. 6557030
Issue Date: April 29,2003
Application No. 09584832
Filed: May 31,2000
Attorney Docket No. 10434-0003

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

This is a decision on the electronic petition, filed June 12,2008 ,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 12,2008 . 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.

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50505

FISH & RICHARDSON P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

MAY 10 2005

In re Application of:
CONANT *et al.*
Serial No.: 09/584,835
Filed: May 31, 2000
Attorney Docket No.: **9840-055-999**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on February 07, 2005, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed on August 11, 2004. A Notice of Abandonment was mailed on January 03, 2005.

Petitioner asserts that the Notice mailed on August 11, 2004, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notice was not received. A copy of the file docket where the Notices would have been entered was also included.

A review of the written record for the above-identified application shows that a request to change the correspondence address to Customer Number 26181 filed August 09, 2004, was not processed in the application file prior to the mailing of the Notice. As a result, the Notice mailed on August 11, 2004, was sent to the incorrect address. Accordingly, it cannot be presumed that the Notice reached practitioner at the correspondence address of record. Therefore, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-

mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,978	06/02/2000	Dr. Rudi Neirinckx	44334	5707

7590 02/03/2003

DEAN H. NAKAMURA
ROYLANCE ABRAMS BERDO & GOODMAN
1300 19TH STREET N.W.
SUITE 600
WASHINGTON, DC 20036

EXAMINER	
RUSSEL, JEFFREY E	
ART UNIT	PAPER NUMBER
1654	11

DATE MAILED: 02/03/2003

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. 11

DEAN H. NAKAMURA
ROYLANCE ABRAMS BERDO & GOODMAN
1300 19TH STREET N W
SUITE 600
WASHINGTON, DC 20036

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NOV 2 7 2002

OFFICE OF PETITIONS

In re Application of
Dr. Rudi Neirinckx
Application No. 09/584,978
Filed: June 2, 2000
Attorney Docket No. 44334

ON PETITION

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 August 28, 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 September 29, 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 1653.

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

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SONNENSCHEIN NATH & ROSENTHAL
P.O. Box 061080
Wacker Drive Station - Sears Tower
Chicago IL 60606-1080

MAILED

DEC 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Shiro Omori, et al.
Application No. 09/584,999
Filed: June 1, 2000
For: **SIGNAL PROCESSING APPARATUS, METHOD OF THE SAME, AN IMAGE PROCESSING APPARATUS AND METHOD OF SAME**

DECISION ON PETITION

This is a decision on the petition filed December 12, 2005, based on M.P.E.P. 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 Restriction mailed June 16, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Petitioner alleges that the restriction mailed June 16, 2004 was not received and that the restriction requirement was mailed to the former attorney of record. Petitioner alleges that a Revocation and Power of Attorney request was filed November 9, 2001.

A review of the application file reveals that the written restriction requirement was mailed to the address of record. The application file does not reveal the Revocation and Power of Attorney alleged to have been filed on November 9, 2001.

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. [emphasis added]

Petitioner includes a statement that a Revocation and Power of Attorney was filed prior to the written restriction requirement. Petitioner also provides, in addition to other evidence, a copy of the Revocation request, a copy of a return post-card for the Revocation request, a transmittal letter for the Revocation and Power of Attorney with a certificate of mailing dated November 9, 2001 and also a copy of applicants' file jacket List of Actions for the subject application. The

List of Actions includes an entry for the transmittal of the Revocation and Power of Attorney on November 9, 2001.

Although the return post-card for the Revocation and Power of Attorney was not date-stamped as having been received in the Office, petitioner has satisfactorily demonstrated that said Revocation and Power of Attorney was in fact sent to the Office prior to the mailing of the written restriction requirement, but not received. Accordingly, the Office action was mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for entry of the election which accompanied the subject petition. From there, the application will be forwarded to the examiner for action in appropriate turn.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

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JAN 13 2004

#21

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

In re Application of :
Ricardo Dalla-Favera :
Serial No.: 09/585,023 : PETITION DECISION
Filed: June 1, 2000 :
Attorney Docket No.: 50995-B :

This is in response to the petition under 37 CFR 1.181, filed October 31, 2003, 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 Final Office action to applicant on November 19, 2002, setting a three month shortened statutory period for reply. Applicants replied with an amendment on February 24, 2003. The amendment did not place the application in condition for allowance and an Advisory action was mailed to applicant on March 13, 2003. A Notice of Abandonment was mailed to applicant on August 29, 2003, when no further reply was filed. Applicant states that a reply in the form of an RCE was filed on May 19, 2003, accompanied by a three month extension of time request and fee and the RCE filing fee. The reply has now been located and placed in 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 for entry of the RCE papers and then to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

John Doll
Director, Technology Center 1600

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COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Riccardo Dalla-Favera :
Application No. 09/585,023 : ON PETITION
Filed: June 1, 2000 :
Attorney Docket No. 50995-B/JPW/EMW

This is a decision on the petition, filed May 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No. 11

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Sedat Oelcer :
Application No. 09/585,027 : ON PETITION
Filed: June 1, 2000 :
Attorney Docket No. CH919980053US1 :

This is a decision on the petition to revive the above-identified application under the provisions of 37 CFR 1.137(b), filed April 18, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2003. A Notice of Abandonment was mailed on July 12, 2004. On April 18, 2006, the present petition was filed.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2631 for consideration of the amendment filed April 18, 2006.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

WOLF, GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

In re Application of)
VEXLER et al.)
Application No. 09/585,072)
Filed: June 1, 2000)
For: Twisted Pair Cable with Dual Layer Insulation)
Having Improved Transmission Characteristics)

MAR 6 2002

DECISION ON REQUEST

This is a decision on the request, filed via facsimile transmission on December 11, 2001, to remail an Office communication.

The request is **GRANTED**.

A Notice of Non-Compliant Amendment (Notice) was mailed on July 23, 2001. Petitioner states that the Notice was not received by counsel. The request includes a copy of a power of attorney and request for a change of correspondence address, along with a postcard indicating receipt thereof by the Patent and Trademark Office (USPTO) on June 27, 2001.

The power of attorney and request for a change of correspondence address is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the power of attorney and request for a change of correspondence address was received in the USPTO on June 27, 2001 but lost after receipt thereof. Consequently, it is concluded that the Notice mailed on July 23, 2001 was not addressed to the proper correspondence address. In view of the mailing of the Notice to an incorrect correspondence address, the request to remail the Notice is granted.

The application file is being forwarded to technical support staff for Technology Center 2800 for remailing of the Notice of Non-Compliant Amendment of July 23, 2001 to the proper correspondence address. The period for response will be restarted along with the remailing of the Notice.

Edward Glick, Special Programs Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components

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Paper No. 17

JOSEPH E. MAENNER
MONTE & MCGRAW, P.C.
P.O. BOX 650
4092 SKIPPACK PIKE
SKIPPACK, PA 19474

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Timothy M. Schweikert et al :
Application No. 09/585,149 : NOTICE
Filed: June 1, 2000 :
Attorney Docket No. 8617-81

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Publishing Division.

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

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BENESCH FRIEDLANDER COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND, OH 44114

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of :
Richard B. Himmelstein :
Application No. 09/585,151 : ON PETITION
Filed: June 1, 2000 :
Attorney Docket No. 68940.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2007 to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected application papers; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert Lech
41 South High Street, Suite 2600
Columbus, OH 43215

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Nobuhiro Miahima	: DECISION ON REQUEST FOR
Patent Number	: 7619759	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/585,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PAUL, HASTINGS, JANOFSKY & WALKER
P.O. BOX 919092
SAN DIEGO CA 92191-9092

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APR 25 2006

OFFICE OF PETITIONS

In re Application of
Jonathan Strietzel
Application No. 09/585,460
Filed: June 1, 2000
Attorney Docket No. 45391.00003RCEE1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

The petition is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on November 18, 2005. Additionally, the power of attorney for the above application is associated with Customer No. 36183.

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

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Denise Pothier
Petitions Examiner
Office of Petitions

cc:
NOEL C. GILLESPIE, ESQ.
BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

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SAN DIEGO CA 92191-9092

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APR 25 2006
OFFICE OF PETITIONS

In re Application of
Jonathan Strietzel
Application No. 09/585,460
Filed: June 1, 2000
Attorney Docket No. 45391.00003RCEE1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

The petition is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on November 18, 2005. Additionally, the power of attorney for the above application is associated with Customer No. 36183.

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

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Denise Pothier
Petitions Examiner
Office of Petitions

cc:
NOEL C. GILLESPIE, ESQ.
BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Fitzpatrick, Cella, Garper & Scinto
30 Rockefeller Plaza
New York, NY 10112

SEP - 4 2002

In re Application of:	:	
Takashi Ono *et al.*	:	DECISION TO WITHDRAW
Application No. 09/585,607	:	HOLDING
Filed: June 2, 2000	:	OF ABANDONMENT
Atty Docket No. 35.G2607	:	

This is a decision on the petition filed August 5, 2002, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **granted**.

The application was held abandoned for failure to timely file a response to the Office action mailed on September 19, 2001. A Notice of Abandonment was mailed on June 20, 2002.

Petitioner asserts that a response was timely filed in the United States Patent and Trademark Office (PTO) on October 19, 2001. To support this assertion, petitioner has submitted a copy of the response bearing a certificate of mailing under 37 CFR § 1.8(a) having a date of deposit of October 19, 2001, and a statement which attests to the previous timely mailing of the response.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> 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 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 conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted.**

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on August 5, 2002, is hereby accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for further action.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

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SEP 10 2009

OFFICE OF PETITIONS

In re Patent No. 7,110,125	:
Ono, et al.	: DECISION REGARDING
Issue Date: September 19, 2006	: PATENT TERM ADJUSTMENT
Application No. 09/585,607	: AND
Filed: June 2, 2000	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 03560.002607	: CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER OF GOOD FAITH AND CANDOR REGARDING PATENT TERM ADJUSTMENT", filed November 15, 2006, requesting correction of the patent term adjustment.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **zero (0)** days.

On September 19, 2006, the above-identified application matured into U.S. Patent No. 7,110,125. On November 15, 2006, patentees timely filed the instant application for patent term adjustment.

The patent issued with a Patent Term Adjustment of one hundred twenty-one (121) days. Patentees state that they were erroneously assessed applicant delay of thirty-nine (39) days for filing a "REQUEST FOR CONSIDERATION OF TIMELY FILED INFORMATION" on May 23, 2006. In addition, patentees point the Office's attention to the fact that the PTO delay of 80 days for failure to issue the application within three years may be longer than appropriate.

In reviewing the application, it is determined that applicants were not assessed the correct number of days of delay due to the abandonment of the application. The Office mailed a Restriction Requirement on September 19, 2001, setting a thirty (30) day period for reply. As no reply was timely filed, the application became abandoned on October 20, 2001. Applicants filed a petition to revive on August 5, 2002, which was granted in a decision mailed on September 4, 2002. Under 37 C.F.R. § 1.704(c)(3), applicants should have been assessed delay beginning on the date the application was abandoned, and ending on the date the decision granting the petition to revive was mailed. As such, applicants should have been assessed three hundred nineteen (319) days of delay (from October 20, 2001 to September 4, 2002), not two hundred twenty-nine (229) days.

In addition, a review of the application reveals that applicants should have been assessed additional delay pursuant to 37 C.F.R. § 1.704(c)(8) for filing an IDS on August 16, 2005. Applicants filed an RCE on February 18, 2005. Subsequently, applicants filed an IDS on August 16, 2005. The IDS was not expressly requested by the examiner and did not include a § 1.704(d) statement. Accordingly, applicants should have been assessed one hundred forty-eight (148) days of delay under § 1.704(c)(8).

With regard to patentees' contention that they should not have been assessed delay of thirty-nine (39) days for the submission of a "REQUEST FOR CONSIDERATION OF TIMELY FILED INFORMATION" on May 23, 2006, patentees are correct. Because the paper was a request for an initialed copy of form PTO-1449 for an IDS that was previously filed (the IDS filed on August 16, 2005), it is determined that the assessed delay of thirty-nine (39) days in this situation is not warranted.

Lastly, patentees point the Office's attention to the fact that the PTO delay of eighty (80) days for failure to issue the application within three years may be longer than appropriate. Patentees are incorrect. The period of 80 days entered pursuant to 37 C.F.R. §1.702(b) is correct.

The application was filed on June 2, 2000. Accordingly, the Office had until June 2, 2003 to issue the application without accruing patent term adjustment for Office delay pursuant to 37 C.F.R. § 1.702(b). The application did not issue until September 19, 2006. However, the filing of a Request for Continued Examination (RCE) cuts off the ability to accumulate patent term adjustment under the three year provision. The time consumed by the filing of a request for continued examination is excluded from the calculation under 37 C.F.R. § 1.702(b). In this

instance, an RCE was first filed on October 8, 2003. Thus, the over three year period (June 3, 2003 to October 8, 2003) is 128 days.

Moreover, any days of Office delay for the over three year period pursuant to 37 CFR 1.702(b) which overlap with the days of Office delay accrued during the pendency of the application during the relevant period will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B) 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). Where a RCE has been filed, the relevant period for considering this overlap ends with the filing of the RCE. In this instance, prior to the filing of the first RCE, a total of 48 days was entered for Office delay.

Accordingly, at issuance, considering that the three year period ends with the filing of an RCE and the overlapping period, the Office entered an additional 80 days (128 for over three year - 48 overlapping days) for Office failure to issue the application within three years.

All of the other adjustments have been reviewed and found to be correct.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate. The correct number of days of patent term adjustment is zero (0) days (481 (48+33+320+80)) days of PTO delay, reduced by 559 (8+35+5+44+148+319)) days of applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **zero (0)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,110,125 B1

DATED : **September 19, 2006** **DRAFT**

INVENTOR(S) : Ono et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 121 days

Delete the phrase "by 121 days" and insert – by 0 days--

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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AUG 16 2007

OFFICE OF PETITIONS

In re Patent No. 6,944,298 :
Issue Date: September 13, 2005 :
Application No. 09/585,726 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. 60208 :

This is a decision on the petition filed April 19, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request complies with the provisions of 37 CFR 3.81(b), and it would be appropriate for a certificate of correction to be processed to correct the name of the assignee on the front page of the patent. Accordingly, the request is **GRANTED** to the extent indicated.

The application is being referred to the Certificate of Correction Branch for further consideration of the other corrections requested in the Certificate of Correction filed April 19, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MAR 1 2 2003

Technology Center 2100

Paper No. 11

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of: Melchione
Application No. 09/585,811
Filed: May 31, 2000
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR PROCESS-BASED SELECTION OF VIRUS DETECTION ACTIONS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed February 12, 2003 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by contributing to the identification and detection of Virus. The declaration supporting the petition describes steps to identify and detect the file that contains Virus. However, the claimed invention fails to indicate countering terrorism. Moreover, "identifying" and "detecting" do not equate to "countering". Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

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

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Paper No. 14

Kevin J. Zilka
SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

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JUN 13 2003

Technology Center 2100

In re Application of: Melchione	)	
Application No. 09/585,811	)	
Attorney Docket No. NAI11P004/00.006.01	)	DECISION DISMISSING PETITION TO
Filed: May 31, 2000	)	MAKE SPECIAL UNDER 37 C.F.R.
For: SYSTEM, METHOD AND	)	§1.102(d) AND MPEP § 708.02(XI)
COMPUTER PROGRAM PRODUCT FOR	)	
PROCESS-BASED SELECTION OF VIRUS	)	
DETECTION ACTIONS	)	

This is a decision on the Request for Reconsideration of the petition to make special filed April 1, 2003 under 37 C.F.R. § 102(d) and MPEP § 708.02 (XI): Inventions for Countering Terrorism.

The petition is **DENIED.**

MPEP § 708.02(XI), which sets out the prerequisites for a grantable petition for Inventions for Countering Terrorism" under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioners' submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The disclosed invention is generally directed to a system to scan data files in order to detect computer viruses.

There is no mention of terrorist activity in the disclosure. In response, petitioner has relied on 18 U.S.C. 2332b to define terrorism in a manner that relates to the disclosure. However, such reliance fails because there is no mention that any virus in the disclosure "intentionally causes damage without authorization, to a protected computer", as explicitly required by 18 U.S.C. 2332b.

In fact, there is no mention anywhere in the disclosure that the viruses being scanned are harmful viruses, as understood in the art. Many viruses are relatively benign, and some are corrective and/or innoculative viruses. In fact, on page 8, line 18, of the specification (which is the only place in which attacks are mentioned at all), "virus" is listed as a separate entity from "attacks", implying that the virus being scanned is not the same thing as an attack.

Furthermore, applicant has cited the following excerpt from pages 13 and 14 of the disclosure as evidence of countering terrorism:

> "Thus, the foregoing technique is particularly beneficial since it allows the system administrator to ensure that users are prevented from downloading infected files from the Internet..."

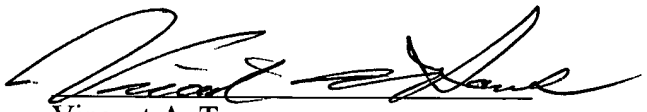
However, this statement is not, as petitioner argues, "an explicit suggestion" of countering terrorism. In fact, this statement would be equally applicable to preventing the transfer of files carrying viruses that contain advertisements or vulgar language.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

The petition is **DENIED**.

The application is being forwarded to Technology Center 2100's Central Files to await examination in its proper turn based on its effective filing date. Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-9750.

It is suggested that applicants review MPEP § 708.02 regarding other grounds available for filing a petition to make special. In particular, note MPEP § 708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.



Vincent A. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
(703) 305-9750

BJP

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 28 2005

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

In re Application of:
Halvorsen et al.
Serial No.: 09/585,821
Filed: June 1, 2000
Attorney Docket No.: 5750-8B

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181 filed on March 17, 2005, requesting withdrawal of the holding of abandonment based on the timely payment of the Issue Fee and Publication Fee.

A review of the file history shows that the examiner mailed a Notice of Allowance to applicants on October 25, 2004. On March 4, 2005, a notice of abandonment was mailed for failure to pay the issue fee.

Applicants state that authorization to timely pay the issue fee was provided on January 13, 2005. Applicant has submitted the facsimile cover page, the fee transmittal page and a copy of the facsimile transmission confirmation document evidencing receipt by the USPTO as evidence of such authorization. In view of this evidence, applicants are considered to have paid the Issue Fee in a timely manner.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and is being forward to the Office of Publications for allowance.

The appropriate fees will be charged to deposit account 50-0573.

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

Marianne C. Seidel /pr

Bruce Kisliuk
Director, Technology Center 1600

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

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FEB 28 2005

OFFICE OF PETITIONS

In re Patent of :
Sawyer et al. :
Application No. 09/585,891 : DECISION
Filed: May 31, 2000 : ON PETITION
Attorney Docket Number: :
P199CIP/1595CIP :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 24, 2005, (Certificate of Mailing dated January 21, 2005), 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 Final Office Action mailed July 14, 2004, which set a shortened statutory period of reply of three (3) months.

Applicant filed an Amendment on September 20, 2004; however, the amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 17, 2004.

Accordingly, the above-identified application became abandoned on October 15, 2004.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application is being referred to Technology Center 2615 to await submission of the Appeal Brief.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Paper No. 9

Dennis A Nicholls
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles CA 90025

MAIL

NOV 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2800

In re Application of :
WANG, LIZHI :
Serial No.:09/585,980 :
Filed: June 2, 2000 : DECISION ON PETITION
For: **SYSTEM AND METHOD FOR HUMAN FACE DETECTION IN COLOR GRAPHICS IMAGES** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, July 15, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 2, 6, 7, 8, and 9 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision

The petition is GRANTED.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications and Information Processing

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Commissioner for Patents
United States Patent and Trademark Office
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ROBERT A. MANWARE
FLETCHER YODER
P.O. BOX 692289
HOUSTON, TX 77269-2289

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JAN 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,778,404 :
Issue Date: August 17, 2004 :
Application No. 09/586,050 : ON PETITION
Filed: June 2, 2000 :
Attorney Docket No. MICS:0038 :

This is a decision on the petition filed December 13, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to add the assignee's data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

[1] See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 05, 2007

TO SPE OF : ART UNIT 2626 09/586072

SUBJECT : Request for Certificate of Correction on Patent No.: 7110953 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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

The correction regarding insertion of the sentence (in column 5, after line 31) of "In the case of ...., as would be apparent to person of ordinary skill in the art", cannot be approved, because the content "as would be apparent to a person of ordinary skill in the art" introduces new matter, which is not disclosed in the original specification and has been cancelled through Examiner's Amendment (on 11/21/2005)

RICHEMOND DORVIL
~~SUPERVISORY PATENT EXAMINER~~
SPE
Art Unit 2626

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s):	Edler et al.
Case:	1-4
Serial No.:	09/586,072
Patent No.:	7,110,953
Issue Date:	September 19, 2006
Group:	2626
Examiner:	Qi Han
Title:	Perceptual Coding of Audio Signals Using Separated Irrelevancy Reduction and Redundancy Reduction

---

REQUEST FOR CERTIFICATE OF CORRECTION OF
PATENT FOR PTO MISTAKE(S) UNDER 37 C.F.R. 1.322(a)

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

Sir:

In accordance with 37 C.F.R. §1.322, the patentee for the above-identified patent hereby requests the issuance of a Certificate of Correction with respect to errors in the above-identified patent.

The errors are set forth on the proposed Certificate of Correction (PTO-1050) submitted herewith, in duplicate.

There is no additional fee due in conjunction with this Certificate of Correction. In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 50-0762** as required to correct the error.

Respectfully,

Kevin M. Mason

Date: March 20, 2007

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

PTO/SB/44 (02-01)
Approved for use through 01/31/2004 OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,110,953
DATED : September 19, 2006
INVENTOR(S) : Edler et al.

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

In the section entitled "Other Publications" include the following two references:

-- Huang et al., "Statistical Prediction for Low-Bit Rate/High Quality Sound Coding," Seminars Statistics and Data Mining Research; Bell Laboratories, http://cm.bell-labs.com/cm/ms/departments/sia/seminars/abs_seminars html#tue_d_Yu, Downloaded on February 24, 2003. --

-- Painter, T., "Perceptual Coding of Digital Audio," Proceedings of the IEEE, vol. 88, no. 4, pgs. 451-515 (April 2000) --

A 1449 form sent by Applicants, considered by the Examiner on September 17, 2003, included these two references. They, however, were not initialed by the Examiner and consequently do not appear on the face of the patent as they properly should. The Examiner, subsequently, on November 1, 2006, mailed a corrected version of the 1449 form in question, a copy of which is attached hereto

In the section entitled "Abstract" please delete the final two sentences that begin "The characteristics of the pre-filter may be adapted to the masked thresholds...." and "Likewise, the filter coefficients may be efficiently transmitted...." respectively.

In column 3, line 61, replace "FIR" with -- Finite Impulse Response (FIR) --.

MAILING ADDRESS OF SENDER:

Ryan, Mason & Lewis, LLP
1300 Post Road - Suite 205
Fairfield, Connecticut 06824

PATENT NO. 7,110,953

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,110,953
DATED : September 19, 2006
INVENTOR(S) : Edler et al.

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

In column 3, line 62, replace "IIR" with -- Infinite Impulse Response (IIR) --.

In column 5, line 6, before "analysis/modeling" and after "of" replace "LPC" with -- linear-predictive coefficient (LPC) --.

In column 5, line 9, replace "LSPs" with -- line spectral pairs (LSPs) --.

In column 5, after the paragraph ending on line 31, insert the following sentence:
-- In the case of an image signal, the adaptive filter is controlled in a way that the magnitude response approximates an inverse of a corresponding visibility threshold (as would be apparent to a person of ordinary skill in the art.) --

JH
5/20/07

This sentence was included in an amendment by the Applicants dated July 2, 2003, yet does not appear in the issued patent.

In column 5, line 47, before "representation" and after "LSP" delete -- (line spectral pairs) --.

In column 6, line 32, before "filter" and after "to an" replace "IIR" with -- infinite impulse

MAILING ADDRESS OF SENDER:
Ryan, Mason & Lewis, LLP
1300 Post Road - Suite 205
Fairfield, Connecticut 06824

PATENT NO 7,110,953

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 10

Kevin J. Zilka
Silicon Valley IP Group
P.O. Box 721120
San Jose, CA 95172-1120

In re Application of
Lindholm, et al.
Application No. 09/586,249
Filed: May 31, 2000
For: SYSTEM METHOD AND ARTICLE OF MANUFACTURE FOR A PROGRAMMABLE VERTEX PROCESSING MODEL WITH INSTRUCTION SET

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 5, 2000, to make the above-identified application special pursuant to M.P.E.P. § 708.02 (VIII).

In accordance with M.P.E.P. § 708.02, Item VIII, an application may be granted special status provided that the applicant complies with each of the following items: (a) submits a petition to make special accompanied by the fee set forth in 37 C.F.R. § 1.17(i); (b) presents all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status; (c) submits a statement(s) that a pre-examination search was made, listing of the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, database search with the search terms used, etc.; (d) submits one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (e) submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 C.F.R. § 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets the above requirements and 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 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 06-04

Paper No: 24

SILICON VALLEY
INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Lindholdm, et al. :
Application No. 09/586,249 :
Filing Date: 31 May, 2000
Attorney Docket No. NVIDP021/P000174 :

This is a decision on the petition filed on 4 March, 2004, under 37 C.F.R. §1.137(b), and alleging abandonment due to unintentional delay.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(b) is **GRANTED**–as authorized the RCE (Request for Continued Examination) fee ($770.00) is charged to Deposit Account 50-1351 (NVIDP021). The petition fee previously was charged.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a final Office action[1] mailed on 4 June, 2003, with reply due, absent extension of time on 4 September, 2003;
- Petitioner filed an after-final amendment–which failed to place the application in condition for allowance–on 4 September, 2003;
- the application went abandoned by operation of law after midnight 4 September, 2003;

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Continuing Application or Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

- the Examiner issued an Advisory Action, mailed on 2 January, 2004;
- the Office mailed the Notice of Abandonment on 28 January, 2004;
- with the instant petition, fee and statement of unintentional delay, Petitioner filed an RCE with fee and submission in the form of "Amendment C."

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[8] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as to Unintentional Delay

The requirements of a petition under 37 C.F.R. §1.137(b) are: petition, fee, reply, statement and–if applicable–terminal disclaimer.

Applicable here are only the petition, fee, reply and statement requirements, which Petitioner has satisfied.

CONCLUSION

Petitioner has satisfied the requirements under 37 C.F.R. §1.137(b), the petition hereby is **granted**.

The instant application is forwarded to Technology Center 2600 for further processing in due course.

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[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] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by orreviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

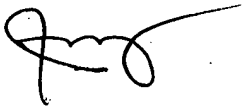
(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

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



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

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

Paper 11

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

MAR 19 2003

OFFICE OF PETITIONS

In re Application of
McKay et al.
Application No. 09/586,270
Filed: November 30, 2000
Attorney Docket No. 7533

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 12, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on December 3, 2001. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 4, 2002. A Notice of Abandonment was mailed on July 25, 2002.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account 16-2480 has been charged the $1300.00 petition to revive fee.

This application is being forwarded to Technology Center 1700 for further processing of 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 PATENT AND TRADEMARK OFFICE

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

ARTHROCARE CORPORATION
7500 Rialto Boulevard
Building Two, Suite 100
Austin TX 78735-8532

MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of :
Baker et al. :
Application No. 09/586,295 : . DECISION ON PETITION
Filed: June 2, 2000 :
Attorney Docket No. CB-07-2 :

This is a decision on the petition under 37 CFR 1.183, filed June 12, 2009, to suspend or waive the requirement that joint inventor Stephen M. Brunell sign the supplemental declaration for the above-identified application.

The petition is **GRANTED**.

Petitioner has shown that Mr. Brunell refused to sign the supplemental declaration after having been presented with the patent application, figures, and claims. This refusal occurred after reasonable care and diligence was exercised in an effort to obtain his signature. Accordingly, the requirement that joint inventor Stephen M. Brunell sign the supplemental declaration for the above-identified application is waived in this instance.

As authorized, the $400 fee for the petition under 37 CFR 1.183 has been assessed to petitioner's deposit account.

This application is being referred to the Office of Data Management for processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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	: 6450883	: RECALCULATION of PATENT
Issue Date	: 09/17/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/586,373	: OF WYETH
Filed	: 06/02/2000	:
		:

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

JAMES D. ERICKSON
ASP PATENT DEPARTMENT
AUTOLIV ASP INC
3350 AIRPORT ROAD
OGDEN, UT 84405

COPY MAILED

OCT 07 2003

OFFICE OF PETITIONS

In re Application of :
Bradley Smith :
Application No. 09/586,484 : ON PETITION
Filed: June 1, 2000 :
Attorney Docket No. AAI-14085 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 27, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 28, 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 3700 for further processing.

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

cc:

Nick C. Kottis
Pauley Petersen & Erickson
2800 W. Higgins, Suite 365
Hoffman Estates, IL 60195

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,518	06/02/2000	Michael R. Bruce	AMDA.455PA	5747

40581 7590 11/16/2005

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL, MN 55120

EXAMINER	
CHARIOUI, MOHAMED	

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 11/16/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 16 2005

Paper No. 20051108

Applicant : Bruce et al.
Application No.: 09/586,518
Filed: June 2, 2000

DECISION GRANTING PETITION UNDER *37 CFR 1.181*

This decision is in response to the petition filed January 10, 2005 in the above-identified application. Petitioner requests withdrawal of the holding of abandonment under 37 CFR 1.181.

Petitioner asserts that the Notice of Abandonment mailed December 6, 2004 was issued in error, because petitioner had complied with the Office requirement to submit substitute drawings in a timely fashion, having filed said drawings on September 27, 2004.

A review of the record confirms that drawings in compliance with the Examiner's requirement were in fact filed with the Office on September 27, 2004, the same date the issue fee was paid.

The petition is GRANTED.

The application will be forwarded to the Office of Publications for preparation into an issued patent.

Arthur Grimley
Director, Technology Center 2800

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL MN 55120

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,518	06/02/2000	Michael R. Bruce	AMDA.455PA	5747

40581 7590 11/16/2005

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL, MN 55120

EXAMINER	
CHARIOUI, MOHAMED	

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 11/16/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 16 2005

Paper No. 20051108

Applicant : Bruce et al.
Application No.: 09/586,518
Filed: June 2, 2000

DECISION GRANTING PETITION UNDER *37 CFR 1.181*

This decision is in response to the petition filed January 10, 2005 in the above-identified application. Petitioner requests withdrawal of the holding of abandonment under 37 CFR 1.181.

Petitioner asserts that the Notice of Abandonment mailed December 6, 2004 was issued in error, because petitioner had complied with the Office requirement to submit substitute drawings in a timely fashion, having filed said drawings on September 27, 2004.

A review of the record confirms that drawings in compliance with the Examiner's requirement were in fact filed with the Office on September 27, 2004, the same date the issue fee was paid.

The petition is GRANTED.

The application will be forwarded to the Office of Publications for preparation into an issued patent.

Arthur Grimley
Director, Technology Center 2800

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL MN 55120

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

In re Application of :
Shai Mohaban, et al. :
Application No. 09/586,531 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. 50325-0085 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed May 4 2005. This decision precedes the mailing of a Notice of Abandonment.

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

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

The application file is being forwarded to Technology Center AU 2616, for further processing of the request for continued examination under 37 CFR 1.114 filed July 3, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of
Audonnet , et al.
Application No. 09/586,535
Filed: May 31, 2000
Attorney Docket No: 454313.2335.1

ON PETITION

This is regarding the "Petition to Revive and Waive Rules" filed November 9, 2004. The petition will be treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed oath or declaration.

The petition is granted.

Petitioner has requested that the Declaration and Power of Attorney filed with the petition be accepted as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution of the patent application. Petitioner makes this request because it is alleged that the signatures of some of the inventors were falsified on the originally filed declaration.

A review of the file record reveals that a "Notice to File Missing Parts of Nonprovisional Application" was mailed on August 18, 2000, requiring a properly executed oath or declaration. The notice allowed a period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A declaration was filed on October 19, 2000, and was believed to be executed by the named inventors. Petitioner later discovered that some of the signatures on the declaration were forged.

The declaration filed November 9, 2000, is noted as having been received and will be made part of the file record.

The patent file will be directed to Technology Center 1600 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Mark SKRZYNSKI et al. :
Application No. 09/586,557 : ON PETITION
Filed: May 31, 2000 :
Attorney Docket No. 00 P 7658 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 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 August 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 19, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 18, 2003 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2662 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

Received from < 610 346 8189 > at 7/14/03 7:23:19 AM [Eastern Daylight Time]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 11

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APR 0 7 2003

OFFICE OF PETITIONS

WENDY W. KOBA
P.O. BOX 556
SPRINGTOWN, PA 18081-0556

In re Application of
Anderson, et al.
Application No. 09/586,586
Filed: June 2, 2000
Atty. Dkt. No.: Anderson
2-5-10-81-1 (337
For: METHOD AND SYSTEM FOR ELIMINATING EXTRUSIONS IN SEMICONDUCTOR VIAS

DECISION DISMISSING PETITION UNDER 37 CFR 1.137(b)

+ 2 months
due 6/7/03

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

The petition is **DISMISSED**.

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

The application became abandoned March 7, 2002. The application became abandoned for failure to timely respond to the non-final Office action mailed December 6, 2001. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

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

The instant petition lacks required (1) set forth above. Petitioner has failed to submit the required response to the non-final Office action. As petitioner alleges non-receipt of the non-final Office action, please note enclosed courtesy copy.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record at the time of mailing. This presumption may be overcome by a showing that the Notice was not in fact received. A showing may not be sufficient where circumstances 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. Moreover, a showing may not be sufficient where circumstances point to a conclusion that the Office communication was not received due to practitioner's failure to

Jul 14 03 06:24a wendy w koba esq 610-346-8189 p.15

Received from < 610 346 8189 > at 7/14/03 7:23:19 AM [Eastern Daylight Time]

promptly notify the Office of a change in correspondence address.

Office records indicate the Notice was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice on the part of the United States Patent and Trademark Office.

The associate power of attorney and change of correspondence address submitted herewith have been entered into the record.

Further correspondence with respect to this matter submitted prior to May 1, 2003 should be addressed as follows submitted 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

Petitioner is advised to review the attached Mail Stop Notice for correspondence submitted after May 1, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Mail Stop Notice
Copy of Non-final Office Action

FAX RECEIVED

JUL 1 4 2003

TECHNOLOGY CENTER 2800

Jul 14 03 06:24a wendy w kobe esq 610-346-8189 p.16

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/24/08

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 7329728

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

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

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

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

☐ Approved	All changes apply.
☑ Approved In Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments:

Please see the attached list with comments for not entering

SPE

1647
Art Unit

OIPE IAP78
MAY 02 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Barbas III *et al.*	Art Unit	: 1652
Patent No.	: 7,329,728	Examiner	: Lorraine Spector
Issue Date	: February 12, 2008	Conf. No.	: 6568
Serial No.	: 09/586,625	Cust. No.	: 77202
Filed	: June 2, 2000		
Title	: LIGAND ACTIVATED TRANSCRIPTIONAL REGULATOR PROTEINS		

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Pursuant to 37 C.F.R. § 1.322, the patentee respectfully requests that a Certificate of Correction be issued for the above referenced patent to correct the following errors:

IN THE TITLE PAGES:

In Item (56) References Cited, in U.S. PATENT DOCUMENTS:

please add the following reference: —2003/0186841 10/2003 Barbas III et al.—

please add the following reference: —2004/0224385 4/2005 Barbas et al.—

please add the following reference: —2005/0084885 4/2005 Barbas III et al.—

please add the following reference: —2005/0148075 7/2005 Barbas, C.F.—

please add the following reference: —6,790,941 9/2004 Barbas III et al.—

In Item (56) References Cited, in FOREIGN PATENT DOCUMENTS:

please add the following reference: —WO 1/52620 07/2001—

please add the following reference: —WO 2/06463 01/2002—

please add the following reference: —WO 2002/097050 12/2002—

In Item (56) References Cited, in OTHER PUBLICATIONS:

05/05/2008 CCHAU1 00000067 021818 7329728
01 FC:1811 100.00 DA

CERTIFICATE OF MAILING BY "EXPRESS MAIL"
961696/D/1
"Express Mail" Mailing Label Number EM 247735892 US
Date of Deposit May 02, 2008
I hereby certify that this paper is being deposited with the United States Postal "Express Mail Post Office to Addressee" Service under 37 CFR §1.10 on the date indicated above and is addressed to: Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

Jon Levy

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Patent Publication
MAY 8 2008

please add the following reference: — Alwin et al., "Custom zinc-finger nucleases for use in human cells," Mol. Ther. 12(4): 610-617 (2005)—.

please add the following reference: — Blancafort et al., "Designing transcription factor architectures for drug discovery," Mol. Pharmacol. 66(6): 1361-71 (2004)—.

please add the following reference: — Blancafort et al., "Genetic reprogramming of tumor cells by zinc finger transcription factors," Proc. Natl. Acad. Sci. USA 102(33): 11716-21 (2005)—.

please add the following reference: — Blancafort et al., "Scanning the human genome with combinatorial transcription factor libraries," Nature Biotechnol. 31(3): 269-274 (2003)—.

Do not enter

please add the following reference: — Blau et al., "γ-globin gene expression in CID-dependent multi-potential cells established from beta-YAC transgenic mice," J. Biol. Chem. August 30, 2005—. NO volume number & page numbers

please add the following reference: — Dreier et al., "Development of zinc finger domains for recognition of the 5'-ANN-3' family of DNA sequences and their use in the construction of artificial transcription factors," J. Biol. Chem. 276(31): 29466-78 (2001)—.

please add the following reference: — Dreier et al., "Development of zinc finger domains for recognition of the 5'-CNN-3' family DNA sequences and their use in the construction of artificial transcription factors," J. Biol. Chem. 280(42):35588-35597 (2005)—.

please add the following reference: — Graslund et al., "Exploring strategies for the design of artificial transcription factors: targeting sites proximal to known regulatory regions for the induction of γ-globin expression and the treatment of sickle cell disease," J. Biol. Chem. 280(5): 3707-14 (2005)—.

please add the following reference: — Guan et al., "Heritable endogenous gene regulation in plants with designed polydactyl zinc finger transcription factors," Proc. Natl. Acad. Sci. USA 99(20): 13296-301 (2002)—.

please add the following reference: — Lin et al., "Small-molecule switches for zinc finger transcription factors," J. Am Chem. Soc. 125(3): 612-3 (2003)—.

please add the following reference: — Lund et al., "Promoter-targeted phage display selections with preassembled synthetic zinc finger libraries for endogenous gene regulation," J. Mol. Biol. 340(3): 599-613 (2004)—.

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Patent Publication
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Donor error.

please add the following reference: — Lund et al., "Zinc Finger Transcription Factors Designed for Bispecific Coregulation of ErB2 and ErbB3 Receptors: Insights into ErbB Receptor Biology," Mol. Cell. Biol. 25(20): 9082-91 (2005)—.

Not considered by the examiner

please add the following reference: — Magnenat et al., "In vivo selection of combinatorial libraries and designed affinity maturation of polydactyl zinc finger transcription factors for ICAM-1 provides new insights into gene regulation," J. Mol. Biol. 341(3): 635-49 (2004)—.

please add the following reference: — Ordiz et al., "Regulation of transgene expression in plants with polydactyl zinc finger transcription factors," Proc. Natl. Acad. Sci. USA 99(20): 13290-5 (2002)—.

please add the following reference: — Segal et al., "Custom DNA-binding proteins come of age: polydactyl zinc-finger proteins," Curr. Opin. Biotechnol. 12(6): 632-7 (2001)—.

please add the following reference: — Segal et al., "Evaluation of a modular strategy for the construction of novel polydactyl zinc finger DNA-binding proteins," Biochemistry 42(7): 2137-2148 (2003)—.

please add the following reference: — Segal et al., "Attenuation of HIV-1 replication in primary human cells with a designed zinc finger transcription factor," J. Biol. Chem. 279(15): 14509-19 (2004)—.

please add the following reference: — Segal et al., "Zinc fingers and a green thumb: manipulating gene expression in plants," Curr. Opin. Plant Biol. 6(2): 163-8 (2003)—.

please add the following reference: — Stege et al., "Controlling gene expression in plants using synthetic zinc finger transcription factors," Plant J. 32(6): 1077-86 (2002)—.

please add the following reference: — Tan et al. , "Fusion proteins consisting of human immunodeficiency virus type 1 integrase and the designed polydactyl zinc finger protein E2C direct integration of viral DNA into specific sites," J. Virol. 78(3): 1301-13 (2004)—.

please add the following reference: — Xu et al., "A versatile framework for the design of ligand-dependent, transgene-specific transcription factors," Mol. Ther. 3(2): 262-73 (2001) —.

in Rollins, et al., please replace "TFIIA" with — TFIIIA—.

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IN THE CLAIMS

Please replace claims 32, 34 and 35 with the following amended claims:

32. The vector of claim 31 that is selected from the group consisting of an adenoviral vector, [[and]] an adeno-associated viral vector, a herpes virus vector, a vaccinia virus vector and a lentiviral vector.

34. The vector of claim 33 that is selected from the group consisting of an adenoviral vector, [[and]] an adeno-associated viral vector, a herpes virus vector, a vaccinia virus vector and a lentiviral vector.

35. A combination, comprising:

a composition containing a fusion protein of claim 1; or

a ~~compositions~~ composition containing a nucleic acid molecule comprising a sequence of nucleotides that encodes the fusion protein; and

a composition containing a regulatable expression cassette that comprises at least one response element recognized by the nucleic acid binding domain of the fusion protein.

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#20

CAROL M. LASALLE
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Martin P. Debreczeny et al :
Application No. 09/586,692 :
Filed: June 1, 2000 :
Attorney Docket No. LIFE-005 (CLIENT # LFS-95) :

ON PETITION

This is a decision on the petition, filed March 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 March 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2877 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).

SPE D. Dunn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/586,813

Paper No.: _____

DATE : 8/4/05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6870655

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.

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

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

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

Comments: OK TO ENTER ALL OF THE CHANGES REQUESTED BY APPLICANT. PLEASE NOTE THAT EACH ONE OF THE CHANGES WERE MERELY "TYPOGRAPHICAL ERRORS" MADE BY THE PRINTER AND SUCH DETERMINATION SHOULD HAVE BEEN MADE BY THE CERTIFICATE OF CORRECTION BRANCH WITHOUT THE NECESSITY OF A REPORT BEING FURNISHED BY THE EXAMINER. SEE MPEP 1485

RDS 8/30/2005

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

8/31/05 2872
Art Unit

OIPE 3712
JUL 14 2005
PATENT & TRADEMARK OFFICE

09/586,813 cofe

Atty. Docket No. GEN10 P-318A

CERTIFICATE OF MAILING

I hereby certify that this paper, together with all enclosures identified herein, are being deposited with the United States Postal Service as first class mail, addressed to the Attn. Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date indicated below.

7/11/05
Date

Rebecca A. Westers

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

O.K. TO ENTER RDS. 8/30/05

Patentee : Bradley L. Northman et al.
Patent No. : 6,870,655
Issue Date : March 22, 2005

Certificate
JUL 21 2005
of Correction

Attn. Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

A request is being made for a Certificate of Correction in the above-identified patent, which issued with the following errors identified by page and line from the application file.

Page 1, line 11, "Modem" should be --Modern--. O.K.
Page 5, line 13, "XXI-XXI" should be --XXII-XXII--. O.K.
Page 8, line 25, delete "25". O.K.
Page 13, lines 15 and 16, "(FIGS. 14 and 15) a" should be --(FIGS. 14 and 15)--. O.K.
Page 17, line 4, "La" should be --L_R--. O.K.
Page 17, line 22, "LA" should be --L_E--. O.K.
Page 20, line 10, delete "10". O.K.
Page 21, line 3, "mirror 120A" should be --mirror 115A-- O.K.
Page 21, line 5, "Would" should be --145A could--. O.K.
Amendment C, page 4, claim 1, line 4, "panel" should be --a panel--. O.K.
Amendment C, page 5, claim [7] 6, line 1, "she" should be --the--. O.K.

JUL 21 2005

Amendment C, page 5, claim [8] 10, line 10, "nor-opaque" should be --non-opaque--. OIC

Enclosed is the Certificate of Correction Form PTO 1050 identifying errors by column and line from the patent which are chargeable to the Official Printer.

Respectfully submitted,

7-11-2005
Date

Terry S. Callaghan
Registration No. 34 559
695 Kenmoor, S.E.
Post Office Box 2567
Grand Rapids, Michigan 49501
(616) 949-9610

TSC/rsw

Staple Here Only!

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,870,655
DATED : March 22, 2005
INVENTOR(S) : Bradley L. Northman et al.

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

Column 1, line 21, "Modem" should be --Modern--. O|C

Column 4, line 5, "XXI-XXI" should be --XXII-XXII--. O|C

Column 6, line 32, delete "25". O|C

Column 9, line 51, "(FIGS. 14 and 15) a" should be --(FIGS. 14 and 15)--. O|C

Column 12, line 23, "La" should be --L_R--. O|C

Column 12, line 51, "LA" should be --L_E--. O|C

Column 14, line 37, delete "10". O|C

Column 15, line 7, "mirror 120A" should be --mirror 115A--. O|C

Column 15, line 10, "Would" should be --145A could--. O|C

Column 15, line 31, "panel" should be --a panel--. O|C

Column 15, line 53, "she" should be --the--. OK

Column 16, lines 29-30, "nor-opaque" should be --non-opaque--. O|C

O|C TO enter TSC 8/30/2005

MAILING ADDRESS OF SENDER:

Terry S. Callaghan
Price, Heneveld, Cooper,
DeWitt & Litton, LLP
Post Office Box 2567
Grand Rapids, MI 49501

PATENT NO. 6,870,655
No. of add'l copies
@ $0.50 per page

FORM PTO 1050

JUL 21 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAJESH VALLABH
HALE AND DORR
60 STATE STREET
BOSTON, MA 02109

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Avery Osgood et al :
Application No. 09/586,858 : ON PETITION
Filed: June 5, 2000 :
Attorney Docket No. GSI-005 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 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 July 17, 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 November 18, 2003.

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

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 1743.

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
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Alexandria, VA 22313-1450
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DINESH AGARWAL ESQUIRE
LAW OFFICE DINESH AGARWAL, P. C.
5350 SHAWNEE ROAD, SUITE 330
ALEXANDRIA, VA 22312

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
BARKAN, Mordhay :
Application No. 09/586,881 : DECISION GRANTING PETITION
Filed: June 5, 2000 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 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 September 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3692 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

20 FEB 2009

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF DINESH AGARWAL PC
SUITE 330 - 5350 SHAWNEE ROAD
ALEXANDRIA, VA 22312

In re Application of	:	
BARKAN	:	DECISION ON
Application No.: 09/586,881	:	
PCT No.: PCT/IL98/00563	:	PETITION UNDER
Int. Filing Date: 19 NOVEMBER 1998	:	
Priority Date: 20 November 1997	:	37 CFR 1.137(b)
Attorney's Docket No.: 1229/00	:	
For: PAYMENT SYSTEM AND METHOD USING TOKENS	:	

This decision is in response to applicant's petition under 35 USC 1.137(b) filed 30 October 2008 in the United States Patent and Trademark Office (USPTO) and to the supplemental petition filed 10 February 2009.

BACKGROUND

On 19 November 1998, applicant filed international application PCT/IL98/00563 which designated the U.S. and claimed a priority date of 20 November 1997. The thirty-month period for the filing of United States national application expired at midnight on 22 May 2000 (20 May 2000 being a Saturday).

On 23 May 2000, international application PCT/IL98/00563 became abandoned as to the United States for failure to timely file the requisite basic national fee under 35 USC 371 (c)(1).

On 05 June 2000, applicant filed application 09/586,881 under 35 USC 111(a), claiming priority to PCT/IL98/00563 under 35 USC 120 and 365(c) and IL 122263 under 35 USC 119(a)-(d), which was accompanied by, *inter alia*, a verified statement of small entity status.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), on 05 June 2000, applicant submitted application 09/586,881 and on 10 February 2009, applicant provided an amendment to the specification to indicate that this application is a continuation of PCT/IL98/00563.

As to item (2), the petition fee will be charged to Deposit Account 01-0433.

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

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

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

The application will be returned to Technology Center AU 3692 for continued processing.

Susan C. Wolski
PCT Special Programs Examiner
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3304
Facsimile: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3303

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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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AUG 14 2005

OFFICE OF PETITIONS

In re Application of :
Rajesh Shakkarwar :
Application No. 09/586,907 :
Filed: June 5, 2000 :
Attorney Docket No. 0100.0000370 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 21, 2005.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on May 13, 2004. 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). A response to the final Office Action was filed on July 13, 2004. An Advisory Action was mailed on August 13, 2004 informing applicant the response filed did not place the application in condition for allowance. The examiner also deemed a reply submitted on September 10, 2004 as not constituting a proper reply. Accordingly, this application became abandoned on August 14, 2004. A Notice of Abandonment was mailed on June 7, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**. Deposit account no. 50-0441 will be charged the RCE fee.

The Request for Continued Examination (RCE), and the amendment submitted with the instant petition will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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101 FEDERAL ST
BOSTON MA 02110

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Hubbell, et al. : DECISION ON APPLICATION
Application No. 09/586,937 : FOR PATENT TERM ADJUSTMENT
Filed: June 2, 2000 :
Attorney Docket No. 50154/003001 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2005.[1] Applicants requests that the patent term adjustment (PTA) history in Office records be corrected from three hundred sixty-six (366) days of applicant delay to two hundred ninety-seven (297) days.

The petition for correction of the PTA history is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **zero (0) days, including two hundred ninety-seven (297) days of applicant delay**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

[1] This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and together with the payment of the issue fee.

On October 1, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days.

The Office initially determined a patent term adjustment of zero (0) days, including applicant delays of one hundred four (104), ninety-two (92), ninety-eight (98), sixty-eight (68), and four (4) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The applicant delays of 92, 98, 68, and 4 days have been reviewed and found to be correct. The applicant delay of 104 days is at issue.

The applicant delay of 104 days has been found to be incorrect. The PTO mailed a Notice to File Missing Parts on August 28, 2000. A review of the application file reveals that applicants filed a complete reply in response to the notice on January 2, 2001. Accordingly, Applicant delay should have been assessed as thirty five (35) days, not 104 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days, including two hundred ninety-seven (297) days of applicant delay.**

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

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

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 18 2002
NOV 10 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

Paper No. 13

In re Application of :
Perry R. DeYoung : DECISION ON PETITION
Application No. 09/586,943 :
Filed: June 2, 2000 :
Attorney Docket No. OLI02 P-350

This is a decision on the petition filed on October 21, 2002 by which petitioner request withdrawal of the examiner's restriction requirement. No fee is required for the petition, and the $130.00 fee tendered therewith will refunded to Deposit Account No. 16-2463.

The petition is granted.

Petitioner has presented a lengthy and, in many instances, an essentially correct recitation of the reasons why the examiner's restriction requirement is not supported by the practice set forth in Chapter 800 of the Manual of Patent Examining Procedure.

In addition, it is the observation of the undersigned that all of the claims presented in this application are directed to a machine which is a combination of elements called by petitioner "a food press." All of the claims are open ended "comprising type" claims, whereby the "food press" recited in a given claim includes the specifically identified elements of that claim and is open ended so as to encompass a device which includes those elements together with additional unspecified elements. **That the claims are of varying scope does not convert them into claims for different devices; the claims all are directed to "a food press."** While a claim to such a device which merely recited a single specified element, such as, for example, "a food press comprising a lid", or even a plurality of specified elements such as, for example, "a food press comprising a lid and a hinge", could well be regarded as not being directed to "a food press" on the theory that the words "a food press" were functional only, and not supported by sufficient structure to support that function, the claims in this application are not of that sort. Every claim recites sufficient structure so that the combination of elements in the claim defines "a food press."

Petitioner is entitled to define an invention by presenting a plurality claims to that invention which are of varying scope. That there may be more than one patentable "aspect" of the disclosed invention does not preclude petitioner from presenting claims to the "overall device" which specifically recite only one such aspect, provided that petitioner does so in a claim that recites sufficient structure to define that overall device. Claiming in this manner does not convert the disclosure into a disclosure of multiple "overall devices", and does not trigger the restriction practice set forth in Chapter 800 of the Manual of Patent Examining Procedure. Restriction might apply if petitioner advanced claims limited to a specific recitation of a given one those "aspects", whether open ended or not, and regardless of whether the claim preamble recited "an overall device" or "an aspect of the overall device." But, as discussed above, that simply is not the situation in this application.

The application is being forwarded to the Head Supervisory Applications Examiner to accomplish the refund discussed above. Thereafter, the application will be forwarded to the Supervisory Patent Examiner for Art Unit 3724 who will undertake to have this application examined in a manner not inconsistent with this decision.

PETITION GRANTED.

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

Price Heneveld Cooper DeWitt & Litton
695 Kenmoor, S.E.
P.O. Bx 2567
Grand Rapids, MI 49501

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Marcus P. Dolce
695 Kenmoor SE
PO Box 2567
Grand Rapids, MI 49501

In re Application of: DeYoung :
Appl. No.: 09/586943 : DECISION ON PETITION
Filed: 6/2/2000 :
For: AUTOMATIC COVER LATCH AND :
AND PRESSURE RELIEF SYSTEM FOR :
A DOUGH DIVIDER :

This is a decision on the petition filed on August 9, 2004 by which petitioner requests withdrawal of the restriction requirement as set forth in the Office Action of May 5, 2004. The petition is considered pursuant to 37 CFR 1.144, and no fee is required.

The petition is dismissed as moot.

Review of the application and of the claims shows that the examiner first promulgated the disputed requirement for restriction December 30, 2003. Petitioner elected, with traverse, on January 22, 2004. The examiner found the traversal unpersuasive, added newly presented claims to a new grouping and made the requirement for restriction final in the Office Action of May 5, 2004. Petitioner seasonably presented arguments for reconsideration of the Office position under 37 CFR 1.144.

During consultation with the examiner in preparation of the response herein, the undersigned has been informed that reconsideration has resulted in the examiner withdrawing the requirement and working in concert with petitioner in resolving all issues remaining impeding allowance of the application. Accordingly, the relief sought on petition appears moot.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,964	06/05/2000	Pascale Adolphine Emilienne De Meuter	PM 270736	6581

7590 04/25/2002

KENDREW H. COLTON
FITCH, EVEN, TABIN & FLANNERY
1801 K STREET, N.W.
SUITE 401L
WASHINGTON, DC 20006

EXAMINER	
WONG, LESLIE A	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 04/25/2002

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

Attachment I: Template Decision for Granting Petition to Reset Period for Reply

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

In re Application of De Meuter et al : DECISION GRANTING PETITION
Application No. 09/586,964 : TO RESET PERIOD FOR REPLY
Filed: June 5, 2000 :
Attorney Docket No. 7393/71920

This is a decision on the letter filed on February 20, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on December 26, 2001 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The request is granted.

Requester provided a statement that the Office communication in question was received at the correspondence address of record on February 19, 2002. 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. 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 December 26, 2001 is hereby reset to run FROM THE RECEIPT DATE OF February 19, 2002.

Mark Bell, SPE
Technology Center 1700
703-308-3823

UNITED STATES 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. 6324541
Issue Date: November 27,2001
Application No. 09586991
Filed: June 5,2000
Attorney Docket No. 1795.0010001/RGS/RVM

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

This is a decision on the electronic petition, filed February 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,324,541	2001-11-27	09/586,991	2000-06-05	1795.0010001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
◉	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Theodore A. Wood, #52,374/	Date (YYYY-MM-DD)	2010-02-04
Name	Theodore A. Wood	Registration Number	52374

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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Morrison & Foerster, LLP
Attn: Michael A. Stallman
425 Market Street
San Francisco, CA 94105-2482

MAILED

OCT 2 1 2009

OFFICE OF PETITIONS

In re Patent No. 6,360,035 :
Issue Date: March 19, 2002 :
Application No. 09/587,063 : NOTICE
Filed: June 2, 2000 :
Attorney Docket No. 658302029900 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 3, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE, CA 92614-7230

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of
Oashi et al.
Application No. 09/587,107
Filed: June 2, 2000
Reissue of Patent No. 5,767,845
Original Issue Date: June 16, 1998
Attorney Docket No. 52478-0900

Decision on Petition

This is a decision on the petition under 37 CFR 1.47(a), filed November 29, 2004. A copy of the petition was resubmitted on March 3, 2005. This decision will also discuss the papers filed February 18, 2005.

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

Facts:

A final Office action was mailed August 27, 2004. The Office action stated the declaration which had been filed was defective.

A supplemental declaration was filed on November 29, 2004. The declaration did not include a signature of one of the inventors. A petition under 37 CFR 1.47 was filed requesting the Office accept the declaration without the signature of all of the inventors.

On February 18, 2005, petitioner filed a paper entitled, "Petition to Accept Reissue Declaration Executed By the Assignee." The paper stated, "It is hereby requested that this be accepted by the U.S. Patent Office in lieu of applicant's earlier Petition on a Missing Inventor's Signature that has yet to be acted upon by the U.S. Patent Office."

A Notice of Appeal was filed on February 28, 2005.

A copy of the November 29, 2004 petition was submitted on March 3, 2005.

Analysis:

Once a fully executed oath or declaration has been filed in an application, the provision of 37 CFR 1.47 no longer apply. The remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. MPEP 603 states,

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183.

The Office has chosen not to interpret the instant petition as a petition filed under 37 CFR 1.183. Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 was raised to $200 and the fee for a petition under 37 CFR 1.183 was raised to $400. Therefore, treating the petition as a petition filed under 37 CFR 1.183 would require the Office charge an additional $200 to

petitioner's deposit account. The content of the February 18, 2005 submission appears to indicate that petitioner would not desire an additional fee be charged for the petition.

The submission of a copy of the petition on March 3, 2005, indicates a possibility that petitioner wishes to proceed with the petition. If petitioner wishes to seek relief under 37 CFR 1.183 to waive 37 CFR 1.67, petitioner may file a petition under 37 CFR 1.183 and may request the $200 charged for the instant petition under 37 CFR 1.47 be applied towards the $400 fee.

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

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Oashi et al.
Application No. 09/587,107
Filed: June 2, 2000
Reissue of Patent No. 5,767,845
Original Issue Date: June 16, 1998
Attorney Docket No. 52478-0900

Supplemental
Decision on Petition

The instant decision is intended to supplement the decision mailed April 1, 2005.

This decision is in response to papers filed November 29, 2004, which are being treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.67.[1]

The petition is **granted**.

During a telephone conversation between attorney of record Joseph Price and the undersigned at approximately noon on April 1, 2005, the attorney of record indicated that, at no time, had petitioner desired to withdraw the instant petition. Therefore, the Office has reconsidered the papers filed November 29, 2004, and issues this decision after such reconsideration.

A review of the evidence indicates justice would be served by waiving the requirement for the signature of Ryoichi Sasaki on the supplemental declaration filed November 29, 2004.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The fee for a petition under 37 CFR 1.183 is $400. The Office previously charged $200 for the petition. Therefore, an additional $200 will be charged to petitioner's deposit account for the instant petition.[2]

The examiner will be informed of the instant decision in order to give the examiner the opportunity to consider the supplemental declaration and other papers filed in response to the final Office action mailed August 27, 2004.

---

[1] Once a fully executed oath or declaration has been filed in an application, the provision of 37 CFR 1.47 no longer apply. The remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. MPEP 603 states,

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183.

[2] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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OFFICE OF PETITIONS

In re Application of :
Jung-Cheng Lin :
Application No. 09/587,465 : ON PETITION
Filed: 5 June, 2000 :
Attorney Docket No. DP-301187 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 18 December, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 16 August, 2003, for failure to file a proper reply to the final Office action mailed on 15 April, 2003, which set a three (3) month shortened statutory period for reply. A one (1) month extension of time and amendment after final rejection were filed on 20 August, 2003,

[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)).

but were found not to place the case in condition for allowance. The filing of the present petition precedes the mailing of Notice of Abandonment.

On 18 December, 2003, the present petition was filed, accompanied by a Request for Continued Examination (RCE). The RCE requests that the previously filed amendment be considered as the reply required under 37 CFR 1.114.

The application will be forwarded to Technology Center 2800 for consideration of the RCE and amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
Kojima, et al.	:	DECISION GRANTING PETITION
Application No. 09/587,529	:	AND WITHDRAWING THE
Filed: June 1, 2000	:	HOLDING OF ABANDONMENT
Attorney Docket No. FUJI 17.379	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 27, 2006.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 18, 2006. This notice set a statutory period of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on August 19, 2006. A Notice of Abandonment was mailed on September 20, 2006.

Petitioner states that he did not receive the Notice of Allowance. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file

jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has met the requirements to establish non-receipt. In particular, petitioner has submitted a satisfactory docket record showing all replies docketed for a due date of August 18, 2006. An entry for the instant application is absent, supporting the conclusion that the Notice was not received.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 2141 for re-mailing of the Notice of Allowance, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] Id.

#14
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 11 2003

Diana L. Charlton
Caterpillar, Inc.
Patent Department AB6490
100 N E Adams Street
Peoria, IL 61629-6490

MAILED

JUN 11 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
John S. Bibb et al.
Application No. 09/587,544
Filed: June 5, 2000
For: PILOT HYDRAULIC CONTROL FOR A PAIR OF STABILIZER LEGS ON A BACKHOE LOADER MACHINE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.183 to waive the rules under 37 CFR 1.134 filed in the United States Patent and Trademark Office (USPTO), on November February 10, 2003. That petition is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED.**

A review of the file record reveals that a Final Office action was mailed to the applicants on April 30, 2002. A response was received on January 8, 2003. An Advisory action was mailed on January 10, 2003 wherein it was held that the January 8, 2003 response did not place the application in condition for allowance. The issuance of the Advisory Action, mailed January 10, 2003 was improper because at the time of its mailing, the application had already been abandoned for failure to timely file a proper reply to the Final Office action. That improper Advisory action of January 10, 2003 is hereby vacated. Although no formal Notice of Abandonment has yet been mailed, the case is in fact abandoned since the period for responding has expired.

On February 10, 2003, applicants filed a petition under 37 CFR 1.183 to waive the rules under 37 CFR 1.134. In the petition, applicants argue that the Advisory action, mailed January 10, 2003, set the period for reply to expire three months from the mailing date of the final rejection. Due to the fact that the final rejection was mailed July 30, 2002, it would be impossible to submit a reply to the Advisory action given that 37 CFR 1.134 sets the maximum period for reply at six months. Applicants request that the period for reply for the Advisory action be set from the mailing date of the Advisory action and not the Final rejection. Since the issuance of the Advisory Action, mailed January 10, 2003 was improper and vacated, applicants' request is moot.

The communication filed February 10, 2003 is being treated as a petition to withdraw the holding of abandonment. In the petition applicants argue that a response to the Final Office action was filed on July 25, 2002. There is no evidence in the file record of the Office having received any such response. A copy of the reply was provided on January 8, 2003 in response to the examiner's January 7, 2003 telephone call noted in the petition. The response includes a Certificate of Mailing dated July 25, 2002. However, a statement, by the person who signed the statement, attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing is required (37 CFR 1.8(b)(3)). If applicants provide the necessary statement and the petition to withdraw the holding of abandonment is granted, the application will be forwarded to the examiner for consideration of the response filed July 25, 2002. However, it appears that the examiner did not consider the response sufficient to place the application in condition for allowance, as noted in the vacated Advisory action. If the examiner again considers that the response does not place the application in condition for allowance, the application will again be held to be abandoned since a proper reply under 37 CFR 1.113 to the Final Office action was not filed before the expiration of the six-month statutory time period for reply.

MPEP 714.13 sets forth the expedited procedure for processing amendments and other replies after final rejection (37 CFR 1.116). In any application in which a reply under this procedure has been filed and no action by the examiner has been received within the time referred to therein, plus normal mailing time, a telephone call to the supervisory patent examiner (SPE) of the relevant TC art unit would be appropriate in order to permit the SPE to determine the cause for any delay. It appears that applicants made no such call to the SPE. Had applicants telephoned the SPE, applicants would have been informed that the Office had not received the July 25, 2002 response. Thus, applicants would have been able to resubmit the July 25, 2002 response, or another proper reply under 37 CFR 1.113 prior to the expiration of the six-month statutory period for reply.

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."

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

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 be met by the filing of a continuing application in a nonprovisional

application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

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; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy
P.O. Box 1450
Alexandria, VA 22313-1450

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

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Please contact me directly for inquiries specific to this decision.

Randolph A. Reese, Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/tpl: 6/9/03

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

Paper No. 19

Diana L. Charlton
Caterpillar Inc.
Patent Department, AB6490
100 N. E. Adams Street
Peoria, IL 61629-6490

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of :
John S. Bibb et al. :
Application No. 09/587,544 : ON PETITION
Filed: June 5, 2000 :
Attorney Docket No. 00-318 :

This is a decision on the petition under 37 CFR 1.137(b) filed July 15, 2003, to revive the above-identified application.

The petition is granted.

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 3618 for further processing.

Latrice Bond

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

11 MAR 2004

#24

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GOODWIN PROCTOR
103 Eisenhower Parkway
Roseland, NJ 07068

In re Application of: BEHRENS Jurgen, et al.	:	
U.S. Application No.: 09/587,574	:	DECISION ON PETITION TO
Filing Date: June 5, 2000	:	REVIVE ABANDONED
Attorney's Docket No.:103888-402-NP	:	APPLICATION UNDER
For: CONDUCTING PROTEIN AND A	:	37 CFR 1.137(b)
RELATED AGENT FOR DIAGNOSING	:	
AND TREATING TUMOR ILLNESSES	:	

This decision is issued in response to applicant's "Petition To Revive Unintentionally Abandoned Application" filed with respect to international application PCT/DE98/02621 on 05 June 2000. Applicants have paid the required small entity petition fee.

BACKGROUND

International application PCT/DE98/02621 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 02 March 2000 (thirty months after the priority date) for failure to pay the basic national fee.

On 05 June 2000, applicant filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/DE98/02621, and the petition to revive international application PCT/DE98/02621 considered herein. The petition to revive was filed for the purpose of establishing continuity between the international application and the present continuation application.

DISCUSSION

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the abandonment and the lapse of the time period since the abandonment, were unintentional" is interpreted as the statement required by 37 CFR 1.137(b)(3) that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is **not** a correct interpretation of the petition, applicants **must** inform this Office immediately.

The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International application PCT/DE98/02621 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 09/587,574.

CONCLUSION

The petition to revive is **GRANTED.**

International application PCT/DE98/02621 is hereby revived for purposes of continuity, 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 09/587,574.

This application is being returned to Art Unit 1642

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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RICHARD I. SAMUEL, ESQ.
GOODWIN PROCTER, LLP
599 LEXINGTON AVE.
NEW YORK, NY 10022

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
BEHRENS et al :
Application No.: 09/587,574 : DECISION ON PETITION
Filing Date: June 5, 2000 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 0107-026P :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 28, 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 issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP

Paper No. 10

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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DEC 06 2004
OFFICE OF PETITIONS

In re Application of :
James P. Coppola :
Application No. 09/587,619 : ON PETITION
Filed: June 5, 2000 :
Attorney Docket No. TRD-001XX :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed June 25, 2003. Accordingly, this application became abandoned on September 26, 2003. A Notice of Abandonment was mailed on January 13, 2004.

The file is being forwarded to Technology Center 3600 for review of the amendment, filed September 24, 2004.

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

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

6/6/05

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GROUP 3600

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Paper No. 10

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of :
James P. Coppola :
Application No. 09/587,619 : ON PETITION
Filed: June 5, 2000 :
Attorney Docket No. TRD-001XX :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed June 25, 2003. Accordingly, this application became abandoned on September 26, 2003. A Notice of Abandonment was mailed on January 13, 2004.

The file is being forwarded to Technology Center 3600 for review of the amendment, filed September 24, 2004.

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

Edward J. Tannouse
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
P.O. BOX 1450 ALEXANDRIA VA 22313-1450
WWW.USPTO.GOV

MAY 28 2003

FULBRIGHT & JAWORSKI
600 Congress Avenue
SUITE 1900
Austin, TX 78701

In re Application of	:
Sangar et al .	:
Serial No.: 09/587,653	: Petition Decision
Filing Date: 5 June 2000	:
Attorney Docket No. UTSG:231US	:

This letter is in response to the Petition under 37 CFR 1.144, filed on 30 December 2002 to require the examiner to reconsider the restriction requirement advanced on March 27, 2002. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed with 50 original claims. The Examiner required a restriction into four inventions on 3 October 2001. On 30 January 2002 Applicant elected without traverse to prosecute invention II, claims 19-21 and 27-33, drawn to methods of producing a virus. However, Applicant also added claims 51-55 which depended upon claim 19 and are also drawn to methods of producing a virus. On 27 March 2002, the Examiner withdrew the newly added claims 51-55 from consideration stating they were drawn to a non-elected invention. A first office action the merits was sent out rejecting claims 19-21 and 28-30 under 35 USC 101, claims 19-21 and 27-33 under 35 USC 112, second paragraph and claims 19-21 and 28-30 under 35 USC 102(b). Applicant responded on 05 July 2002 by amending the claims and adding new claim 56, which depended upon claim 19. In addition, Applicant traversed the withdrawal of consideration of claims 51-55 as being drawn to a non-elected invention. On 21 October 2002, the Examiner responded to Applicant's traversal of the restriction requirement by upholding the withdrawal of claims 51-55 and removing all other grounds of rejection, except for the 35 USC 112, second paragraph and made the office action Final. In response on 30

Not 1.114 → should be 1.144 [1.114 = RCE]

December 2002, Applicant filed an amendment After-Final under 37 CFR 1.116, and a Petition under 37 CFR 1.114 to remove the restriction requirement. On 21 January 2003, the Examiner denied entry of the After-Final amendment. On 4 March 2003 Applicant filed a notice of Appeal, and on 5 May 2003 Applicant filed an Appeal Brief and another amendment After-Final under 37 CFR 1.116. The Examiner has not yet considered the After-Final amendment or the Appeal Brief.

DISCUSSION

The Examiner removed claims 51-55 from elected group based upon her decision that claims drawn to a method of making a virus comprising 250 or more contiguous nucleotides of SEQ ID NO. 2 are ultimately limited to nucleotides which differ in structure from the originally elected group of a method of making a virus comprising 50 or more contiguous nucleotides of SEQ ID NO. 1. However, as Applicant as correctly pointed out in their Petition, claims 51-55 properly depend from the elected invention of claims 19-21, 27-33, and 56 and require SEQ ID NOS 1 and 2 together and not in the alternative. In addition, SEQ ID NO. 2 encompasses all of SEQ ID NO. 1. Therefore a search comprising SEQ ID NO. 1 would be co-extensive with a search of SEQ ID NO.2 and an undue search burden does not exist.

DECISION

The Petition is **GRANTED** for the reasons set forth above. The withdrawal from consideration of claims 51-55 from claims 19-21 and 27-33 mailed 27 March 2002 has been vacated. Claims 51-55 will be rejoined for examination with presently acted upon claims 19-21, 27-33 and 56. The Appeal Brief filed 5 May 2003 will not be considered and the application will be returned to the Examiner for action addressing claims 51-55 in a manner consistent with this petition decision.

Applicants may file a request for the refund for the Notice of Appeal fee.

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, PO Box 1450, Alexandria VA 22313-1450 or by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7230.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Williams, Morgan & Amerson, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of:
WINKLER et al.
Application No.: 09/587,722
Filing Date: June 5,2000
Attorney's Docket No.: A72399US
For: METHOD AND APPARATUS FOR CONTROLLING ATM STREAM

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed February 03, 2006. The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed January 15, 2004 which set a shortened statutory period of reply of three (3) months. Applicants did not file a timely Notice of Appeal, and no extensions of time were obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned at midnight on April 15, 2004.

On February 03, 2006, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Notice of Appeal. Accordingly, the reply to the final Office action mailed January 14, 2004, 2005 is accepted as having been unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the due date of this decision.

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

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

Patent Number: 6677443	:	
Issue Date: 01/13/2004	:	
Application Number: 09/587811	:	ON PETITION
Filing Date: 06/06/2000	:	
For: INSECT MONOAMINE	:	
TRANSPORTER AND METHODS OF USE	:	
THEREOF	:	

This is a decision on the paper filed on 6 April, 2007, which is treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The processing fee of $130.00 will be charged to counsel's deposit account, as authorized in the request.

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

The application is referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

075193.0102
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	: Malutan *et al.*	Patent No.	: 6,677,443
Serial No.	: 09/587,811	Confirmation No.	: 9525
Filed	: 06/06/2000	Group Art Unit	: 1646
Examiner	: Michael T. Brannock		
For	: Insect Monoamine Transporter And Methods Of Use Thereof		

PETITION UNDER 37 C.F.R. § 3.81(b)

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

Sir:

Applicants hereby petition under 37 C.F.R. § 3.81(b) to permit Applicants to add the name of a second Assignee after the issuance of U.S. Patent No. 6,677,443. The second Assignee should be "The University Of Western Ontario." Inadvertently, there was only one Assignee designated on the Issue Fee transmittal form (PTOL-85).

Pursuant to C.F.R. § 3.81(b), Applicants submit that the Assignment to "The University Of Western Ontario" was submitted for recordation prior to the issuance of U.S. Patent No. 6,677,443. The Assignment was recorded in the U.S. Patent and Trademark Office on **October 3, 2000**, at Reel **011163**, Frame **0564**.

01 FC:[illegible] 00000002 024377 6677443
130.00 DA

Therefore, Applicants request that the following Assignee information be added to the patent:

Assignee: **The University Of Western Ontario,** London (CA)

Applicants request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Petition is granted. A proposed Certificate of Correction is also attached.

Payment of the petition fee required under 37 C.F.R. § 1.17(h) and Certificate of Correction is enclosed herewith. Should any additional fees be required or any overpayment made, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

April 6, 2007
Date

Lisa B. Kole
Patent Office Reg. No. 35,225

30 Rockefeller Plaza
44th Floor
New York, NY 10012-4498
Attorney for Applicant(s)
212-408-2500

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. 6366836
Issue Date: April 2,2002
Application No. 09587850
Filed: June 6,2000
Attorney Docket No. OOCR068/KE

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

This is a decision on the electronic petition, filed April 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 16,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,366,836	2002-04-02	09/587,850	2000-06-06	00CR068

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◯	3 ½ year	(1551)
◉	7 ½ year	(1552)
◯	11 ½ year	(1553)

Small Entity

	Fee	Code
◯	3 ½ year	(2551)
◯	7 ½ year	(2552)
◯	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

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	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-04-16
Name	Matthew J. Evans	Registration Number	56530

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. 11

THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Ajay Kumar Luthra et al
Application No. 09/587,875
Filed: June 6, 2000
Attorney Docket No. 16230-4923

DECISION ON PETITION

This is a decision on the petition to revive the above-identified abandoned application under 37 CFR 1.137(a),[1] or, alternatively under 37 CFR 1.137(b),[2] filed July 31, 2002.

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

BACKGROUND

The above-identified application became abandoned for failure to file a timely and proper reply to the Restriction Requirement (non-Final Office Action) mailed July 9, 2001. This Office action set a shortened statutory period for reply of one (1) month from the mailing date of the action. No proper reply having been received and no extensions of time obtained, the application became abandoned on August 10, 2001. Accordingly, a Notice of Abandonment was mailed May 22, 2002.

Petitioner asserts that "the recitation of clams in the Action bore no relation to the claims in the case", that he "believed that the Action was sent in error, that the Action was intended for another application." Petitioner asserts that he immediately called the Examiner and that the Examiner informed him that "he would correct the problem and get back to him". Thus, Petitioner argues that the delay in filing a proper response to the non-Final Office Action was unavoidable.

DISCUSSION

PETITION UNDER 37 CFR 1.137(a)

The petition lacks the required showing of unavoidable delay under 37 CFR 1.137(a). 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.[3]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable"delay.[4] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant

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[3] 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).

[4] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

of any deficiency in sufficient time to permit the applicant to take corrective action.[5]

Pursuant to 35 U.S.C. 133, the maximum statutory period for reply to an Office action is 6 months. Implementing regulation 37 C.F.R. 1.135 provides that if no reply is filed within the time set in the Office action under 37 CFR 1.134, or as it may be extended under 37 CFR 1.136, the application will be abandoned. Unless an Office action indicates that another consequence, such as disclaimer, will take place. 37 CFR 1.135 further specifies that an application becomes abandoned if applicant "fails to reply" to an Office action within the fixed statutory period either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period.

Petitioner's reliance upon the Examiner to "correct the problem" was a judgment call of the petitioner and not the fault of the Agency. Furthermore, pursuant to 37 CFR 1.2 all business with the Patent and Trademark Office should be transacted in writing. The application became abandoned because instead of filing a timely written response to the office action, petitioner disregarded the regulations found at 37 C.F.R. 1.134, 37 CFR 1.135 and 37 CFR 1.136 in favor of the Examiner correcting a problem and getting back to him. It is the applicant's responsibility to take the necessary action in an application under a non-Final Office action to provide a complete and proper reply.

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

The petition fee of $1,280.00 for a petition under 37 CFR 1.137(b) will be charged to counsel's deposit account, No. 20-0823.

The requirements for revival under 37 CFR 1.137(b) having been met, this petition will be granted.

This application file is being forwarded to Technology Center 1713 for a review of the election filed July 31, 2002 in response to the restriction requirement mailed July 9, 2001.

Telephone inquiries related to this decision may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[5] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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Paper No. 8

BARRY W SUFRIN
MICHAEL BEST & FRIEDRICH LLP
401 NORTH MICHIGAN AVE #1700
CHICAGO IL 60611

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FEB 15 2002

OFFICE OF PETITIONS

In re Application of
George P. Pollack
Application No. 09/587,948
Filed: June 6, 2000
Attorney Docket No. 029169-9001

DECISION ON PETITION

This is a decision on the petition filed on January 24, 2002 (Certificate of Mailing dated December 4, 2001), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action, mailed November 14, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time for reply under the provisions of 37 CFR 1.136(a) were obtained. No response having been received, the above-identified application became abandoned on February 15, 2001. A Notice of Abandonment was mailed on June 19, 2001.

With the instant petition, petitioner filed an amendment in reply to the non-final Office action, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

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

The Revocation and Substitute Power Of Attorney, filed with the instant petition, is acknowledged and made of record. Future correspondence will be directed to the above address of record.

The application file is being forwarded to Technology Center 2800 for consideration of petitioner's amendment, filed January 24, 2002.

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

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)
6,412,140	2002-07-02	09/588,001	2000-06-06	1008.38548X00

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan E. Schiavelli/	Date (YYYY-MM-DD)	2007-07-17
Name	Alan E. Schiavelli	Registration Number	32087

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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In re Patent No. 6412140
Issue Date: July 2,2002
Application No. 09588001
Filed: June 6,2000
Attorney Docket No. 865.38548X00

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV - 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of
Phil C. CRAYTON, et al
Application No. 09/588,006
Filed: June 6, 2000
For: SPLIT MODEL DRIVER USING A PUSH-PUSH MESSAGING PROTOCOL OVER A CHANNEL BASED NETWORK

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 13, 2003.

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

The request is **GRANTED**.

All future communication from the Office will 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
5285 SW Meadows Road
Suite 101
Lake Oswego, OR 97035

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JJGJR.: 09-05

Paper No: __

ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Cayton, et al. :
Application No. 09/588,006 : DECISION
Filing Date: 6 June, 2000 :
Attorney Docket No. 219.37648X00(P7728) :

This is a decision on the petition filed on 6 September, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

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.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(b)[1] (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(b)."

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due (and, apparently to the drawings requirement accompanying the Notice of Allowability) mailed on 13 August, 2004, with a supplement re-addressing the drawings requirement mailed on 19 October, 2004), with reply due under a non-extendable deadline on or before Monday, 15 November, 2004 (according to the express statement of the Notice of Allowance);

- the application went abandoned after midnight 15 November, 2004;

- the Office mailed the Notice of Abandonment on 3 January, 2005;

- with the petition (and fee) submitted on 6 September, 2005, Petitioner paid the Issue and Publication Fees as a reply, and indicated that drawings had been filed previously, however, no formal drawings in response to the Notice of Allowability are in evidence in the file and Petitioner's statement of unintentional delay does not comport with the regulatory requirement.

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

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

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

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

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

An inquiry to Petitioner's office at this writing yielded an indication that copies of the formal drawings and of a date-stamped receipt card evidencing the filing of the originals thereof were not in evidence in the file or at hand.

Thus, Petitioner does not appear to have satisfied the reply (as to formal drawings) and statement requirements of the regulation. (A copy of the current form is enclosed herewith.)

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, the reply and statement requirements of the regulation do not appear to have been satisfied as of this writing.

CONCLUSION

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

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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[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] 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 .)

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

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

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

Encl: --Petition Form: 37 C.F.R. §1.137(b)
--13 August, 2004 Notice of Allowance and Fees Due/Notice of Allowability w/Drawings Requirement

cc:
EDWIN H TAYLOR
12400 WILSHIRE BOULEVARD/7TH FLOOR
LOS ANGELES, CA 90025-1026

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-06

Paper No: __

JOHN F. KACVINSKY
BLAKELEY, SOKOLOFF,
TAYLOR & ZAFMAN LLP
12400 WILSHIRE BLVD./SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Cayton, et al. :
Application No. 09/588,006 : DECISION
Filing Date: 6 June, 2000 :
Attorney Docket No. 219.37648X00(P7728) :

This is a decision on the petition filed on 21 September, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

NOTE: The Revocation/Power of Attorney filed herein hereby is acknowledged and accepted.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due (and, apparently to the drawings requirement accompanying the Notice of Allowability) mailed on 13 August, 2004, with a supplement re-addressing the drawings requirement

mailed on 19 October, 2004), with reply due under a non-extendable deadline on or before Monday, 15 November, 2004 (according to the express statement of the Notice of Allowance);

- the application went abandoned after midnight 15 November, 2004;
- the Office mailed the Notice of Abandonment on 3 January, 2005;
- with the petition (and fee) submitted on 6 September, 2005, Petitioner paid the Issue and Publication Fees as a reply, and indicated that drawings had been filed previously, however, no formal drawings in response to the Notice of Allowability were in evidence in the file and Petitioner's statement of unintentional delay did not comport with the regulatory requirement, and so the petition was dismissed on 6 September, 2005;
- the instant petition seeks to cure those deficiencies.

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

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[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 Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

Petitioner appears to have 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 Publications Branch to be processed into a patent.

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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[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.

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

MAILED
FROM DIRECTORS OFFICE
NOV 17 2005
TECHNOLOGY CENTER 3600

JACQUES M. DULIN, ESQ.
INNOVATION LAW GROUP, LTD.
237 N. SEQUIM AVENUE
SEQUIM, WA 98382

In re application of
Rex J. Crookshanks
Application No. 09/588,030
Filed: June 5, 2000
For: BUILDING CONSTRUCTION BID AND CONTRACT MANAGEMENT SYSTEM, INTERNET-BASED METHOD AND COMPUTER PROGRAM THEREFOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the renewed petition submitted on August 9, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a statement signed by Rex J. Crookshanks indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 11/16/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/28/07

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 09588050 Patent No.: 6324082

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**.

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

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: _____

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

SPE

2838 AB

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 3 1 2005

Technology Center 2100

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

In re Application of: LUNGARO, et al.
Attorney Docket No.: A-68938/MAK/LM
Application No. 09/588,109
Filed: May 31, 2000
For: SECURE, ENCRYPTING PIN PAD

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

This is a decision on the petition, filed September 27, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application under 37 CFR §1.181. This application was held abandoned for failure to file a timely response to the Office Action mailed on January 16, 2004. A Notice of Abandonment was mailed September 08, 2004.

The petition is **GRANTED**.

In support of the petition, Petitioner provides a statement that a Reply to the Office Action was mailed to USPTO on April 16, 2004. Included in the Reply was a Certificate of Mailing in accordance with 37 CFR § 1.8(a)(1)(i)(A) and as defined by MPEP § 512 evidencing the deposit of the Reply with the U.S. Postal Service on April 16, 2004.

Upon inspecting records on file for the application, it is acknowledged that a Response by Applicants, an After Non-Final Amendment, was received by USPTO on April 19, 2004. Therefore, the record is clear that the application was not abandoned in fact and a Notice of Abandonment should not have been issued. Due to massive migration from paper file wrappers to Image File Wrapper (IFW) in the Technology Center during the period when Applicants' response was filed, potential delays could happen such that communications from Applicants may not have been matched and recorded to the electronic file wrappers in a timely manner. Thus, decisions regarding the timeliness of Applicants' filing of a proper reply could have been inaccurately made based on the delays. The Office regrets any inconveniences this may have caused the applicant.

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

The application file is being forwarded to the technical support staff to **WITHDRAW** the holding of abandonment, and for processing of the response filed April 19, 2004. The file will be forwarded to the examiner for consideration of the response.

Brian L. Johnson
Special Program Examiner 5/5/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/25/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ladas & Parry LLP
5670 Wilshire Boulevard, Suite 2100
Los Angeles, CA 90036-5679

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,844,663

Issue Date: January 18, 2005

Application No. 09/588,115

Filed: May 31, 2000

Attorney Docket No. **CDST-C130-1P**

ON PETITION

This is a decision on the petition filed February 10, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

JUN 24 2009

OFFICE OF PETITIONS

In re Patent No. 6303895 :
Issue Date: 10/16/2001 :
Application No. 09/588122 : ON PETITION
Filed: 06/02/2000 :
Attorney Docket No. 015290-407 :

This is a decision on the petition filed May 7, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Upon further review, the certificate of correction fee was not previously paid. The fee will be charged to counsel's deposit account as authorized in the subject request.

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.

Douglas Wood
Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-13-09 Paper No.: _____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/588961 Patent No.: 6496141

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

FOR IFW FILES: Please Review COC

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.

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

Comments: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

_____ 2829
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-13-09 Paper No.: _____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/588961 Patent No.: 6496141

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

FOR IFW FILES: Please Review COFC

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.

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

Comments: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE 2828 Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Q59519

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Sughrue Mion Zinn Macpeak & Seas PLLC
2100 Pennsylvania Avenue N W
Suite 800
Washington DC 20037-3213

MAIL

AUG 2 7 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ON PETITION

DOCKETED

SEP 0 2 2002

In re Application of:
Pinault, Francis
Application No. 09/588,352
Filed: June 7, 2000
For: METHOD OF AUTHORIZING ACCESS TO A CELLULAR MOBILE RADIO NETWORK FROM A SIMPLIFIED TELEPHONE AND AN ASSOCIATED MOBILE RADIO SYSTEM AND SIMPLIFIED TELEPHONE

This is a decision on the petition filed May 7, 2002 under MPEP 711.03(c)(II), which is being treated pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. No fee is required.

The Notice of Abandonment was mailed May 10, 2002 for failure to timely submit the issue fee due March 18, 2002.

Petitioner alleges that no Notice of Allowance and Issue Fee Due was received.

Based on M.P.E.P. 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has complied with requirements (a-c) above. Accordingly, the petition is **GRANTED**.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application file will be forwarded to the examiner to re-mail the Notice of Allowance and Issue Fee Due, the Notice of Allowability, and the Examiner's Amendment and restart the period for response.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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#29

RATNER & PRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Mitsuaki Oshima et al :
Application No. 09/588,364 : ON PETITION
Filed: June 2, 2000 :
Attorney Docket No. MTS-520US1 :

This is a decision on the petition, filed October 20, 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 January 14, 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) 571-3208.

After receipt of the file in the Office of Petitions, the examiner of Technology Center AU 2134 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON , MA 02110

COPY MAILED

OCT 13 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
James S. Bates
Application No. 09/588,373
Filed: December 22, 1999
Attorney Docket No. BSC-036CN (1002/60)

DECISION GRANTING PETITION

This is a decision on the petition filed June 6, 2000, requesting that the above-identified application be accorded a filing date of December 22, 1999.

Petitioner alleges that the application was forwarded to the Patent and Trademark Office via USPS Express Mail service on December 22, 1999. In support of the petition, petitioner has submitted copies of (1) a Utility Patent Application Transmittal bearing a certificate of Express Mail indicating that the correspondence was deposited on August 20, 1998, using Express Mail Label No. EM406009233US; (2) a Fee Transmittal form; (3) Information Disclosure Statement, PTO 1449, and references; (4) ten (10) sheets of drawings; (5)a specification including claims and abstract; and (6) a Declaration and Power of Attorney.

37 CFR 1.10(e) applies where correspondence is addressed as set out in § 1.1(a) to the Office with sufficient postage using USPS Express Mail service and is not received by the Patent and Trademark Office. A grantable petition under 37 CFR 1.10(e) requires:

(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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The evidence submitted by the petitioner meets the requirements of 37 CFR 1.10(e).

Accordingly, the petition is **granted**.

No petition fee is required for a petition under 37 CFR § 1.10 and therefore no petition fee has been charged.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of **December 22, 1999**.

Telephone inquiries may be directed to Petitions Attorney, Jennifer M. Hayes, at (703) 306-5608, or if unavailable, to the undersigned at (703) 305-9285.

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

jmh/bf

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Commissioner for Patents
United States Patent and Trademark Office
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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FEB 24 2006
OFFICE OF PETITIONS

In re Application of :
Wolff et al. :
Application No. 09/588,411 : ON PETITION
Filed: June 6, 2000 :
Attorney Docket No. 60001.0112US01 :

This is a decision on the petition under 37 CFR 1.181, filed October 24, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was deemed to have become abandoned as of March 9, 2004.

Petitioner has established that a reply and the submission of payment for a three month extension of time were timely mailed in compliance with 37 CFR 1.8 on June 8, 2005. Therefore, the application is not abandoned and the petition is granted.

Technology Center Art Unit 2176 will be informed of the instant decision so that the examiner may further consider the merits of the application in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 24 2009

OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
Roger Wolff et al
Application No. 09/588,411
Filed: June 6, 2000
Attorney Docket No.
60001.0112US01/149368.01

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 23, 2009, 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 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2176 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[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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In re Patent No. 6735614
Issue Date: May 11,2004
Application No. 09588515
Filed: June 6,2000
Attorney Docket No. B-65866-CON

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

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

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)
6,735,614	2004-05-11	09/588,515	2000-06-06	014477.00001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher J. Rourk/	Date (YYYY-MM-DD)	2008-09-18
Name	Christopher J. Rourk	Registration Number	39348

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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10142004

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

OCT 28 2004

In re Application of
BERTIN et al.
Application No. 09/588,617
Filed: June 6, 2000
Attorney Docket No. BUR9-1999-0264-US1

DECISION ON PETITION

This is a decision on the petition filed January 22, 2004, 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 Office action was mailed October 9, 2003, setting a shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed January 14, 2004.

Petitioner asserts that an Amendment and Response was timely filed by facsimile transmission on January 9, 2004. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment in Response to Non-final Office Action," 2) a copy of the Certificate of Transmission under 37 C.F.R. § 1.8(a) dated January 9, 2004 and 3) a copy of the sending unit's report confirming successful transmission of fourteen pages.

The review of the application file reveals that the response entitled "Amendment in Response to Non-final Office Action" was received and matched with the file. However, the response was not noticed 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.

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 October 9, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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10142004

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

OCT 28 2004

In re Application of
BERTIN et al.
Application No. 09/588,617
Filed: June 6, 2000
Attorney Docket No. BUR9-1999-0264-US1

DECISION ON PETITION

This is a decision on the petition filed January 22, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

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Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

MAIL

JAN 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

SEAN M. McGINN
McGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VIRGINIA 22182-3817

In re Application of: Uchibori	)	
Application No. 09/588,725	)	DECISION ON PETITION UNDER 37
Attorney Docket No. F-10190	)	CFR 1.181 TO WITHDRAW HOLDING
Filed: June 07, 2000	)	OF ABANDONMENT
For: TASK PROCESSING SYSTEM	)	
	)	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 29, 2004.

The petition is **GRANTED.**

Applicable Prosecution History

July 02, 2003	Non-final rejection mailed (Paper No. 4).
July 01, 2004	Notice of Abandonment (Paper No. 5).
October 29, 2004	Petition to withdraw holding of abandonment (Paper No. 6) which includes a copy of the USPTO return postcard, a copy of the September 26, 2003 amendment, and deposit account authorization for any extensions.

A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used Certificate of mail transmission that includes a 37 CFR 1.8 (b) (3) Statement or an Office generated FAX receipt that properly identifies the contents of the submission is acceptable. No fee is required.

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.

The petition and the USPTO return postcard both indicate that an amendment, payment for the excess claim fee, and deposit account authorization for any extensions of time were timely filed on September 26, 2003. Copies of these papers were filed with the petition and thus serve as a record of the contents of these papers in the file jacket.

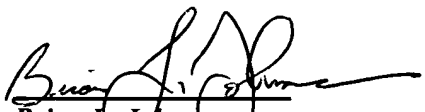
The USPTO return postcard which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has established that a response was filed on September 26, 2003 with the authorization to charge the requisite fee for extensions of time necessary for the response to be considered timely. Thus, Petitioner has established that a response was timely filed and the Abandonment as the result of Office error in not matching the response to the application file.

The petition appeared to be untimely (MPEP section 711.03(c)(f)) because nearly four months transpired between the notice of abandonment (mailed July 1, 2004, as noted by Applicants in the petition) and the petition (entered October 29, 2004). Representative Sean McGinn explained (interview held with Examiner Hugh Jones on 1/05/2005) that the serial number and inventorship were incorrectly listed on the notice of abandonment and differed from the serial number and inventorship listed on the cover page of the notice of abandonment. The Representative stated that he attempted to contact the office on 7/06/2004 and 7/23/2004 to resolve the discrepancy and left messages each time. The Representative further stated that he spoke with Supervisory Patent Examiner Meng-Al An on 10/27/2004 in an unsuccessful attempt to resolve the matter. A review of the file indicates that the serial number and inventorship is incorrectly listed on the notice of abandonment and differs from that of the cover page of the notice of abandonment. Representative's arguments are persuasive and the petition is considered timely.

Petition to Withdraw Holding of Abandonment is **GRANTED**.

The application file is being forwarded to the Technology Center support staff with instructions to withdraw the holding of abandonment, and for processing of the amendment of September 26, 2003 and the Information Disclosure Statement of May 6, 2004. After processing, the application will then be forwarded to the Examiner for appropriate action.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 1/06/04

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Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Scot Young :
Application No. 09/588,778 : ON PETITION
Filed: June 5, 2000 :
Attorney Docket No. 97-401 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file an acceptable 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 $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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GENERAL INSTRUMENT CORPORATION
101 TOURNAMENT DRIVE
HORSHAM PA 19044

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of :
Eric J. Sprunk et al. :
Application No. 09/588,828 : ON PETITION
Filed: June 7, 2000 :
Attorney Docket No.: D2302

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 30, 2005. 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 October 3, 2005. Accordingly, a Notice of Abandonment was mailed July 31, 2006.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, 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 $1020.00 extension of time fee submitted with the petition on March 1, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-2117.

---

[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)).

This matter is being referred to Technology Center 2135 for appropriate action on the amendment filed March 1, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Medtronic, Inc.
710 Medtronic Parkway, NE
Mail Stop LC340
Minneapolis, MN 55432

Date Mailed : November 21, 2007
Serial No. :09/589002
Patent No. :6,572,543 B1
Patent Issued :June 3, 2003
Inventor(s) :Mark A. Christopherson, et al.
Title : SELF-ERECTING TOWER AND METHOD FOR RAISING THE TOWER

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the alleged error noted in your request, the alleged error in column 36, line 40 is in fact a change made by the examiner and considered to be in accordance with the permissible amendments enumerated in M.P.E.P. 1302.04.

In view of the foregoing, your request is hereby denied.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Requests for Reconsideration should be accompanied by additional support (e.g. copy of amendments, post card receipts. PTOL 1449 or 892, etc.), containing requested data or changes) and/or brief statements of facts, as requested.

Magdalene Talley
For Mary Diggs Supervisor
Decisions and Certificate
Of Correction Branch
(703) 308-9390 ext. 116 or 125
FAX 571-270-9942

MD/mt

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)
6771291	2004-08-03	09589235	2000-06-07	1115-006U

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Greenberg/	Date (YYYY-MM-DD)	2008-09-16
Name	Steven M. Greenberg	Registration Number	44725

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6771291
Issue Date: August 3,2004
Application No. 09589235
Filed: June 7,2000
Attorney Docket No. 1115-006U

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 16,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 16,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/01/06

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/589242** Patent No.: **7083637**

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

M J Hayes — SPE

3734 — Art Unit

PTO/SB/ 44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,083,637 B1
DATED : August 1, 2006
INVENTOR(S) : Robert J. Tannhauser

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

col. 12, cl. 10, ln. 1 change "ortreating" to --for treating--;
ln. 13 delete "after" and insert --another--.
col. 12, cl. 14, ln. 7 after "at" insert --at--.

MAILING ADDRESS OF SENDER:
Melissa J. Szanto
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

PATENT NO. 7,083,637 B1

No. of additional copies

⇨ 2

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 27 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 are required 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 this form, call 1-800-PTO-9199 and select option 2.

2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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www.uspto.gov

Paper No. 13

IBM Corporation
Intellectual Property Law Department
PO Box 218
Yorktown Heights, NY 10598

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OCT 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Anthony C. Lowe :
Application No. 09/589,306 : ON PETITION
Filed: June 7, 2000 :
Attorney Docket No. YO998-267X :

This is a decision on the petition under 37 CFR 1.137(b) filed September 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 in reply to the non-final Office action mailed October 3, 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 January 4, 2003.

The application file is being forwarded to Technology Center AU 2871 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

19-htr
25

Paper No. 4

John S. Beaulick
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102

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SEP 1 1 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chastine et al. :
Application No. 09/589,330 :
Filed: June 7, 2000 :
Attorney Docket No. 9D-HR-19236 :

This is a decision on the petition under 37 CFR 1.181, filed February 12, 2002, to withdraw the holding of abandonment. This is a decision on the alternative petition under 37 C.F.R. § 1.137(b), filed February 12, 2002, to revive the above-identified application.

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 reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 30, 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 October 31, 2000.

In order for the holding of abandonment to be withdrawn, petitioner must establish that the Notice was not received at General Electric Company, which was located at the correspondence address of records when the Notice was mailed. If the Notice was lost or misplaced after being received at General Electric Company or during a transfer of the file, then withdrawal of the holding of abandonment is improper.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, a petition alleging non-receipt of an Office action must:
(1) include a statement from practitioner stating that the Office action was not received,
(2) attest that a search of the file jacket has been made,
(3) attest that a search of all relevant docket records has been made,
(4) include a copy of the docket record where the Office action would have been entered had it been received, and
(5) include any additional information which may be required by the Commissioner.
See MPEP 711.03(c)(II).

As to (1), a statement from General Electric has not been supplied. The issue is not whether the current law firm received the Notice, but is whether General Electric ever received the Notice. A statement from General Electric is essential evidence.

As to (3) and (4), the record fails to address whether or not General Electric maintains docket records or a mail log. The record fails to state whether or not all docket records or mail logs

maintained by General Electric have been examined. The record fails to supply a copy of such documentation.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

A petition fee of $130 was charged to petitioner's deposit account for the petition under 37 CFR 1.181. However, such a petition is free. Therefore, petitioner's deposit account will be credited $130.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Bronshtein et al. :
Application No. 09/589381 : NOTICE
Filed: 06/07/2000 :
Attorney Docket No. QRANT.002CP1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 10 August, 2007.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

D Wood

Douglas I. Wood
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
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Mr. Chris T. Mizumoto
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257

Date: August 27, 2004
Application No. 09/589,419
Filing Date: June 7, 2004
Subject: Diagnostic Agents for Pancreatic Exocrine Function

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed August 27, 2004, under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that the inventor, Junko Ohshima has married and changed her name to Junko Hirayama and would like the married name to appear on the printed patent of this non-provisional application. Accordingly, this application has been changed by replacing the name Junko Ohshima with Junko Hirayama. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

1/13/05

Dameron Jones
United States Patent and Trademark Office
Primary Examiner
Art Unit 1616
Remsen 4A51
571-272-0617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

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AUG 04 2004

OFFICE OF PETITIONS

In re Application of
YechiamYemini, et al.
Application No. 09/589,427
Filed: June 7, 2000
Attorney Docket No. 18704-009

ON PETITION

This is a decision on the petition, filed July 19, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed January 15, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On July 19, 2004, petitioner submitted, *inter alia*, the present petition, an amendment and a petition for extension of time.

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 George L. Kanabe appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Kanabe desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

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.

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 has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $475 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2131 for consideration of the amendment filed July 19, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: GEORGE L. KANABE
WILMER CUTLER PICKERING HALE AND DORR LLP
300 PARK AVENUE
NEW YORK, NY 10022

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ALEXANDRIA, VA 22313-1450
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WILMER CUTLER PICKERING HALE AND DORR LLP
COLUMBIA UNIVERSITY
399 PARK AVENUE
NEW YORK, NY 10020

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OFFICE OF PETITIONS

In re Application of :
Yechiam Yemini, et al. :
Application No. 09/589,427 : ON PETITION
Filed: June 7, 2000 :
Attorney Docket No.: 19240-229 :

This is a decision on the petition, filed August 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 August 1, 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 2131 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 : September 5, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yechiam Yemini, et al.
Application No. : 09/589,427
Filed : June 7, 2000

The above-identified application has been assigned Patent No. 7,107,611 and an issue date of September 12, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 12, 2006:

> "All reference to Patent No. 7,107,611 to YECHIAM YEMINI, ET AL. of NEW JERSEY for IDENTIFICATION OF AN ATTACKER IN AN ELECTRONIC SYSTEM appearing in the Official Gazette of September 12, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (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 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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COLUMBIA UNIVERSITY
399 PARK AVENUE
NEW YORK, NY 10020

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OFFICE OF PETITIONS

In re Application of :
Yechiam Yemini et al :
Application No. 09/589,496 : ON PETITION
Filed: June 7, 2000 :
Attorney Docket No. 19240-233 :

This is a decision on the petition under 37 CFR 1.313(c), filed November 1, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3621 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : November 7, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yechiam Yemini et al
Application No. : 09/589,496
Filed : June 7, 2000

The above-identified application has been assigned Patent No. 6,968,322 and an issue date of November 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 22, 2005:

"All reference to Patent No. 6,968,322 to Yechiam Yemini et al of Edgewater, NJ for USING ELECTRONIC SECURITY VALUE UNITS TO CONTROL ACCESS TO A RESOURCE appearing in the Official Gazette of November 22, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

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Commissioner for Patents
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Usuba, et al.
Application No. 09/589,526
Filed: June 7, 2000
Attorney Docket No. 16869P-008300US
For: TRANSMISSION EQUIPMENT FOR NETWORK AND NETWORK TRANSMISSION SYSTEM

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005 (certificate of mailing date June 1, 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)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed March 24, 2004, which set an extendable three month period for reply.

On June 25, 2004 (certificate of mailing date June 22, 2004), applicants filed an amendment after final in response to the March 24, 2004 final Office action. On November 3, 2004, the Office mailed an Advisory Action informing applicants that the June 25, 2004 reply did **not** place the application in *prima facie* condition for allowance. The application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on June 1, 2005.

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.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioners are reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final submitted with the instant failed to eliminate all of the Examiner's rejections. Please find enclosed a courtesy copy of the Advisory Action Before the Filing of an Appeal Brief that addresses the June 9, 2005 amendment after final. The application remains abandoned.

Petitioners must submit an acceptable reply to the March 24, 2004 final Office action before the application will be revived.

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. 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 decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: STEVE Y. CHO
379 LYTTON AVENUE
PALO ALTO, CA 94301

enclosure: courtesy copy of the Advisory Action Before the Filing of an Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Usuba, et al. :
Application No. 09/589,526 : ON PETITION
Filed: June 7, 2000 :
Attorney Docket No. 16869P-008300US :
For: TRANSMISSION EQUIPMENT FOR NETWORK AND NETWORK TRANSMISSION SYSTEM

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed January 9, 2006, to revive the above-identified application.

This application became abandoned for failure to properly reply to the final Office action, mailed March 24, 2004, which set an extendable three month period for reply.

On June 25, 2004 (certificate of mailing date June 22, 2004), applicants filed an amendment after final in response to the March 24, 2004 final Office action. On November 3, 2004, the Office mailed an Advisory Action informing applicants that the June 25, 2004 reply did **not** place the application in *prima facie* condition for allowance. The application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on June 1, 2005.

Applicants have submitted a RCE and required fee and amendment in reply to the March 24, 2004 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 24, 2004 final Office action, and the petition fee.[1]

The petition is **GRANTED**.

[1] Petitioners have paid two petition fees. Only one is required. Pursuant to petitioners' authorization, deposit account no. 20-1430 will be credited one $1,500.00 Rule 137(b) petition fee.

After the mailing of this decision the application will be forwarded to Technology Center AU 2633 for consideration of the RCE and amendment filed on January 9, 2006.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

Sawyer Law Group LLP
P O Box 51418
Palo Alto CA 94303

MAIL

FEB 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
LEWIS :
Application No. 09/589,573 :DECISION ON PETITION TO
Filed: June 7, 2000 :WITHDRAW HOLDING OF
For: **METHOD AND SYSTEM FOR PROVIDING EDGE ANTIALIASING** :ABANDONMENT
:

This is a decision on the petition filed May 27, 2003, based on M.P.E.P. 711.03(c)(II), and pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment.

This application became abandoned for failure to timely respond to the Non-final Office action mailed October 21, 2002. No Notice of Abandonment was mailed.

Petitioner alleges that the Non-final Office action mailed October 21, 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 Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the records indicate that the Non-Final Office Action was properly mailed to the practitioner of record at the correspondence address at the time of mailing. Thus, there was no irregularity in mailing the office action on the part of the U.S. Patent and Trademark Office.

The allegation of non-receipt is supported by a statement by the petitioner attesting that the Office Action was not received at the correspondence address of record, 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 the Non-Final 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.**

Due to the time lapse from the previous Office action and this decision, the file will be forwarded to the examiner for updating the search and the Office action as appropriate. The time period for response will be set to run from the mailing date of the new action.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6525224
Issue Date: February 25,2003
Application No. 09589583
Filed: June 7,2000
Attorney Docket No. 2384.00020

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 31,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 31,2008 . 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.

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)
6,525,224	2003-02-25	09/589,583	2000-06-07	2384.00020

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kenneth I. Kohn/	Date (YYYY-MM-DD)	2008-01-31
Name	Kenneth I. Kohn	Registration Number	30955

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MINNEAPOLIS, MN 55402

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Jennifer Pearson et al	:	
Application No. 09/589,585	:	DECISION ON PETITION
Filed: June 7, 2000	:	TO WITHDRAW
Attorney Docket No. 03801.P025	:	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 15, 2004.

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 Tarek N. Fahmi on behalf of all attorneys of record who are associated with Customer No. 08791. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the first address indicated below.

The Certificate Under 37 CFR § 3.73(b) received on July 26, 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. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership

may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

Attachment: A blank 37 CFR 3.73(b)

cc: Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

cc: Andre L. Marais
Schwegman, Lundberg, Woessner & Kluth, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

PTO/SB/96 (12-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No./Control No.: _____ Filed/Issue Date: _____

Entitled: _____

_____, a _____
(Name of Assignee) (Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

05-1455
(Serial No. 09/589,626)

IN RE RONALD A. SCHACHAR

ORDER

NOTE: Pursuant to Fed. Cir. R. 47.6, this order is not citable as precedent.
It is a public order.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

ORDER

A combined petition for panel rehearing and for rehearing en banc having been filed by the Appellant, and the petition for rehearing, having been referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc having been referred to the circuit judges who are in regular active service,

UPON CONSIDERATION THEREOF, it is

ORDERED that the petition for panel rehearing be, and the same hereby is, DENIED and it is further

ORDERED that the petition for rehearing en banc be, and the same hereby is, DENIED.

The mandate of the court will issue on September 20, 2006.

FOR THE COURT,

Jan Horbaly

Jan Horbaly
Clerk

Dated: 09/13/2006

cc: Daniel E. Venglarik
John M. Whealan

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

SEP 13 2006

JAN HORBALY
CLERK

IN RE SCHACHAR, 2005-1455
(PTO - 09/589,626)

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 29 2008

OFFICE OF PETITIONS

In re Application :
Ronald A. Schachar :
Application No. 09/589,626 : DECISION ON APPLICATION
Filed: June 7, 2000 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. PRES06-00147 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed February 27, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded nine hundred five (905) days to nine hundred eleven (911) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine hundred eleven (911) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is nine hundred five (905) days. On February 27, 2008, Applicant timely[1] submitted the instant application for patent term adjustment.

[1] Applicant filed the application for patent term adjustment together with the payment of the issue fee.

Applicant states that the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of nine hundred five (905) days based on an adjustment of four hundred eighty-three (483) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), four hundred four (404) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(b)(4), and one hundred eighty-eight (188) days pursuant to 35 U.S.C. 154(b)(1)(A)(iii) and 37 C.F.R. § 1.703(a)(5), reduced by ninety-seven (97), six (6), and sixty-seven (67) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). The adjustment of 6 days is at issue.

Applicant was assessed six (6) days of delay pursuant to 37 C.F.R. § 1.704(c)(8) for filing a terminal disclaimer on July 7, 2003, after he had previously filed an amendment on July 1, 2003. However, a review of the application file indicates that the terminal disclaimer was filed together with the amendment on July 1, 2003. Accordingly, no applicant delay should have been assessed for the filing of the terminal disclaimer.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **nine hundred eleven (911) days** (1075 (483+404+188) days of PTO delay, reduced by 164 (97+67) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management (formerly the Office of Patent Publications) for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: updated PAIR screen

PTA Calculations for Application: 09/589626			
Application Filing Date:	06/07/2000	PTO Delay (PTO):	1075
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	170
Post-Issue Petitions:	0	Total PTA (days):	911
PTO Delay Adjustment:	6		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	6		
94	11/27/2007	MAIL NOTICE OF ALLOWANCE			
93	11/26/2007	ISSUE REVISION COMPLETED			
92	11/01/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	11/01/2007	DOCUMENT VERIFICATION			
90	11/01/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
89	10/23/2007	NOTICE OF ALLOWABILITY			
88	10/05/2007	DATE FORWARDED TO EXAMINER			
87	09/25/2007	AMENDMENT AFTER FINAL REJECTION		67	81
86	09/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
85	07/18/2007	MAIL ADVISORY ACTION (PTOL - 303)			
84	07/17/2007	ADVISORY ACTION (PTOL-303)			
83	07/10/2007	DATE FORWARDED TO EXAMINER			
82	06/25/2007	AMENDMENT AFTER FINAL REJECTION			
81	04/20/2007	MAIL FINAL REJECTION (PTOL - 326)	188		67
80	04/16/2007	FINAL REJECTION			
79	08/30/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	04/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	07/03/2003	TERMINAL DISCLAIMER FEE PAID			
74	02/26/2007	DATE FORWARDED TO EXAMINER			
73	02/09/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
72	02/26/2007	DATE FORWARDED TO EXAMINER			

71	02/09/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
70	02/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
69	02/09/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	09/20/2006	COURT PROCESSING TERMINATED			
67	06/14/2006	DECISION BY CAFC - AFFIRMED			
66	03/03/2006	APPELLANT'S REPLY BRIEF			
65	01/23/2006	SOLICITOR ANSWER TO APPELLANT'S BRIEF			
64	09/06/2005	APPELLANT'S BRIEF ON APPEAL			
63	05/24/2005	APPEAL TO COURT OF APPEALS			
62	08/02/2006	DATE FORWARDED TO EXAMINER			
61	07/28/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
60	04/03/2006	REFERENCE CAPTURE ON IDS			
59.7	04/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	04/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58.7	08/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	08/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	05/26/2005	NOTICE OF APPEAL FILED			
56	05/26/2005	NOTICE OF APPEAL FILED			
55	05/24/2005	APPEAL TO COURT OF APPEALS			
54	03/24/2005	MAIL BPAI DECISION ON RECONSIDERATION - DENIED			
53	03/24/2005	DEC ON RECONSIDERATION - DENIED			
52	01/27/2005	REQUEST FOR RECONSIDERATION OF APPEAL DEC			
51	01/27/2005	AMENDMENT/ARGUMENT AFTER BPAI DECISION			
50	01/27/2005	WORKFLOW INCOMING AMENDMENT IFW			
49	11/23/2004	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	404		32
48	11/23/2004	BPAI DECISION - EXAMINER AFFIRMED IN PART			
46	10/22/2004	DOCKETING NOTICE MAILED TO APPELLANT			
45	10/22/2004	ASSIGNMENT OF APPEAL NUMBER			

44	09/29/2004	APPEAL AWAITING BPAI DOCKETING			
43	09/28/2004	MAIL REPLY BRIEF NOTED BY EXAMINER			
42	09/27/2004	REPLY BRIEF NOTED BY EXAMINER			
41	07/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
40	07/30/2004	DATE FORWARDED TO EXAMINER			
39	05/13/2004	REPLY BRIEF FILED			
38	03/09/2004	MAIL EXAMINER'S ANSWER			
37	03/08/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
36	01/02/2004	DATE FORWARDED TO EXAMINER			
35	12/23/2003	APPEAL BRIEF FILED			
34	10/24/2003	MAIL ADVISORY ACTION (PTOL - 303)			
33	10/24/2003	ADVISORY ACTION (PTOL-303)			
32	10/17/2003	NOTICE OF APPEAL FILED			
31	08/14/2003	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
30	08/14/2003	MAIL FINAL REJECTION (PTOL - 326)			
29	08/14/2003	FINAL REJECTION			
28	07/22/2003	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
27	07/07/2003	TERMINAL DISCLAIMER FILED		6	25
26	07/15/2003	DATE FORWARDED TO EXAMINER			
25	07/01/2003	RESPONSE AFTER NON-FINAL ACTION		97	23
24	07/01/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	12/26/2002	MAIL NON-FINAL REJECTION	483		13
22	12/23/2002	NON-FINAL REJECTION			
21	10/29/2002	DATE FORWARDED TO EXAMINER			
20	10/29/2002	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
19	08/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
18	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
17	06/28/2001	MAIL LETTER OF SUSPENSION			
16	06/28/2001	LETTER OF SUSPENSION - EXAMINER INITIATED			
15	04/30/2001	MISCELLANEOUS INCOMING LETTER			
14	05/05/2001	DATE FORWARDED TO EXAMINER			
13	04/30/2001	RESPONSE AFTER NON-FINAL ACTION			
12	02/08/2001	MAIL NON-FINAL REJECTION			

11	02/08/2001	NON-FINAL REJECTION			
10	01/25/2001	CORRESPONDENCE ADDRESS CHANGE			
9.7	10/24/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	10/24/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/16/2001	CASE DOCKETED TO EXAMINER IN GAU			
7	12/14/2000	APPLICATION DISPATCHED FROM OIPE			
6	12/06/2000	APPLICATION IS NOW COMPLETE			
5	12/06/2000	CORRESPONDENCE ADDRESS CHANGE			
4	09/01/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/01/2000	CORRESPONDENCE ADDRESS CHANGE			
2	06/27/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/07/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 6,800,254
Nguyen et al.
Issue Date: October 5, 2004
Application No. 09/589,633
Filed: June 7, 2000
Attorney Docket No. SIM014

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed December 10, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from eight hundred ninety-one (891) days to nine hundred forty-two (942) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On October 5, 2004, the above-identified application matured into U.S. Patent No. 6,800,254. The instant request for reconsideration filed December 10, 2004 (certificate of mailing Monday, December 6, 2004), was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment (PTA) of 891 days. The initial determination of PTA of 942 days was reduced by 51 days for applicants' submission of a paper styled "Examiner Initiated Interview Summary," filed August 16, 2004. Patentees dispute this reduction.

Patentees' arguments have been considered, but not found persuasive. It is undisputed that a paper was filed after the mailing of the notice of allowance. Pursuant to § 1.704(c)(10), filing of a paper after the mailing of a notice of allowance is a "failure to engage in reasonable efforts" to conclude processing or examination of an application. However, by Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing of certain papers after the mailing of a notice of allowance will not be considered a "failure to

engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). The paper filed by patentees is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts within the meaning of § 1.704(c)(10). Nor do the circumstances of the filing of the paper warrant such a conclusion. It is noted that the examiner's interview summary specifically stated that

> it is not necessary for applicant to provide a separate record of the interview , since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the notice of allowability.

Accordingly, the filing of the paper styled "Examiner Initiated Interview Summary" is considered a "failure to engage" pursuant to § 1.704(c)(10). Thus, the reduction of 51 days of patent term adjustment for its filing is proper.

The patent term adjustment indicated in the patent of eight hundred ninety-one **(891)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being returned to Files Repository for storage as a patented case.

Telephone inquiries specific to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/31/06

TO SPE OF : ART UNIT 2195

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/589663 Patent No.: 7003721 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: No new matter introduced. The scope or meaning of the claims is not changed.

_____

SPE

2195
Art Unit

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Toronto, Ontario, M5H 3Y2
Canada

MAILED

JAN 1 0 2006

Technology Center 2100

In re Application of:
HAWS et al.
Application No. 09/589,758
Filed: June 09, 2000
For: AUTOMATIC ADAPTIVE DIMENSIONING FOR CAD SOFTWARE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment, filed November 22, 2005, in response to a Notice of Abandonment.

The petition is **GRANTED**.

This application was held abandoned for applicant's failure to timely corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37). A Notice of Abandonment was mailed on October 17, 2005.

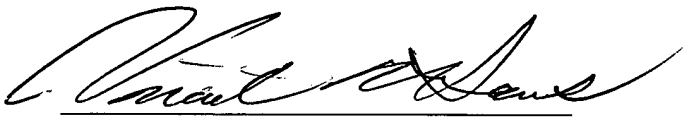
In support of the petition, petitioner stated that (1) on 07 June 2005, applicant's representative, Mr. Shawn Jacka, called examiner Ferris and received confirmation from the examiner that the Notice of Allowability contained a clerical error and that no drawing requirements or other requirements were outstanding; and (2) the cover letter accompanying with the issue fee transmittal (PTOL-85) received in the USPTO on 01 August 2005 clearly stated that examiner Ferris confirmed that the indication on the Notice of Allowance that formal drawings were required was marked incorrectly.

A review of the application record, it reveals that a corrected drawing (Fig. 1) was submitted on 04 June 2004 and in the Office action mailed 27 August 2004, examiner Ferris did indicate that the drawing filed on 04 June 2004 was acceptable by checking the box 10a in the Office Action Summary (PTOL-326). Thus, a corrected drawing was filed timely, and the Notice of Allowability mailed on 25 May 2005 was incorrectly indicated that "Corrected drawings must be submitted pursuant to the Office action of Paper No./Mail Date 8/27/04".

Accordingly, the petition is **GRANTED**. The Notice of Abandonment mailed on 17 October 2005 is hereby withdrawal.

The application is being forwarded to the Office of Publication.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Paper No. 21

Palmer & Dodge, LLP
Kathleen M. Williams
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Boston, MA 02199

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OFFICE OF PETITIONS

In re Application of
Vikas P. Sukhatme
Application No. 09/589,777
Filed: June 8, 2000
Attorney Docket No. 1440.1023-011

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 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 June 18, 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 September 19, 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $465.00 extension of time submitted with the petition on January 6, 2003 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account. Also, the processing and retention fee paid on January 6, 2003, with the instant petition will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1642.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

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Paper No. 7

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SHERIDAN ROSS PC
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DENVER COLORADO 80202-5141

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OFFICE OF PETITIONS

In re Reissue Application of	:	CORRECTED
Markham	:	DECISION
Reissue Application No. 09/589,788	:	GRANTING PETITION
Filed: June 8, 2000	:	
Original Patent No. 5,865,146		
Patent Issue Date: February 2, 1999	:	

This is a corrected decision on the petition under 37 CFR 1.53(e), filed July 20, 2001 and resubmitted by facsimile transmission October 23, 2001, to accord the above-identified reissue application a filing date of June 8, 2000.

The petition is **GRANTED**.

The decision mailed December 4, 2001, contained a typographical error in the filing date to be accorded the instant reissue application where it stated the filing date was June 6, 2000. This decision corrects the filing date to **June 8, 2000.** The inconvenience is regretted. The previous decision is otherwise correct.

The application is being returned to OIPE for further processing with a filing date of June 8, 2000, using the USPTO supplied copy of Patent No. 5,865,146 as the specification and drawings, and an indication that 13 claims were present on filing, claims 1 through 10 being in the aforementioned patent, and claims 11 through 13 being added by way of the preliminary amendment filed **June 8, 2000**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

BRENT JOHNSON
SHERIDAN ROSS PC
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DENVER COLORADO 80202-5141

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OFFICE OF PETITIONS

In re Reissue Application of
Markham
Reissue Application No. 09/589,788
Filed: June 6, 2000
Original Patent No. 5,865,146
Patent Issue Date: February 2, 1999

DECISION
GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed July 20, 2001 and resubmitted by facsimile transmission October 23, 2001, to accord the above-identified reissue application a filing date of June 6, 2000.

The petition is **GRANTED**.

In support of the petitions, submitted in reply to the "Notice of Incomplete Reissue Application"- mailed May 24, 2001 and again on August 23, 2001, which indicated that no filing date had been granted in that a specification and at least one claim were missing, petitioner includes a copy of a postcard receipt itemized with respect to the instant application papers and bearing the USPTO date stamp of June 6, 2000.

Inspection of the instant application file, which is the official record of what the USPTO has received, fails to reveal the presence of a copy of U.S. Patent No. 5,865,146. However, the itemized postcard receipt bearing a USPTO date stamp of June 6, 2000, is accepted as *prima facie* establishing that a copy of U.S. Patent No. 5,865,146 was among the instant application papers received at the USPTO on June 6, 2000. Under 37 CFR 1.173 in effect at the time the application papers were received at the USPTO, such was an acceptable specification and claim(s) for purposes of obtaining a filing date. The aforementioned Notices of May 24, 2001 and August 23, 2001, were mailed in error and are **vacated**. The error is regretted.

Since the quality of the patent photocopy submitted with the petition (part of Exhibit C) is poor, and moreover, is part of the evidence submitted with the petition *per se*, the undersigned has obtained a photocopy of the patent from the USPTO database, which will be used for further processing in the USPTO, and which is also acceptable under current 37 CFR 1.173(a)(1), effective November 7, 2000.

As requested, the petition fee has been credited to deposit account No. 19-1970.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 6, 2000, using the USPTO supplied copy of Patent No. 5, 865,146, as the specification, drawings, and that 13 claims were present on filing, claims 1 through 10 being in the copy of the patent, and claims 11 through 13 added by way of the preliminary amendment of June 6, 2000.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. None

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of
Hiroshi Yoshida et al.
Application No. 09/590,022
Filed: June 8, 2000
Attorney Docket No.: FUJS 14.234A
Title: POINTER PROCESSING APPARATUS,POH TERMINATING PROCESS APPARATUS, METHOD OF POH TERMINATING PROCESS AND POINTER/POH TERMINATING PROCESS APPARATUS IN SDH TRANSMISSION SYSTEM

DECISION ON PETITION UNDER
37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 20, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on March 21, 2005.

With the petition, Petitioner has submitted the petition fee, the issue fee, and the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The application file is being forwarded to the Office of Patent Publications for further processing into a patent. 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

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).

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Washington DC 20006

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OFFICE OF PETITIONS

In re Application of :
Eiji Ueda et al. :
Application No. 09/590,075 : DECISION ON PETITION
Filed: June 9, 2000 : PURSUANT TO
Attorney Docket No.: 2000 0727A : 37 C.F.R. § 1.181
Title: BROADCAST DATA RECEIVING :
DEVICE AND METHOD FOR RECEIVING :
A PLURALITY OF MULTIMEDIA DATA :

This is a decision on the petition filed March 19, 2008, 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 reply in a timely manner to the non-final Office action, mailed August 13, 2007, which set a shortened statutory period for reply of three 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 November 14, 2007. A notice of abandonment was mailed on February 22, 2008.

With this petition, Petitioner has asserted that a response was submitted to the Office on February 12, 2008 along with a petition for a three-month extension of time. Petitioner has submitted a copy of this response, and it is noted that it does not appear to contain a certificate of mailing. However, Petitioner has included a copy of the postcard receipt that is associated with this submission, and it evinces that a "Petition for Three Month Extension of Time," an "Amendment," and a "Check

in the amount of $1,050.00" was received in the Office on February 12, 2008.

Moreover, it is noted that both this response and the petition for a three-month extension of time have been located in the electronic file, and Office records reflect the receipt of $1050 (the fee that is associated with a petition for a three-month extension of time) on February 12, 2008; therefore, it is clear that this response was timely received on February 12, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the non-final Office action that was received on February 12, 2008 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Winston & Strawn
Patent Department
1400 L Street, N.W.
Washington, D.C. 20005-3502

In re Application of: M. Cannata et al.	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.59(b) AND M.P.E.P. §724.05 TO EXPUNGE AND RETURN DOCUMENTS**
Application No. 09/590,099	)	
Filed: June 9, 2000	)	
For: WEB-BASED GROUPWARE SYSTEM	)	

This is a decision on the petition under 37 CFR 1.59(b), filed February 11, 2005, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that the information entitled Reply to Final Office Action and Declaration of John E. Macricken submitted on November 23, 2004, be expunged from the record because "the failure of its return may cause irreparable harm to the party in interest". Petitioner states that the abovementioned items should be deemed unintentionally submitted because they werenot formally signed.

The relevant portion of M.P.E.P. §724.05 II which relates to this petition is reproduced below.

724.05 Petition To Expunge Information or Copy of Papers in Application File

II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated 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;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Commissioner that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(h) is included.

A request to return information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis.

Petitioner's submission fails to meet the burden for establishing that the material should be expunged from the file on two counts:

(1) Petitioner does not state aver that failure to obtain its return would cause irreparable harm - instead Petitioner states that it ***may*** cause such harm. The speculative nature of this statement does not fulfill the requirement.

(2) More importantly, the file record clearly establishes that ***the information was submitted intentionally.*** Specifically, the information was submitted by Applicant for use in an Interview held with the Examiner of record on 7 December 2004. This submission was properly made of record by the Examiner by appending it to the Interview Summary as an Exhibit. Furthermore, the inclusion of this material in the record conforms with Interview practice as laid out in MPEP § 713.

The information in question has been determined by the undersigned to not to have been submitted unintentionally and to be material to the prosecution of the patent application. Accordingly, the Petition to have the material expunged is **DISMISSED**.

Any inquiries with respect to this decision may be directed to the undersigned.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, & Information Security
(571) 272-3599

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STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
David M. Goldenberg et al	:
Serial No.: 09/590,284	: WITHDRAWAL OF ATTORNEY
Filed: June 9, 2000	:
Attorney Docket No.: 018733-0967	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN WHITE & MCAULIFFE
1717 RHODE ISLAND AVE., N.W.
WASHINGTON DC 20036-3001

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
David M. Goldenberg et al :
Application No. 09/590,284 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. 018733-0967 :

This is a decision on the petition, filed January 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 29, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1644 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BROWN RAYSMAN MILLSTEIN
FELDER & STEINER
120 WEST 45TH STREET
NEW YORK, NY 10036

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FEB 2 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Ly, Macmillen, Miller & Knapp
Application No. 09/590,584
Filed: June 8, 2000
Attorney Docket No. 4000/10
For: METHODS FOR AUTOMATICALLY PIPELINING LOOPS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 16, 2000.

The petition is **granted**.

Petitioner has shown that the non-signing inventor, Mr. David W. Knapp, has refused to join in the filing of the above-identified application after having been presented with the application papers.. Specifically, the declaration of Jonathan T. Kaplan, an attorney of record, establishes that the non-signing inventor was mailed a complete copy of the application papers, including the specification, claims and drawings, but refused in writing to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Pursuant to petitioners' authorization, deposit account no. 02-4270 was charged $110.00 for the one month extension of time, $130.00 for filing a late declaration, and $130.00 for filing the instant petition to the Commissioner.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

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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BROWN RAYSMAN MILLSTEIN FELDER & STEINER
120 WEST 45TH STREET
NEW YORK, NY 10036

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JUL 9 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Ly, Macmillen, Miller and Knapp :
Application No. 09/590,584 : DECISION REFUSING STATUS
Filed: June 8, 2000 : UNDER 37 CFR 1.47(a)
For: METHODS FOR AUTOMATICALLY :
PIPELINING LOOPS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 16, 2000. The decision on petition mailed February 27, 2001, is hereby vacated and replaced with the instant decision on petition. The Office sincerely apologizes for any inconvenience caused to petitioner by this action.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 8, 2000 without an executed oath or declaration and naming Ly, Macmillen, Miller and Knapp as joint inventors.

Accordingly, on July 11, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for late filing.

In response, on October 16, 2000, the instant petition, three separate Declarations by the signing inventors, a declaration and statement of facts

by Jonathan T. Kaplan, the petition fee and a general authorization to charge the surcharge and a one month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As to item (2), the Declarations, submitted October 16, 2000, contain an independent, signed, signature block for only one inventor on each Declaration. However, when using separate oath or declarations for joint inventors, the signature block of **every** joint inventor should appear on each oath or declaration to be signed by a joint inventor. Petitioner should submit, with any renewed petition petitioner may wish to file, new Declarations that contain the signature block of every joint inventor on each of the signed Declarations.

Pursuant to petitioner's authorization, deposit account no. 02-4270 was charges $110.00 for the one month extension of time, $130.00 for filing a late Declaration, and $130.00 for filing the instant petition to the Commissioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BROWN RAYSMAN MILLSTEIN FELDER & STEINER
900 THIRD AVENUE
NEW YORK, NY 10022

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SEP 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Tai A. Ly, David W. Knapp, Ronald A. :
Miller and Donald B. Macmillen : DECISION GRANTING PETITION
Application No. 09/590,584 : UNDER 37 CFR 1.47(a)
Filed: June 8, 2000 :
For: METHODS FOR AUTOMATICALLY
PIPELINING LOOPS

This is in response to the "Request For Reconsideration Of Petition Under 37 CFR 1.47(a)," filed July 3, 2002.

The petition is **granted**.

Petitioner has shown that the non-signing inventor 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 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.

Please note, the "Revocation of Prior Powers of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address," submitted January 30, 2002, cannot be entered or made of record. A statement under 37 CFR 3.73(b) is required and must accompany the aforementioned "Revocation of Prior Powers of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address." A courtesy copy of this decision is being mailed to the address noted on the "Revocation of Prior Powers of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address." However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The file is being forwarded to Technology Center 2100.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc.
HOWREY SIMON ARNOLD & WHITE, LLP
BOX NO. 34
1299 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20004-2402

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BROWN RAYSMAN MILLSTEIN FELDER & STEINER
900 THIRD AVENUE
NEW YORK, NY 10022

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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Ly, Macmillen, Miller and Knapp :
Application No. 09/590,584 : DECISION REFUSING STATUS
Filed: June 8, 2000 : UNDER 37 CFR 1.47(a)
For: METHODS FOR AUTOMATICALLY :
PIPELINING LOOPS

This is in response to the renewed "Petition Under 37 CFR 1.47(a)," filed November 9, 2001.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 8, 2000 without an executed oath or declaration and naming Ly, Macmillen, Miller and Knapp as joint inventors.

Accordingly, on July 11, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for late filing.

In response, on October 16, 2000, a petition under 37 CFR 1.47, three separate Declarations by the signing inventors, a declaration and statement of facts by Jonathan T. Kaplan, the petition fee and a general authorization to charge the surcharge and a one month extension of time were filed.

In the "Decision Refusing Status Under 37 CFR 1.47(a)," mailed July 9, 2001, the petition filed October 16, 2000, was dismissed for failure to submit an oath or declaration in compliance with 35 U.S.C. §§ 115 and 116.

In response, on November 9, 2001, the instant renewed petition and new declarations were filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As to item (2), an oath or declaration submitted for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declarations submitted November 9, 2001, do not set forth David W. Knapp's citizenship. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a)

The requirement that the citizenship of an inventor be provided on the declaration is a requirement established by statute and cannot be suspended or waived. See 35 USC 115. Accordingly, this information must be provided in order to submit a declaration in compliance with 35 USC 115 and 116, and 37 CFR 1.63 and 1.64.

Petitioner should submit, with any renewed petition petitioner may wish to file, new declarations that contain the required citizenship information of David W. Knapp.

Please note, the "Revocation of Prior Powers of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address," submitted January 30, 2002, cannot be entered or made of record. A statement under 37 CFR 3.73(b) is required and must accompany the aforementioned "Revocation of Prior Powers of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address." A courtesy copy of this decision is being mailed to the address noted on the "Revocation of Prior Powers of Attorney,

Appointment of New Attorneys of Record and Change of Correspondence Address." However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc.
HOWREY SIMON ARNOLD & WHITE, LLP
BOX NO. 34
1299 PENNSYLVANIA AVE., N.W.
WASHINGTON, DC 20004-2402

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PVF -- SYNOPSYS, INC
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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SEP 29 2008

In re Application of:	:	
Ly et al.	:	
Application No. 09/590584	:	DECISION DISMISSING
Filing or 371(c) Date: 06/08/2000	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
METHODS FOR AUTOMATICALLY	:	
PIPELINING LOOPS	:	

This is in response to the Petition for Prosecution of Application in Broadening Reissue of Patent Pursuant to 37 C.F.R. 1.47: Joint Inventor Cannot be Found or Reached, filed April 22, 2008. The delay in treating this petition is regretted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; 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).

Background

Applicant files the present petition for examination of the application for broadening reissue on behalf of inventor Ronald A. Miller who, Applicant asserts, cannot be found or reached after diligent effort. In support of the petition, Applicant states that Applicant attempted to deliver the updated declaration to three addresses that Applicant could find for inventor Miller, but all of the attempts have failed. Applicant files copies of the cover letter and return to sender record of each document package sent to inventor Miller.

A review of the cover letter reveals that the letter states that the Declaration was attached thereto, along with the most recent response to the Office action.

Applicable Law, Rules and MPEP

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), the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence of a bona fide effort to present copy of the application papers to the non-signing inventor. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor. The MPEP further provides

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

MPEP 409.03(d).

Further as to item (1), Applicant is advised that, where an inventor is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the

nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Analysis/conclusion

Applicant must demonstrate a bona fide effort to present the inventor with the application (specification, claims and drawings). Applicant must also provide a statement of facts from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor, and Applicant must provide copies of the results of the search that was conducted for the inventor.

The petition is dismissed without prejudice. Applicant is advised to file a Request for Reconsideration of Petition and include the necessary statement of facts and copies of searches and results.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PVF -- SYNOPSYS, INC
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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JAN 0 8 2009

In re Application of:	:	
Ly et al.	:	
Application No. 09/590584	:	DECISION NOTING
Filing or 371(c) Date: 06/08/2000	:	JOINDER OF
Title of Invention:	:	INVENTOR
METHODS FOR AUTOMATICALLY	:	
PIPELINING LOOPS	:	

This is in response to the Request for Reconsideration of Petition 37 CFR §1.47(a), filed November 26, 2008, noting the joinder of the previously non-signing inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being referred to Technology Center Art Unit 2825 for processing of the oath/declaration, and for continued examination in the normal course of business.

Telephone inquiries related to this decision may 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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PVF -- SYNOPSYS, INC
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/23/2010

Applicant	: Tai A. Ly	: DECISION ON REQUEST FOR
Patent Number	: RE40925	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/590,584	: OF WYETH
Filed	: 06/08/2000	:
		:

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. 14

Adam H. Tachner
Crosby Heafey Roach & May
Two Embacadero Center, Suite 2000
San Francisco, CA 94111

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of
Masahide Maruyama
Application No. 09/590,641
Filed: June 8, 2000
Attorney Docket No. 21778.03800

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Non-Final Office action mailed January 24, 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(a) were obtained. Accordingly, the application became abandoned on April 25, 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.

This application is being forwarded to Technology Center AU 2854 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Cc: Crosby Heafey Roach & May
Two Embacadero Center, Suite 2000
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed

MAR 0 6 2001

Technology Center 2100

Paper No. 6

William T. Ellis
Foley & Lardner
Washington Harbour
3000 K Street NW, Suite 500
Washington, DC 20007-5109

In re Application of: Gary Alan Kemp, II et al.	)	
Application No. 09/590,692	)	**DECISION ON PETITION**
Filed: June 9, 2000	)	**FOR ACCELERATED**
For: CLICK BASED TRADING WITH	)	**EXAMINATION UNDER**
INTUITIVE GRID DISPLAY OF	)	**M.P.E.P. §708.02(VIII)**
MARKET DEPTH	)	

This is a decision on the petition, filed August 21, 2000 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, ***will make an election without traverse*** as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient because it does meet the requirements of section (b) . The petition does not contain the statement that Applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention.

Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Mailed

APR 27 2001

Technology Center 2100

Paper No. 8

William T. Ellis
Foley & Lardner
Washington Harbour
3000 K Street NW, Suite 500
Washington, DC 20007-5109

In re Application of: Gary Alan Kemp, II et al.)
Application No. 09/590,692)
Filed: June 9, 2000)
For: CLICK BASED TRADING WITH INTUITIVE GRID DIPLAY OF MARKET DEPTH)

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the supplemental petition, filed March 13, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special. The petition was filed in response to a denial of the original petition filed August 21, 2000.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, 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.

Applicant's submission corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 23

WILLIAM T. ELLIS
FOLEY & LARDNER
3000 K STREET N.W.
SUITE 500
WASHINGTON, DC 20007-5109

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NOV 13 2002

OFFICE OF PETITIONS

In re Application of :
Gary Allan Kemp et al :
Application No. 09/590,692 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. 024051-0135 :

This is a decision on the petition, filed November 12, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3624 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 32

Foley & Lardner
Suite 500
3000 K Street NW
Washington, DC 20007

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Kemp II
Application No. 09/590,692
Filed: June 9, 2000
Attorney Docket No. 024051-0135

: DECISION GRANTING REQUEST FOR
: PTA RECONSIDERATION

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 145(b)" timely[1] file on March 5, 2004 request that the Office deem the proper PTA amount at the time of the mailing of the notice of allowance as 443 days rather than the zero (0) day determination provided by the office.

The applicants; request for reconsideration of patent term adjustment is **Granted to the extent herein indicated.** Applicants are entitled to **TWO HUNDRED AND NINETEEN (219) DAYS** of PTA at the time of the mailing of the notice of allowance. Applicants are given thirty days to petition this decision. The thirty day period is not extendable under 37 CFR 1.136.

Applicants assert that the Office erred in incorrectly asserting a forty-six (46) day reduction for the late submission of a response to the Notice to File Missing Parts[2] under 37 CFR 1.704(b) and the one hundred and fifty-four day delay for the submission of a supplemental paper (i.e., IDS filed on March 12, 2002.. Applicants assert that they did not fail to engage in reasonable efforts to conclude process of the application.

A review of the file reveals that the Office failed to the meet the requirement of responding to the Request for Continued Examination (RCE) filed November 12, 2003 (RCE), until February 10, 2004, a 335 day delay.[2] In addition, the Office further did not meet the requirement of the application under under 1.702(a)(2) by filing a late reply to applicants response rejection, a one

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[1]Issue fee paid on 3-8-04.

[2]Pursuant to 37 CFR 11.704(b), the reduction began the day afterfour-months from the receipt of the and ended on the date of the mailing of the Notice of Allowance on February 10, 2004. The Office notes for the record that the entry of an RCE on March 19, 2003 was an error in that the document was only a copy of the RCE filed on November 12, 2002.

hundred and seventy-two (172) day delay.[3] Accordingly, the Office accumulated a total of five hundred and seven (507) days of administrative delay.

The Office further agrees with applicant that the forty-six (46) day reduction for the response to the missing parts is in error. The file record reflects that the Office did in fact receive applicants' response to the Notice to File Missing Parts within three months. However, applicants assertion that the one hundred and fifty-four day reduction is not a failure to engage in reasonable efforts to concluded prosecution of the application is not persuasive. Applicant submitted an supplemental paper, Information Disclosure Statement (IDS)[4], on March 12, 2002 after the initial response by applicant and prior to an Office response, a one hundred and fifty-four (154) day reduction.[5] Moreover, applicant submitted a second supplemental reply (IDS) on February 11, 2003.after the initial filing of a RCE in response to an Office act on November 12, 2002 and prior to any response by the Office, a ninety-one (91) day reduction.[6] In addition, The Office properly assessed a thirty-one (31) day reduction for an overdue reply to a non-final rejection dated June 8, 2001.[7] Finally, applicants filed an over three month response to the Office Mailing of a Notice of Allowance, a twelve (12) day reduction. Accordingly, applicants failed to engage in reasonable efforts to conclude prosecution of the application by a total period of two hundred and eighty eight (288) days. Accordingly the overall PTA determination at the time of the issuance of the patent is two hundred and nineteen days.

The Office has charged the $200 fee to Deposit Account 19-0741. No additional fee is required by applicants.

This Application will be forwarded to the Office of Patent Publication for a prompt issuance of the application.

Karin Ferriter Kerry Fine for
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of adjusted PTA determination

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[3]The Office did not reply to applicant's response on October 9, 2001 until July 31, 2002.

[4]IDS was filed without a one-month certification statement under 37 CFR 1.704(d) and therefore the reduction is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8).

[5]The reduction is for the time period between the dates of October 9, 2001 and March 12, 2002.

[6] IDS was filed without a one-month certification statement under 37 CFR 1.704(d) and therefore the reduction is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8). The reduction occurring between the dates of November 13, 2002 and February 11, 2003.

[7]The reduction occurring beginning on August 9, 2001 and ending on October 9, 2002, a thirty-one day reduction.

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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Stephen Y. Pang
TOWNSEND and TOWNSEND and CREW LLP
8th Floor
Two Embarcadero Center
San Francisco CA 94111-3834

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Gilbert Hu et al :
Application No. 09/590,758 : DECISION GRANTING PETITION
Filed: June 8, 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 017789-001000US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned by operation of law for failure to timely reply to the Notices mailed November 5, 2004, which required payment of the issue fee and submission of corrected formal drawings on or before February 7, 2005 to prevent the abandonment of the application. No reply having been received, the date of abandonment of this application is February 8, 2005.

The drawings submitted with the petition have been approved. *See* attachment.

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 and drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notices of November 5, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Form PTO-948

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. 6632535
Issue Date: October 14,2003
Application No. 09590784
Filed: June 8,2000
Attorney Docket No. 5040-05400

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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.

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)
6632535	2003-10-14	09590784	2000-06-08	6158-05400

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric B. Meyertons/	Date (YYYY-MM-DD)	2008-02-22
Name	Eric B. Meyertons	Registration Number	34876

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

FEB 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Alexander Krymski :
Application No. 09/590,785 : NOTICE
Filed: June 8, 2000 :
Attorney Docket No. 08305 / 081001 / 98-29 :

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 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAIL

JAN 31 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/590,785

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 21

KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON LLP
ONE WORLD TRADE CENTER SUITE 1600
121 S W SALMON STREET
PORTLAND, OR 97204-2988

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JAN 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Vishnu K. Agarwal et al
Application No. 09/590,795
Filed: June 8, 2000
Attorney Docket No. 6047-53173

This is a decision on the petition, filed January 5, 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 7, 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 2818 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 22

Date : January 5, 2004

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Vishnu K. Agarwal et al
Application No. : 09/590,795
Filed : June 8, 2000

The above-identified application has been assigned Patent No. 6,673,666 and an issue date of January 6, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 6, 2004:

> "All reference to Patent No. 6,673,666 to Vishnu K. Agarwal et al of Idaho for METHODS FOR FORMING AND INTEGRATED CIRCUIT STRUCTURES CONTAINING RUTHENIUM AND TUNGSTEN CONTAINING LAYERS appearing in the Official Gazette of January 6, 2004 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

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)
6975972	2005-12-13	09590796	2000-06-08	AVA034 US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/omkar suryadevara/	Date (YYYY-MM-DD)	2010-02-03
Name	Omkar Suryadevara	Registration Number	36320

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. 6975972
Issue Date: December 13,2005
Application No. 09590796
Filed: June 8,2000
Attorney Docket No. 1467-14

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 3,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

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NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Phillips D. Rockwell :
Application No. 09/590,797 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. ROC0001U :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 19, 2003.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 2800, Art Unit 2834 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL NJ 07733

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,794,733 :
Issue Date: September 21, 2004 :
Application No. 09/590,805 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. FE-00439 :

This is a decision on the petition filed December 10, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Petitioner may file a request for a Certificate of Correction with a $100.00 fee to the Certificate of Correction Branch. A copy of this decision should accompany the request.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

280-00305

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OIPE
MAY 27 2005
PATENT & TRADEMARK

DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL NJ 07733

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MAR 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,794,733 :
Issue Date: September 21, 2004 :
Application No. 09/590,805 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. FE-00439 :

This is a decision on the petition filed December 10, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Petitioner may file a request for a Certificate of Correction with a $100.00 fee to the Certificate of Correction Branch. A copy of this decision should accompany the request.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell
Christina Tartera Donnell
Petitions Attorney
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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APR 25 2006

OFFICE OF PETITIONS

In re Application of
Steven Casagrande
Application No. 09/590,859
Filed: June 8, 2000
Attorney Docket No. 159008-0003

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 11, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Edwin H. Paul on behalf of all the attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

This application is being referred to Technology Center AU 2132.

Amelia Au
Petitions Examiner
Office of Petitions

cc:
STEVEN CASAGRANDE
93 CRESCENT HILL AVENUE
ARLINGTON MA 02474

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT C. COLWELL
TOWNSEND AND TWONSEND AND CREW, LLP
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 01 2008

OFFICE OF PETITIONS

In re Application of :
Kouichi Takahashi, et al. :
Application No. 09/590,897 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. 16869P010700US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 25, 2003. A one-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 July 26, 2003.

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 $770, and the submission required by 37 CFR 1.114; (2) the petition fee of $1330; 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 appearing in the petition varies from the language required by 37 CFR 1.137(b) (3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2827 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 20

Klaus J. Bach
4407 Twin Oaks Drive
Murrysville, PA 15668

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APR 11 2006

OFFICE OF PETITIONS

In re Application of Jensen :
Application No. 09/590,905 : Decision on Petition
Filing Date: June 9, 2000 :
Attorney Docket No. NI 127 :

This is a decision on the petition under 37 CFR 1.181, filed March 25, 2004, to withdraw the holding of abandonment.

The petition is **granted.**

Procedural history:

A Final Office action was mailed on March 4, 2003.

The Office failed to receive a reply to the Office action.

A Notice of Abandonment was mailed on October 1, 2003.

A petition to withdraw the holding of abandonment was filed November 17, 2003. The petition contended the Final Office action was never received.

A decision dismissing the petition was mailed March 22, 2004.

A renewed petition was filed on March 24, 2004. The renewed petition is in the application file and is date stamped as received by OIPE on March 25, 2004, and then received in the Technology Center on April 1, 2004.

As a result of failing to receive a reply to the March 24, 2004 petition, petitioner submitted a new copy of the petition on January 14, 2006. The file and petition were sent to the Office of Petitions on January 23, 2006.

Analysis:

The showing of record is sufficient to establish non-receipt of the Final Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office regrets the large delay in the consideration of the renewed petition.

The file will now be forwarded to Technology Center Art Unit 3652. The Technology Center will send a new Final Office action and the date for reply will be set based upon the mailing date of the new Final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JUN 11 2007

OFFICE OF PETITIONS

Ashok K. Shulka
10316 Kingsway Court
Ellicott City, MD 21042

In re Application of
Ashok K. Shukla
Application No.: 09/591,009
Filed: June 9, 2000
Attorney Docket No:

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed May 3, 2007.

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 application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed February 2, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on May 3, 2007. A Notice of Abandonment was mailed on May 8, 2007.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

The statement of unintentional delay cannot be accepted because the petition is signed by only one of the named joint inventors. Further to this point, 37 CFR 1.33(b) provides that:

> b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);<
>
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;<
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition is signed by only Ashok Shukla. The renewed petition must be signed by all of the named joint inventors or by a registered patent practitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 31 2007

OFFICE OF PETITIONS

Ashok K. Shulka
10316 Kingsway Court
Ellicott City, MD 21042

In re Application of:
Ashok K. Shulka, et al.
Application No.: 09/591,009
Filed: June 9, 2000
Attorney Docket No:

: ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed August 9, 2007.

The petition is **GRANTED.**

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed February 2, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on May 3, 2007. A Notice of Abandonment was mailed on May 8, 2007.

The issue fee was received on May 3, 2007.

Form PTOL-85B, filed May 3,2 007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

David Victor
KONRAD RAYNES & VICTOR, LLLP
315 S. Beverly Drive
Suite 210
Beverly Hills, California 90212

MAIL

JUN 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
D. A. Burton et al.
Application No. 09/591,024
Filed: June 9, 2000
For: METHOD, SYSTEM, AND PROGRAM FOR SELECTING ONE OF MULTIPLE PATHS TO COMMUNICATE WITH A DEVICE

DECISION ON PETITION UNDER 37 C.F.R. § 1.8 TO ACCEPT PAPERS AS TIMELY FILED AND UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed May 12, 2004 and June 09, 2004 under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is treated as a petition under 37 C.F.R. § 1.8(b) to accept papers as timely filed and as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

The petition is **GRANTED.**

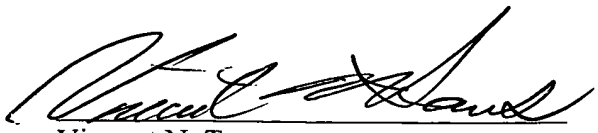
This application was held abandoned for failure to respond in a timely manner to the Office Action mailed August 27, 2003. A Notice of Abandonment was mailed March 25, 2004.

Petitioner's submissions of May 12, 2004 and June 09, 2004 considered together, meet the applicable criteria. Petitioner asserted that a Response to the Office action was filed in a timely manner on November 28, 2003. A copy of the originally submitted amendment and a Certificate of Transmission signed by David W. Victor dated November 28, 2003 have been provided. A personal statement of David W. Victor is submitted on June 9, 2004.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center support staff for entry of the copy of the response. From there, the application will be forwarded to examiner to consider the amendment.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

PET DEC

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mailed: JUN - 9 2004

Paper Number _____

In re application of
Schulz et al.
Serial No. 09/591,075
Filed: June 9, 2000
For: IMPROVED POROUS INKJET RECEPTOR MEDIA

DECISION ON PETITION

This is in response to the PETITION UNDED CFR 1.84 REGARDING THE SUBMISSION OF COLOR PHOTOGRAPHS AS FIGURES IN A PATENT APPLICATION filed June 9, 2000.

The petition includes (1) the fee as required by 37 CFR 1.17(H), (2) three sets of the color photographs, 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**.

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

GLENN SEAGER
CROMPTON, SEAGER & TUFTE, LLC
331 SECOND AVENUE SOUTH
SUITE 895
MINNEAPOLIS, MINNESOTA 55401-2246

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

rld

Mailed: 6-7-06

In re application of	:	
Schulz et al.	:	DECISION ON
Serial No. 09/591,075	:	PETITION
Filed: June 9, 2004	:	
For: IMPROVED POROUS INKJET	:	
RECEPTOR MEDIA	:	

This is a response to the PETITION TO ACCEPT COLOR DRAWINGS PURSUANT TO 37 CFR § 1.84 filed July 29, 2004. The petition includes (1) the indication of a fee to be charged to applicant's deposit account, (2) three sets of color photographs, (3) a black and white photocopy that depicts, to the extent possible, the subject matter shown in the color drawing, and (4) the indication that the application as filed contains the language in the first paragraph of the Brief Description of the Drawings as required in 37 CFR 1.384(a)(2)(iv).

It is acknowledged that applicants previously filed a petition to accept color drawings pursuant to 37 CFR 1.84 on June 9, 2000, which was granted by the USPTO on June 9, 2004. A review of the application record indicates that all of the requirements for acceptance of color photographs have been previously met. Since the presently filed petition offers no additional issues requiring review by the USPTO, the petition is hereby vacated. No fees will be charged to applicant's deposit account.

DECISION

A review of the application record indicates that all of the requirements for acceptance of color photographs have been previously met. Accordingly, the Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ---

DATE : 6/16/07

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/59/075 Patent No: 6979480 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**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

MILTON I. CANO
SUPERVISORY PATENT EXAMINER

1774
Art Unit

SPE: V. Chin

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/26/06

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/591,077 Patent No.: 6907243

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**.

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: OK to Enter

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

SPE 2618 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

BEYER WEAVER & THOMAS LLP
P.O. BOX 130
Mountain View CA 94042-0130

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of
Wallman
Application No. 09/591,172
Filed: June 9, 2000
Attorney Docket Number : SUN1P2/P4566

Letter Re Rescission
Of Nonpublication Request

This is in reply to the "Rescission of Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(ii) and Notification of International Filing," filed June 11, 2001.

The application is not subject to publication and no nonpublication request was included with the application on filing. Accordingly, the Rescission was unnecessary because there is no nonpublication request to rescind.

APPLICANT IS REQUESTED TO REFRAIN FROM RESCINDING NON-PUBLICATION REQUESTS UNLESS THEY HAVE ACTUALLY BEEN MADE.

The change of address, filed July 27, 2000, is noted. The change of address is confusing. If the change of address was requesting that the address be designated as a customer number, then this has been done. When applicant requests a change of address, the Office requests that the applicant provide either a customer number or an address, because use of both is very confusing. When both are given, and they lead to different addresses, which should control? (It is noted that the customer number and the typed out address were the same in both papers, so no change appears to have been intended from the "change of address". As to the associate power of attorney, this is the same power of attorney that was specified in the declaration.

If applicant was requesting that the address for the customer number be changed, then applicant needs to complete a Request for Customer Number Data Change. Note the attached forms.

After this letter is mailed, the above-identified application will be forwarded to Group Art Unit 2755 for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-3159.

Karin Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

UNITED STATES 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.

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,971,097	:	
Wallman	:	
Issue Date: November 29, 2005	:	DECISION ON APPLICATION
Application No. 09/591,172	:	FOR
Filed: June 9, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. SUN1P270/P4566	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed December 12, 2005, requesting reconsideration on the basis that the period of adjustment calculated for Office delay in mailing the first Office action is incorrect.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On March 18, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

application. The Notice stated that the patent term adjustment to date is zero days. This initial determination was based, in part, on the period of adjustment for Office delay in mailing the first Office action being zero days. PALM records indicate that the issue fee payment was received in the Office on June 20, 2005. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 20, 2005. Accordingly, it is appropriate to dismiss this petition as untimely filed.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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 : January 16, 2010

Patent No. :7160996
Inventor(s) :Ronald M. Cook
Issued :January 9, 2007
Title :FLUORESCENCE ENERGY TRANSFER PROBES WITH STABILIZED
:CONFORMATIONS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EBC Filing:	E-mail to efs@uspto.gov Electronic Business Center 1-866-217-9197 571-272-4100

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 154

Morgan, Lewis & Bockius, LLP
One Market, Spear Street Tower
San Francisco, Ca 94105

/arg

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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APR 16 2010

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

In re Patent No. 7,160,996
Issue Date: January 9, 2007
Application No. 09/591,185
Filed: June 8, 2000
Attorney Docket No. 061873-5002US

DECISION ON PETITION

This is a decision on the Petition To Issue Patent In Name of Assignee Under 37 CFR 3.81(b), filed on March 1, 2010, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct assignee. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the typographical error in the assignee's name. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from:

"Bioresearch Technologies, Inc."

to:

-Biosearch Technologies, Inc. -

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) and the $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.20(a) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,160,996.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

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OCT 0 9 2003

OFFICE OF PETITIONS

Robert Groover III
11330 Valleydale Drive
Dallas, TX 75230

In re Application of :
David Robert Baldwin :
Application No. 09/591,225 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. TD-155 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 29, 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 February 30, 2003.

The application file is being forwarded to Technology Center AU 2676 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309-3996

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Mark A. Leach :
Application No. 09/591,258 : ON PETITION
Filed: June 9, 2000 :
Attorney Docket No. 12900-0100

This is a decision on the petition, filed May 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 March 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2112 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6431552
Issue Date: August 13,2002
Application No. 09591271
Filed: June 9,2000
Attorney Docket No. F.11089

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2007 ,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 1,2007 . 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.

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)
6431552	2002-08-13	09591271	2000-06-09	IMP07.001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Keith D. Nowak/	Date (YYYY-MM-DD)	2007-06-01
Name	Keith D. Nowak	Registration Number	27367

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
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Keefer et al.	:	
Application No. 09/591277	:	ON PETITION
Filing or 371(c) Date: 06/09/2000	:	
Attorney Docket Number: 145402	:	

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 17, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 14, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 15, 2006. A Notice of Abandonment was mailed July 28, 2006.

Applicant files the instant petition and Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1754 for processing of the Amendment filed with the petition in due course.

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
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Alexandria, VA 22313-1450
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NO CHELMSFORD MA 01863

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OFFICE OF PETITIONS

In re Application	:	
Edwards, et al.	:	DECISION ON APPLICATION FOR
Application No. 09/591,307	:	PATENT TERM ADJUSTMENT
Filed: June 9, 2000	:	
Attorney Docket No. 2685.2001-000	:	
	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed April 19, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred eight (308) days to three hundred seventy-six (376) days.

The application for patent term adjustment is **DISMISSED**.

On January 27, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred eight (308) days. On April 19, 2004, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred seventy-six (376) days.

[1] Applicants filed the application for patent term adjustment on the same date as they filed the issue fee.

Applicants assert entitlement to a patent term adjustment of three hundred seventy-six (376) days on the basis that the PTO improperly assessed Applicants delay of sixty-eight (68) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. 1.704(b).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred eight (308) days based on an adjustment for PTO delay of four hundred nineteen (419) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of sixty-four (64) days and forty-seven (47) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b).

All adjustments have been reviewed and found to be correct. A non-final Office action was mailed on October 2, 2002. As this date was more than fourteen months after the filing date of the application, PTO delay of 419 days was properly assessed. Applicants filed an amendment in response to the non-final Office action on March 7, 2003. As this date was more than three months later, Applicant delay of 64 days was properly assessed. Finally, a final Office action was mailed on May 13, 2003. Applicants did not file a response (an Amendment and Notice of Appeal) until September 29, 2003, resulting in Applicant delay of 47 days.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred eight (308) days** (419 days of PTO delay and 111 (64 + 47) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

---

[2] Applicants state that they "filed" the Amendment and Notice of Appeal on September 25, 2003, presumably because they included a Certificate of Mailing dated September 25, 2003. However, under 37 C.F.R. § 1.703(f), "the date indicated on any certificate of mailing or transmission shall not be taken into account" in the PTA calculation. See also Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karen A. Ferriter for

Karen Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of 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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MARTIN & ASSOCIATES, LLC
IBM INTELLECTUAL PROPERTY LAW
DEPARTMENT
DEPARTMENT 917,
BUILDING 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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OFFICE OF PETITIONS

In re Application of	:	
Bates et al.	:	
Application No. 09/591,331	:	DECISION ON APPLICATION
Filed: June 9, 2000	:	FOR
Atty Docket No. ROC9-2000-0007	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed July 6, 2005. Applicants assert entitlement to a patent term adjustment of eight hundred seventy (870) on the basis that the Office will take in excess of three years to issue the patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

However, a review of the record reveals that correction of the patent term adjustment at the time of the mailing of the notice of allowance is required.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred twenty-seven (627)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 26, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 632 days. This adjustment included a reduction of 29 days for applicant delay, based on a date of receipt of May 12, 2004 for a response to the non-final Office action mailed January 13, 2004.

A review of the record reveals that the reduction of 29 days is incorrect. The relevant response sent by first class mail was received on May 17, 2004, with a certificate of mailing dated May 12, 2004. Applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, the reduction pursuant to § 1.704(b) should have been based on the receipt date of May 17, 2004. Thus, the period of reduction for the delay in responding to the Office action mailed January 13, 2004 is 34 days, not 29 days.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is six hundred twenty-seven (627) days.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR screen

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 - 9 2002

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

#11

In re Application of
Michael R. Hale et al
Serial No.: 09/591,464
Filed: June 9, 2000
Attorney Docket No.: VPI/99-105

: WITHDRAWAL OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181, filed October 25, 2002, requesting revival of the above-identified application based on non-receipt of an Office action.

A review of the file history shows the examiner mailed a Office action to applicants on April 4, 2002, setting a three month shortened statutory period for submission of a sequence disk. Upon failure to receive a reply the application was held abandoned as of October 5, 2002, however a Notice of Abandonment has not yet been mailed to applicants. Applicants state that the Office action was never received and provide statements and docket record evidence of non-receipt in support thereof. In view thereof, the Notice of Abandonment is withdrawn 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 remailing of the last Office action.

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

Brobeck Phleger & Harrison
Attn: Intellectual Property Department
1333 H. Street, NW Suite 800
Washington, DC 20005

COPY MAILED

SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Gary R. Pasternack
Application No. 09/591,500
Filed: June 12, 2000
Attorney Docket No. 031787.0076

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 11, 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 January 12, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1642 for further processing.

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 : 2/8/06

TO SPE OF : ART UNIT 1642 09/591,500

SUBJECT : Request for Certificate of Correction on Patent No.: 6930175

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments:

JEFFREY SIEW
SUPERVISORY PATENT EXAMINER
SPE

1642
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Marshall O'Toole Gerstein
Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

Mail Date: 04/21/2010

Applicant	: Susan Lindquist	: DECISION ON REQUEST FOR
Patent Number	: 7569660	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/591,632	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2000	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

MAIL

JAN 1 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Hunton and Williams
1900 K Street, N.W.
Washington, DC 20006

In re Application of: Robert Rosko et al.
Application No. 09/591,687
Filed: June 12, 2000
For: SYSTEM AND METHOD FOR PROVIDING CUSTOMERS WITH SEAMLESS ENTRY TO A REMOTE SERVER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed November 16, 2000 and supplemented by the filing of January 14, 2002, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed

subject matter is patentable over the references.

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

PATENT
ATTORNEY DOCKET NO. 47004.000074

#7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Robert ROSKO et al

Serial Number: 09/591,687

Filed: June 12, 2000

Group Art Unit: 2765

Examiner: Sheikh

FAX RECEIVED
JAN 1 4 2002
Technology Center 2100

For: SYSTEM AND METHOD FOR PROVIDING CUSTOMERS WITH SEAMLESS ENTRY TO A REMOTE SERVER

Assistant Commissioner
for Patents
Washington, D C. 20231

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper or fee is being facsimile transmitted on the date indicated below to the Assistant Commissioner for Patents, Washington, D.C. 20231

Date: January 14, 2002

Linda R. Rogers
Signature

Sir:

SUPPLEMENT TO PETITION UNDER 37 C.F.R. § 1.102

Supplemental to the petition under 37 C.F.R. § 1.102 for accelerated examination of the above-identified application, applicants submit that if the Office determines that all claims presented are not obviously directed to a single invention, they will make an election without traverse as a prerequisite to the grant of special status.

The Commissioner is hereby authorized to charge any further fees or credit any overpayments to deposit account 50-0206.

RECEIVED
JAN 1 4 2002
DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

PATENT
Attorney Docket No. 47004.000074

On the basis of the foregoing, the applicants respectively request the granting of this petition to make special so that the application will be examined promptly.

Respectfully submitted,

By: _____
Kerry H. Owens
Registration No. 37,412

Hunton & Williams
1900 K Street, N W.
Washington, D.C. 20006-1109
(202) 955-1950

Dated: January 14, 2002

HUNTON& WILLIAMS

1900 K STREET, N.W.
WASHINGTON, D.C 20006-1109

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

FAX

TO	NAME	Petitions Examiner Laufer
	FIRM	USPTO
	FAX NO.:	703-305-8266
	PHONE NO.:	
	PAGES (INCLUDING COVER):	3
	ORIGINAL TO FOLLOW IN MAIL:	☐ Yes ☒ No
FROM	NAME:	Kerry H. Owens
	DIRECT DIAL:	202-955-1950

MESSAGE **PLEASE DIRECT THIS COMMUNICATION TO THE DESK OF PETITIONS EXAMINER LAUFER.**

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 202 • 955 • 1500 .

OPERATOR

DATE:	January 14, 2002
TIME:	
CLIENT/MATTER NAME:	First USA
CLIENT/MATTER NO.:	47004.000074

This communication is confidential and is intended to be privileged pursuant to the attorney-client privilege and the work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

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

DEC 10 2002

Patrea L. Pabst
HOLLAND & KNIGHT LLP
2000 One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3400

In re Application of	:	
David P. Martin et al	:	
Application Serial No. 09/591,739	:	PETITION DESICION
Filed: June 12, 2000	:	
Attorney Docket No.: MBX 012 CON	:	

This is in response to applicants' petition filed October 8, 2002, requesting withdraw holding of abandonment under 37 CFR 1.181(a).

On February 20, 2002, an Office action was mailed to applicant. On October 1, 2002, a Notice of Abandonment for failure to timely file a reply to the Office action dated February 20, 2002. On October 8, 2002, the present petition was filed. Applicants assert that a Response was timely filed on May 20, 2002. The petition was accompanied with: a copy of the Response and a copy of the auto-reply fax transmission for the USPTO indicating that applicants' May 20, 2002 Response had been received.

Review of evidence and applicants' statement shows that a response was timely filed. Accordingly, the petition is **Granted**.

The application has been returned to pending status and is being forwarded to examiner for consideration of the response after mailing of this letter.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang for
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

Joseph D. Dreher
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

MAILED

JUL 12 2005

Technology Center 2100

In re Application of: Agarwal, et al.
Application No. 09/591,759
Attorney Docket No. Agarawal 10-5-7-16
Filed: June 12, 2000
For: APPARATUS, METHOD AND SYSTEM FOR PROVIDING A DEFAULT MODE FOR AUTHENTICATION FAILURES IN MOBILE TELECOMMUNICATION NETWORKS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the timely filed petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on December 15, 2004.

The instant application became abandoned for failure to timely respond to the Office action mailed March 30, 2004. A notice of abandonment was mailed on December 2, 2004. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of each of the response, amendment and formal drawings with a certificate of mailing under 37 CFR § 1.8(a) on June 25, 2004; transmittal letter; a post card receipt identifying the contents of the response, which includes a USPTO receipt date of June 28, 2004; and statement on the basis of personal knowledge, by Laurie A. Boylan, to the timely filing of a response which was mailed on June 25, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED.** The Notice of Abandonment is hereby **WITHDRAWN**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of Abandonment and to enter the response (copy filed December 15, 2004). The application will then be forwarded to the examiner for prompt action on the merits.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 17 2004

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DEC 17 2004

OFFICE OF THE DIRECTOR
TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Alain T. Rappaport
Application No. 09/591,769 : DECISION ON REQUEST
Filed: June 12, 2000 : FOR WITHDRAWAL OF
For: METHOD AND APPARATUS AND : ATTORNEY
SYSTEM FOR PROVIDING HEALTH
INFORMATION

This is a decision on the request filed on November 12, 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.

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
Facsimile No.: (703) 605-0586

KJD/slb:12/01/04

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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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

COPY MAILED

JAN 04 2010

In re Patent No. 6,907,000 :
Issue Date: June 14, 2005 :
Application No. 09/591,897 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. 90472 :

This is a decision on the petition under 37 CFR 1.378(c), filed October 26, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 15, 2009 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.

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

OIPE USPS
OCT 26 2009
PATENT & TRADEMARK OFFICE

2009 OCT 27 PM 4:36

Mail Stop PETITION
Attorney Docket No. 90172

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
NOV 03 2009
OFFICE OF PETITIONS

In re Patent of:

Lawrence William HOST

Patent No.: 6,907,000 B1

Issued: June 14, 2005

Title: **ADVANCED PACKET TRANSFER WITH INTEGRATED CHANNEL MONITORING**

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

(1) Transmittal Letter, one (1) page;
(2) PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 C.F.R. § 1.378(c)), three (3) pages;
(3) Our check no: 9155 for $490.00 for the small entity payment for the first maintenance fee (fee code 2551); and
(4) Our check no: 9156 for $1,640.00 for the petition fee payment under 37 C.F.R. § 1.20(i)(2) (fee code 1558).

Please charge any fee deficiency or credit any overpayment for this matter to Deposit Account No. 14-0112.

Respectfully submitted,

THE NATH LAW GROUP

Jerald L. Meyer, Reg. No. 41,194
Derek Richmond, Reg. No. 45,771
Customer No. 20529

Date: October 26, 2009

THE NATH LAW GROUP
112 S. West Street, Alexandria, VA 22314
TEL: (703) 548-6284; FAX: (703) 683-8396
JLM/DR/le

Adjustment date: 01/05/2010 LDIEP1
10/29/2009 DALLEN 00000019 6907000
01 FC:1599 -2130.00 OP
01/05/2010 LDIEP1 00000003 6907000
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.12

MAILED

DEC 2 2 2003

Technology Center 2100

David A. Hall
HELLER EHRMAN et al.
4350 La Jolla Village Drive #700
San Diego, CA 92122

In re Application of
Vivek SINGHAI, et al.
Application No. 09/591,986
Filed: June 12, 2000
For: DYNAMIC WEB PAGE CACHE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 3, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: THELEN REID & PRIEST LLP
225 West Santa Clara Street
Suite 1200
San Jose, CA 95113-1723

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FROM DIRECTOR'S OFFICE

JUN 18 2008

TECHNOLOGY CENTER 3600

Berry & Associates P.C.
9255 Sunset Boulevard
Suite 810
Los Angeles, CA 90069

In re Application of :
Richard Marc Libman :
Application No. 09/592,086 :
Filed: June 12, 2000 :
For: APPARATUS FOR PREPARING CLIENT :
COMMUNICATIONS INVOLVING :
FINANCIAL PRODUCTS AND SERVICES :

DECISION ON PETITION UNDER
37 C.F.R. 1.181 TO
WITHDRAW FINALITY

This is in response to applicant's Petition filed on September 8, 2005, requesting withdrawal of the finality of the Office action mailed May 5, 2005 as being premature.

The petition is **DISMISSED AS MOOT.**

Petitioner alleges that the final rejection dated September 8, 2005 was premature since the Examiner in this Office action "failed to consider and/or explain how certain limitations in the presented claims are met or made obvious by the cited reference."

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97 (c) with the fee set forth in 37 C.F.R. 1.17(p).

A review of the record indicates that applicant's filed a Notice of Appeal and Request for Pre-Brief Conference on November, 7, 2005. The Office responded with a Pre-Brief Conference Decision to Proceed to the BPAI on January 23, 2006. Applicant's subsequently filed a Request for Continued Examination on May 22, 2006, therefore the finality has already effectively been withdrawn and the issue is moot.

Summary: ***Petition Dismissed as Moot***

Wynn W. Coggins, Director
Patent Technology Center 3600
571-272-5350
EWS 5/1/08

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

#9

Robert Samuel Smith
1263 Emory Street
San Jose, CA 95126

MAILED

SEP 11 2002

Office of the Director
Group 3600

In re Application of
William Casey
Application No. 09/592,095
Filed: June 12, 2000
For: QUICK ENGAGE/DISENGAGE
ROPE CLEAT

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 31, 2002

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on December 3, 2001 wherein a three-month shortened statutory period for response was set. Since no response to the December 3, 2001 Office action was received, the application was held abandoned in the Notice of Abandonment mailed July 19, 2002.

Petitioner requests withdrawal of the holding of abandonment on the basis that a response was timely filed. Petitioner offers proof in the form of a "copy" of the response, which bears a Certificate of Transmission dated December 11, 2001. The petition further includes a statement that "According to a mailing certificate, a response was prepared last Dec. 10, 2001 and faxed to the Patent Office on Dec. 11, 2002."

The petition is deficient. 37 CFR 1.8(b)(3) requires a statement which attests on a personal knowledge basis as to the previous timely transmission. However, the above quoted statement does not attest to the previous timely transmission. "According to a mailing certificate" does not reaffirm the previous transmission. Further, the previous submission was faxed, not mailed. Finally, the date of transmission on the original certificate is Dec. 11, 2001, not Dec. 11, 2002 as stated above.

In addition to the above noted deficiencies, the "copy" of the response bears what appears to be an original signature. Therefore, the required copy of that which was originally sent has not been submitted.

The application is being returned to Files Repository.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petition desire reconsideration, he should submit a renewed petition which addresses the deficiencies noted above.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth Dorner at (703) 308-0866.

Gerald Goldberg, Director
Technology Center 3600
(703) 308-1134
Fax (703) 305-2177

Kjd: 9/5/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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abandoned.
1,8,9,14

Paper No. 13

Robert Samuel Smith
1263 Emory Street
San Jose, CA 95126

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of :
William E. Casey :
Application No. 09/592,095 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. RSWC :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 3, 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 4, 2002.

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 Technology Center 3600, Art Unit 3677 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

Marianne Morgan for

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Robert Samuel Smith
1263 Emory Street
San Jose CA 95126

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
William E. Casey	:	
Application No. 09/592,095	:	ON PETITION
Filed: June 12, 2000	:	
Attorney Docket No. RSWC	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 20, 2005, 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) was obtained. Accordingly, the application became abandoned on October 21, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3677 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 14

Douglas E. McKinley Jr.
PO Box 202
Richland, WA 99352

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OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of
Paul Woskov
Application No. 09/592,176
Filed: June 12, 2000
Attorney Docket No. 20003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 16, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 17, 2002.

This application is being forwarded to the Office of Patent Publication.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6369752
Issue Date: April 9,2002
Application No. 09592189
Filed: June 12,2000
Attorney Docket No. 97CR125C/KE

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 16,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,369,752	2002-04-09	09/592,189	2000-06-12	97CR125C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◯	3 ½ year	(1551)
◉	7 ½ year	(1552)
◯	11 ½ year	(1553)

Small Entity

	Fee	Code
◯	3 ½ year	(2551)
◯	7 ½ year	(2552)
◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

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	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-04-16
Name	Matthew J. Evans	Registration Number	56530

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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#10

STANLEY A. SCHLITTER
JENNER & BLOCK LLC
ONE IBM PLAZA
CHICAGO, IL 60611

COPY MAILED

APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Gregory Ralph Osborn :
Application No. 09/592,230 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. GEO4574

This is a decision on the petition, filed April 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2683 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

COPY MAILED

MAY 24 2007

OFFICE OF PETITIONS

In re Application of Bates et al. :
Application No. 09/592,308 : Decision on Petition
Filing Date: June 13, 2000 :
Attorney Docket No. ROC920000014 :

This is a decision on the petition under 37 CFR 1.181, filed January 17, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Non-Compliant Amendment was mailed March 10, 2006. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

The Office failed to receive a reply to the Notice. As a result, a Notice of Abandonment was mailed December 12, 2006.

The instant petition establishes non-receipt of the Notice of Non-Compliant Amendment. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Technology Center Art Unit 2176 will be informed of the instant decision and the examiner will consider the amendment filed January 17, 2007, 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

cc: Patterson & Sheridan LLP
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 7, 2006

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6,821,829 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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ 2814
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 12

JEFFREY PEARCE
34825 SULTAN-STARTUP RD.
SULTAN, WA 98294

COPY MAILED

JUN 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Edouard Bugnion	:	
Application No. 09/592,368	:	NOTICE
Filed: June 12, 2000	:	
Attorney Docket No. VMware5	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2154.

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
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JEFFREY PEARCE
DARRYL SMITH
3401 HILL VIEW AVENUE
PALO, ALTO, CA 94304

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Edouard BUGNION :
Application No. 09/592,368 : DECISION ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. Vmware5 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 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 Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Office action mailed September 9, 2004. The proposed reply was received on September 28, 2007, however, it did not constitute a proper reply under 37CFR 1.113(a) to the final rejection of September 9, 2004.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2 1/2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 10, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort

was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Jeffrey Pearce was counsel of record at the time of abandonment, Jeffrey Pearce should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of present counsel. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Jeffrey Pearce and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Jeffrey Pearce's law office, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 ½ years) could trigger, as here, a request for

additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Jeffrey Pearce's law office and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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SEP 22 2008

OFFICE OF PETITIONS

JEFFREY PEARCE
DARRYL SMITH
3401 HILL VIEW AVENUE
PALO ALTO, CA 94304

In re Application of :
Edouard BUGNION :
Application No. 09/592,368 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. VMWARE5 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 9, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 10, 2004.

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 $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2154 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.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, P.O. BOX 12195
REASEARCH TRIANGLE PARK, NC 27709

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Carl T. Anderson, et. al. :
Application No. 09/592,387 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. RSW9-2000-0026-US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 10, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice Regarding Drawings mailed May 9, 2006. A Notice of Abandonment was mailed on December 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of fourteen (14) sheets of corrected drawings containing Figures 1-11; (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 review of the drawings filed on January 10, 2007.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KING & SPALDING, LLP
INTELLECTUAL PROPERTY DEPT. - PATENTS
1180 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3521

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JUN 01 2007

OFFICE OF PETITIONS

In re Application of :
Nicolas J. Hammond :
Application No. 09/592,404 : ON PETITION
Filed: June 13, 2000 :
Attorney Docket No. 05456.105045 :

This is a decision on the petition filed March 5, 2007 to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned October 27, 2006 for failure to file a timely response to the Notice of Non-Compliant Amendment(37 CFR 1.121) mailed July 26, 2006. Accordingly, a Notice of Abandonment was mailed February 21, 2007.

Petitioner claims that the Notice of Non-Compliant Amendment mailed July 26, 2007 was never received. Petitioners argue that the Notice of Non-Compliant Amendment was mailed to the wrong address as it was mailed to the previous attorneys of record.

A review of the file reveals that a power of attorney and address change was in fact filed on May 31, 2006, but that the attorney and address information was not updated prior to the mailing of the Notice of Non-Compliant Amendment on July 26, 2006. Thus, the Notice of Non-Compliant Amendment was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due. The fees in the amount of $400 paid with the petition will be credited to deposit account no. 11-0980.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 2131 for the re-mailing of the Notice of Non-Compliant Amendment originally mailed on July 26, 2006. Telephone inquiries concerning the re-mailing of the Notice of Non-Compliant Amendment should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 17, 2006

TO SPE OF : ART UNIT 2626 (S.P.E. Dorvil Richemond)

SUBJECT : Request for Certificate of Correction for Appl. No.: ~~10/911470~~ 09/592,461 Patent No.: RE 38,660

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please see the amendment dated 04 - 21 - 06.

STacy Powell

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box. ***Re: Approved-in-Parts, please clearly list the approved and denied changes.***

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Request filed in divisional reissue - Has been re-associated w/ 09/592,461 which corresponds to RE 38,660

SPE

2626
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 39

ALAN C. ROSE, ESQ.
OPPENHEIMER WOLFF & DONNELLY LLP
840 NEWPORT CENTER DRIVE., SUITE 700
NEWPORT BEACH CA 92660

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Tracy E. Grim et al. :
Application No. 09/592,462 : DECISION ACCORDING STATUS
Filed: June 9, 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 480032-307 :

This is in response to the petition filed June 1, 2004, under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Eric Montag, refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, the statement of Alan C. Rose, Attorney of Record, establishes that there are three named inventors on Patent No. 5,761,834 issued June 9, 1998, Tracy E. Grim, Kevin O'Donnell and Eric Montag. Reissue application declarations pursuant to 37 CFR 1.75 have been signed by Ms. Grim and Mr. O'Donnell but while Mr. Montag was sent a copy of the present reissue application materials, he has not returned an executed copy and thus by his actions, refuses to cooperate with the filing of instant reissue application as filed.

A reissue application declaration is submitted by the assignee.

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 inventor at the address given in 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 3728 for further examination and for a review of the amendment filed June 1, 2004 in response to the Final Office Action mailed March 8, 2004.

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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Alexandria, VA 22313-1450
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Paper 40

ERIC MONTAG
7438 WISH AVENUE
VAN NUYS, CA 91406

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of
Tracy E. Grim et al.
Application No. 09/592,462
Filed: July 9, 2000
For: FOOTGEAR WITH PRESSURE RELIEF ZONES

Dear Mr. Montag:

You are named as a joint inventor in the above identified United States reissue 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 the undersigned Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
ALAN C. ROSE, ESQ.
0PPENHEIMER WOLFF & DONNELLY LLP
840 NEWPORT CENTER DRIVE., SUITE 700
NEWPORT BEACH CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

FULWIDER PATTON LEE& UTECHT
ATTENTION ALAN C. ROSS
HOWARD HUDGE CENTE, TENTH FLOOR
6060 CENTER DRIVE
LOS ANGELES, CA 90045

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Tracy E. Grim, Kevin R. O'Donnell, and Eric G. Montag
Application No. 09/592,462
Filed: June 9, 2000
Attorney Docket Number: 480032-307
Title: FOOTGEAR WITH PRESSURE RELIEF ZONES

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a), filed May 10, 2005.

A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;

(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);

(3) a statement of the last known address of the non-signing inventors;

(4) either

a) 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 or

b) proof that the non-signing inventor cannot be found or reached after diligent effort;

(5) a declaration which complies with 37 CFR §1.63.

The above-identified reissue application was filed on June 9, 2000, identifying Tracy E. Grim, Kevin R. O'Donnell, and Eric G. Montag as joint inventors. No oath or declaration was submitted on filing, nor prior to the filing of the present petition.

Submitted with the present petition, is a declaration signed by Tracy E. Grim and Kevin R. O'Donnell. While the signature of Eric G. Montag is absent from the declaration, Petitioner has met each of the 5 requirements set forth above.

Accordingly, the petition is **GRANTED** and 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 (Eric G. Montag) at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Greiffenhagen et al.	:	
Application No. 09/592,532	:	ON PETITION
Filed: June 12, 2000	:	
Attorney Docket No. 2000P07676 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and Formal 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 inadvertently charged for a second time on December 7, 2005. Accordingly, the $1400.00 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

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)
6,483,578	2002-11-19	09/592,534	2000-06-12	69012-40

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/W. Scott Harders/	Date (YYYY-MM-DD)	2007-05-17
Name	W. Scott Harders	Registration Number	42629

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6483578
Issue Date: November 19,2002
Application No. 09592534
Filed: June 12,2000
Attorney Docket No. LSP-32

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 18,2007 ,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 18,2007 . 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
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Paper No. 11

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

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DEC 05 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Kinsella, Mike
Application No. 09/592,563
Filed: June 12, 2000
Attorney Docket No. KC-0040

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 12, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 22, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on July 23, 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 $475.00 extension of time fee submitted with the petition on November 12, 2003 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 Paralegal Liana Chase at (703) 306-0482.

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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MYERS, DAWES, ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Richard Humpleman, et al. :
Application No. 09/592,598 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. SAM1.PAU.65 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 9, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 10, 2007.

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 $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2179 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

Copied from 09952598 on 03/22/2008

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)
6,615,832	2003-09-09	09/592,630	2000-06-13	39635/B437

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	/Oliver S. Bajracharya/	Date (YYYY-MM-DD)	2008-03-06
Name	Oliver S. Bajracharya	Registration Number	55905

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. 6615832
Issue Date: September 9,2003
Application No. 09592630
Filed: June 13,2000
Attorney Docket No. 39635/GTL/B437

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 6,2008 ,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 6,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

COPY MAILED

DEC 0 7 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
John D. Porter, Walter C. Vester and :
Benedict R. Freeman : DECISION REFUSING STATUS
Application No. 09/592,683 : UNDER 37 CFR 1.47(a)
Filed: June 12, 2000 :
For: CONTROL SIGNALLING AND :
DYNAMIC CHANNEL ALLOCATION
IN A WIRELESS NETWORK

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 17, 2000 (certificate of mailing, October 10, 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 June 12, 2000 without an executed oath or declaration and naming John D. Porter, Walter C. Vester and Benedict R. Freeman as joint inventors.

Accordingly, on August 8, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for late filing.

In response, on October 17, 2000 (certificate of mailing, October 10, 2000), the instant petition under 37 CFR 1.47(a); a declaration by non-signing inventor John D. Porter indicating his refusal to sign the declaration; the "Declaration and Power of Attorney" signed by inventors Walter C. Vester and Benedict R. Freeman; the $130.00 surcharge for late filing and the $130.00 petition fee were submitted.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (4), as set forth above.

As to item (1), Petitioner has not indicated whether non-signing inventor John D. Porter was presented a copy of the application papers. "[B]efore a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the **application papers (specification, including claims, drawings, and oath or declaration)** to the non-signing inventor for signature." MPEP 409.03(d), emphasis added. Petitioner must show that a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the inventor, but that the inventor did not respond to or refused the request that he sign the oath or declaration in order to show that the inventor has refused to join in the application.

As to item (4), a separate statement of the inventor's last known address is missing and is required. The listing on the Declaration is not considered an acceptable response to this requirement of 37 CFR 1.47(a). See MPEP 409.03(e).

After this decision is mailed, deposit account No. 06-0916 will be charged the $130.00 surcharge for the late filing of the oath or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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FINNEGAN HENDERSON FARABOW
GARRETT AND DUNNER
1300 I STREET NW
WASHINGTON DC 20005-3315

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JAN 0 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Porter, Vester and Freeman :
Application No. 09/592,683 : DECISION ACCORDING
Filed: June 12, 2000 : STATUS UNDER 37 CFR 1.47(a)
For: CONTROL SIGNALLING AND :
DYNAMIC CHANNEL ALLOCATION :
IN A WIRELESS NETWORK

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 29, 2000 requesting reconsideration of a decision mailed December 7, 2000 refusing status.

The petition is granted.

Petitioner has shown that the nonsigning inventor 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(a), this Office will forward notice of this application's filing to the nonsigning inventor. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Initial Patent Examination Division for preexamination processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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John David Porter
108 Cambridge Road
Great Shalford
Cambridge C82 5JJ, United Kingdom

COPY MAILED

JAN 0 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
John David Porter, Walter Charles Vester, and Benedict Russell Freeman
Application No. 09/592,683
Filed: June 12, 2000
For: CONTROL SIGNALLING AND DYNAMIC CHANNEL ALLOCATION IN A WIRELESS NETWORK

Dear Mr. Porter:

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Frances Hicks at (703) 305-8680. 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).

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Finnegan Henderson Farabow
Garrett and Dunner
1300 I Street NW
Washington, DC 20005-3315

UNITED STATES 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.

Williams, Morgan & Amerson, P.C.
10333 Richmond, Suite 1100
Houston, TX 77042

COPY MAILED

APR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Jeffery Bonadio, et al. :
Application No. 09/592,685 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. 4100.000582 :

This is in response to the "Petition Under 37 CFR 1.47(b), filed January 2, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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;

(4) a statement of the last known address of the non-signing inventor.

(5) proof of proprietary interest: and

(6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

The oath or declaration filed with the instant petition does not contain the citizenship of Wushan Yin and consequently, is considered defective. In view thereof, petitioner must submit an acceptable oath or declaration. Furthermore, the oath or declaration is not signed by the assignee. MPEP 409.03(b) states in pertinent part:

> "The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof, should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U. S. Patent and Trademark Office, to sign the application oath or declaration on its behalf."

Accordingly, the oath or declaration must be signed by the assignee.

It is also noted that this application was incomplete upon its filing in that a newly executed oath or declaration must be filed in any continuation-in-part. *See* 37 CFR 1.63(e). The application was filed with a copy of the oath or declaration filed in the parent application Therefore, the Office considers the application to have been filed without an oath or declaration. Any oath or declaration submitted subsequent to the filing of the application is considered late. Therefore, a late oath or declaration surcharge of $130 is required.

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
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Williams, Morgan, & Amerson, P. C.
10333 Richmond, Suite 1100
Houston, TX 77042

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MAY 13 2004
OFFICE OF PETITIONS

In re Application of :
Jeffrey Bonadio, et al. :
Application No. 09/592,685 : ON PETITION
Filed: June 12, 2000 :
Attorney Docket No. 4100.000582 :

This is in response to the Request for Reconsideration of a petition under 37 CFR 1.47(b), filed April 26, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventors, Jeffrey Bonadio and Wushan Yin cannot be reached to sign the above-identified application after having been mailed the application papers. Specifically, the declaration/statement of facts of Shelley Fussey establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but those papers were returned as undeliverable. In addition, petitioner has shown that The Regent of the University of Michigan has a proprietary interest in the above-identified application with the assignment document. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Declaration. 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 forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt. Thereafter the application will be returned to the Publishing Division for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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GREER, BURNS & CRAIN
300 S. WACKER DR.
25TH FLOOR
CHICAGO, IL 60606

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Frank Labedz, et. al.	:	
Application No. 09/592,686	:	ON PETITION
Filed: June 13, 2000	:	
Attorney Docket No. 2014.63689	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 20, 2004.

In response, petitioner submitted with the instant petition $750 for the petition to revive fee, and a Request for Continued Examination (RCE), along with the fee of $395.

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 file is being forwarded to Technology Center Art Unit 2157, for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the previously submitted amendment filed June 1, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

MAY 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Davis Wright Tremaine, LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

In re Application of :
David B. GIBBONS, et al. :
Application No. 09/592,820 :
Filed: June 12, 2000 :
For: **SYSTEM AND METHOD FOR BROADCASTING TIMING INFORMATION TO REMOTE UNITS IN A WIRELESS MULTIPLE ACCESS NETWORK** :

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request to Withdrawal the Holding of Abandonment filed August 3, 2004.

This application was held abandoned for failure to respond to the Office action mailed November 5, 2003. A Notice of Abandonment was mailed on June 22, 2004.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of a response on February 6, 2004. Petitioner has also submitted a copy of the response.

The date stamped on the post card receipt of February 6, 2004 is subsequent to the due date for response to the three month shortened statutory time period for response set forth in the Office action mailed November 5, 2003. However, the copy of the response includes a certificate of mailing certifying deposit on February 3, 2004 in accordance with 37 CFR 1.8(a). Accordingly, the copy of the response is accepted as having been timely filed.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for entry of the copy of the response. The Power of Attorney filed March 17, 2005 will also be entered. From there, the file will be forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAILED

JUN 2 3 2003

Technology Center 2100

In re Application of: James L. Jason, Jr.
Application No. 09/592,841
Filed: June 13, 2000
For: METHOD AND APPARATUS FOR PREVENTING PACKET RETRANSMISSIONS DURING IPSEC SECURITY ASSOCIATION ESTABLISHMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 9, 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: Blakely, Sokoloff, Taylor & Zafman LLP
c/o Grace Abercrombie
1279 Oakmead Parkway
Sunnyvale, CA 94086

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WASHINGTON, D.C. 20231
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MAY 07 2001

Technology Center 2100

Paper No. 4

Pillsbury Madison & Sutro LLP
1100 New York Avenue, N.W.
Ninth Floor, East Tower
Washington, DC 20005-3918

In re Application of: Adriano Huber et al.	)	
Application No. 09/592,916	)	
Filed: June 13, 2000	)	**DECISION ON REQUEST FOR**
For: METHOD, SYSTEM AND GATEWAY ALLOWING SECURED END-TO-END ACCESS TO WAP SERVICES	)	**WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 12, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Pearne, Gordon, McCoy & Granger LLP
526 Superior Avenue, East
Suite 1200
Cleveland, Ohio 44114-1484

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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MAY 20 2004

Director's Office
Office of Patent Publication

IRELL & MANELLA, LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

In re Application of :
Jeffrey Ying :
Application No. 09/593,170 : **DECISION ON PETITION**
Filed: June 12, 2000 :
Attorney Docket No. 251/068 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on December 3, 2003, which is being treated as a Petition To Withdraw Holding Of Abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file formal drawings as required in the Notice of Allowability.

The Office acknowledges the timely receipt of the Letter In Response To Notice Of Drawings Inconsistency In The Specification, and the Amendment under 37 CFR 1.312 submitted therewith, on August 26, 2003. The afore-mentioned items were captured electronically (scanned) into the Image File Wrapper (IFW) system. The Amendment, which corrected the inconsistency between the drawings filed on June 30, 2003 and the Brief Description, as noted in the Notice Of Drawing Inconsistency With Specification, mailed July 31, 2003, was considered and entered by the Examiner on September 29, 2003. Therefore, the formal drawings received on June 30, 2003 are acceptable.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The application will be processed into a patent.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.

Thomas 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
Washington, D.C. 20231
www.uspto.gov

OIPE JC86
NOV 29 2004
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Paper No. 6

HANDAL & MOROFSKY
80 WASHINGTON STREET
NORWALK, CT 06854

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DEC 0 6 2000

OFFICE OF PETITIONS
A/C PATENTS

ON PETITION

In re Application of
Charles G. Kalt et al.
Application No. 09/593,195
Filed: June 13, 2000
Attorney Docket No. CK9

This is a decision on the petition under 37 CFR 1.10 (c) filed October 19, 2000, requesting that the above-identified application be accorded a filing date of June 13, 2000, rather than the presently accorded filing date of June 14, 2000.

Petitioners allege that the application was deposited in Express Mail service on June 13, 2000. In support, the petition is accompanied by a copy of Express Mail receipt No. EL465268485US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 13, 2000. Petitioners have also provided a copy of a tracking receipt from the USPS Internet database indicating the deposit and delivery status of Express Mail item EL465268485US, also confirms the filing date of June 13, 2000.

In view of the above, the petition is granted.

This application will be forwarded to the Office of Initial Patent Examination for correction of the filing date to June 13, 2000.

Telephone inquiries concerning this matter may be directed to the Petitions Attorney Patricia Faison-Ball at (703) 305-4497.

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

COPY

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
DEC 11 2000
TECHNOLOGY CENTER

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

PILLSBURY WINTHROP
SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Wang	:	
Application No. 09/593,214	:	
Filed: June 14, 2000	:	NOTICE
Patent No.: 6,219,868	:	
Issued: April 24, 2001	:	
Title of Invention:	:	
SELF-INFLATING MATTRESS	:	

This is a notice regarding your request to change your entity status to large.

Office records reveal that Team Worldwide Corporation, is the assignee of the above-identified application.

In accordance with 37 CFR 1.27(g), said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

TERRANCE A. MEADOR
GRAY CARY WARE & FREIDENRICH
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of :
Jari M. Heinonen et al :
Application No. 09/593,215 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. 748.US1(STG162) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 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 August 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 October 15, 2000.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

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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MAIL

Paper No. 11

FERENCE & ASSOCIATES
400 BROAD STREET
PITTSBURGH PA 15143

JUN 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Upendra Chaudhari, et al.
Application No. 09/593,275
Filed: June 13, 2000
For: SPEAKER RECOGNITION METHOD BASED ON STRUCTURED SPEAKER MODELING AND A "PICKMAX" SCORING TECHNIQUE

DECISION
ON PETITION

This is a response to the request for Reinstatement filed April 13, 2004 which is treated as a petition to Withdraw Holding of Abandonment pursuant to 37 CFR 1.181. No fee is required.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the February 3, 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 May 3, 2003. A Notice of Abandonment was mailed on February 23, 2004.

Petitioner alleges to have timely filed an amendment in 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, a petition for three (3) months of extension of time, and a request to change correspondence address. Each piece of the correspondence included with the petition includes a 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. 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 extension of time, amendment, and change of address. From there, the file will be forwarded to the examiner for consideration in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6801820
Issue Date: October 5,2004
Application No. 09593336
Filed: June 14,2000
Attorney Docket No. LLY-001CN2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 3,2008 ,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 3,2008 . 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.

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)
6,801,820	2004-10-05	09/593,336	2000-06-14	119645-00103.122

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	/bruce d. george/	Date (YYYY-MM-DD)	2008-12-03
Name	Bruce D. George	Registration Number	43631

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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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Douglas W. Raymond et al :
Application No. 09/593,352 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. TER-012PUS :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 15, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 2613 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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APR 20 2007

OFFICE OF PETITIONS

In re Application of :
Douglas W. Raymond et al :
Application No. 09/593,352 : DECISION ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. TER-012PUS :

This is a decision on the petition, filed February 17, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED AS MOOT**.

This application was held abandoned for failure to timely submit the Formal Drawings on or before December 28, 2005, as required by the Notice of Allowance (Notice), mailed September 28, 2005.

A Notice of rescinded abandonment was mailed March 2, 2006.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

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SAN JOSE, CA 95110

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APR 20 2007

OFFICE OF PETITIONS

In re Application :
Douglas W. Raymond et al
Application No. 09/593,352 :
Filed: June 14, 2000 : LETTER
Attorney Docket No. TER-012PUS :

This is in response to the paper filed December 5, 2005 under 37 CFR 1.27(c) seeking status as a small entity.

The Verified Statement Claiming Small Entity Status of December 5, 2005 has been made of record and small entity status has been accorded.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SUITE 400
SAN JOSE, CA 95110

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APR 23 2007

OFFICE OF PETITIONS

In re Patent No. 7,075,565 :
Issue Date: June 14, 2000 :
Application No. 09/593,352 : NOTICE
Filed: June 14, 2000 :
Attorney Docket No. TER-012PUS

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SUE Z. SHAPER, P.C.
2925 BRIARPARK
SUITE 930
HOUSTON, TX 77042

MAILED

JAN 0 2 2003

Director's Office
Group 3700

Paper No. 21

In re Application of
CRABTREE ET AL.
Application No.: 09/593,360
Filed: June 14, 2000

: **DECISION ON**
: **PETITION TO**
: **WITHDRAW FINALITY OF**
: **THE OFFICE ACTION**
MAILED AUGUST 2, 2002

This is a decision on the petition filed September 30, 2002, requesting withdrawal of the finality of the Office Action mailed August 2, 2002. The noted request can be found in the opening remarks of the August 2, 2002 amendment after final.

A review of the file indicates that a Final Rejection was mailed on August 2, 2002. A Notice of Appeal was filed on November 15, 2002, along with a Request for Continued Examination (RCE) and an accompanying amendment. Receipt is also acknowledged of an Information Disclosure Statement filed November 15, 2002.

It is noted that once processed, the Request for Continued Examination will place the application in Amended Status and not under final rejection. As the application will not longer be in Final Rejection Status, the petition is considered moot.

Summary: Request to Withdraw the Finality of the August 2, 2002 Office Action is Dismissed as being moot. This application is being forwarded to Art Unit 3752 for processing the referenced Request for Continued Examination.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (703) 308-0975
Fax: (703) 308-7764

DAS

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

ROBERT C. CURFISS
JACKSON WALKER, LLP
112 E. PECAN STREET, SUITE 2100
SAN ANTONIO, TX 78205

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of :
David A. Monroe :
Application No. 09/593,361 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. P-121817.001.025 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 25, 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 October 26, 2000. A Notice of Abandonment was mailed on May 8, 2002.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
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
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Arent Fox Kintner Plotkin & Kahn PLLC
1050 Connecticut Avenue N W Suite 600
Washington DC 20036-5339

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Andersen et al :
Application Number: 09/593,417 : DECISION ON PETITION
Patent: 6,870,028 :
Attorney Docket Number: 108281-00001 :
Filing Date: June 14, 2000 :
Issue Date: March 22, 2005 :

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on August 11, 2005. The petition is properly treated 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 **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6389828
Issue Date: May 21,2002
Application No. 09593435
Filed: June 14,2000
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 3,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 3,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6389828	2002-05-21	09593435	2000-06-14	43381-105652

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John P. Wappel/	Date (YYYY-MM-DD)	2007-05-03
Name	John P. Wappel	Registration Number	56055

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
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of :
FRASER, Stuart A. et al. :
Application No. 09/593,554 : DECISION ON PETITION
Filed: June 14, 2000 : TO WITHDRAW
Attorney Docket No. **99-1006** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to ROPES & GRAY LLP has been revoked by the assignee of the patent application on April 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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

A SIDNEY JOHNSTON
CESARI AND MCKENNA LLP
88 BLACK FALCON AVE
BOSTON MA 02110-2414

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SEP 4 2001

OFFICE OF PETITIONS

In re Application of
Edsall, et al.
Application No. 09/593,566
Filed: August 16, 2000
Attorney Docket No. 112025-0195

DECISION ON PETITION

This is a decision on the petitions, filed November 6, 2000 and March 1, 2001, requesting that the Commissioner find that the declaration has been properly filed and that the application be accorded a filing date of June 14, 2000.

Application papers in the above-identified application were filed on June 14, 2000. On July 5, 2000, applicants received a post card filing receipt dated June 14, 2000 indicating that 27 pages of specification and an assignment were not received by the Patent and Trademark Office. In addition, on August 14, 2000, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the specification was missing.

On August 16, 2000, applicants filed a specification, drawings, and assignment, together with a copy of the June 14, 2000 postcard receipt (indicating nonreceipt of the specification and assignment). The Office responded on December 5, 2000 with a Notice to File Missing Parts of Nonprovisional Application because the late filing fee or oath or declaration surcharge was not received. Applicants submitted the surcharge on December 29, 2000. However, a Notice of Incomplete Reply was mailed on January 15, 2001 because the oath or declaration was missing. A copy of the oath or declaration was submitted on March 16, 2001.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. Conversely, when the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was **not** received by the Office, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the Office. See MPEP 503. Because the application papers submitted on June 14, 2000 did not include a specification (as evidenced by the postcard receipt), the above-identified application can not be accorded an application date of June 14, 2000.

In view thereof, the petition to accord a filing date of June 14, 2000 in the above-identified application is **DISMISSED**.

Accordingly, the application filing date of August 16, 2000 is the correct filing date.

The declaration submitted on March 16, 2001 is acknowledged and made of record. In addition, Office records indicate that an assignment has been recorded.

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

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

The application file is being forwarded to Technology Center 2600 for examination.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CESARI AND MCKENNA
88 BLACK FALCON AVENUE
BOSTON, MA 02210-2414

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JUL 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,831,898 :
Issue Date: December 14, 2004 :
Application No. 09/593,566 : ON PETITION
Filed: August 16, 2000 :
Attorney Docket No. 112025-0195 :

This is a decision on the petition under 37 CFR 1.183, filed June 17, 2005, which is being treated as a petition under 37 CFR 3.81(b) [1] to accept the correction of the assignee on the front page of the above-identified patent.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

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ALEXANDRIA, VA 22313-1450
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H26

JAN 15 2004

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of :
Jochen Heinz et al :
Serial No.: 09/593,571 : PETITION DECISION
Filed: June 14, 2000 :
Attorney Docket No.: 1174 :

This is in response to the petition under 37 CFR 1.181, filed July 28, 2003, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on September 11, 2002, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on June 30, 2003. Applicants state that the Office action was never received and provide statements and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment 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.

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.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher L. Seaman, et. al.	:	
Application No. 09/593,587	:	ON PETITION
Filed: June 13, 2000	:	
Attorney Docket No. ESLABS.003A	:	

This is a decision on the petition under 37 CFR 1.182, filed December 23, 2004, to change the order of the inventor names.

The petition is **GRANTED**.

The order of inventor names will be changed as follows:

1. Christopher L. Seaman

2. Timothy R. Knowles

The above-identified application is being referred to Technology Center Art Unit 3753, for review of the amendment filed December 28, 2004

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7, 2006

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/593775 Patent No.: 6,996,293 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

BHAVESH M MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE 2624 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 27

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

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JAN 27 2003

OFFICE OF PETITIONS

In re Application of :
Jiangchun Xu, et al. :
Application No. 09/593,793 : ON PETITION
Filed: June 13, 2000 :
Attorney Docket No. 210121.427C15 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on January 24, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2002, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1634 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the 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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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 28

Date : January 24, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 27 2003

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) : JIANGCHUN XU, et al.
Application No. : 09/593,793
Filed : June 13, 2000

The above-identified application has been assigned Patent No. 6,512,094 and an issue date of January 28, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 28, 2003:

"All reference to Patent No. 6,512,094 to JIANGCHUN XU, ET AL. of WASHINGTON for COMPOSITIONS AND METHODS FOR THE THERAPY AND DIAGNOSIS OF PROSTATE CANCER appearing in the Official Gazette of January 28, 2003, 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: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 13

RIA FARRELL SCHALNAT
FROST BROWN TODD LLC
2200 PNC CENTER 201 EAST FIFTH STREET
CINCINNATI, OH 45202

COPY MAILED

APR 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Hassan Pirasteh, et al. :
Application No. 09/593,795 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. 1160215.0503352 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 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 application became abandoned on December 13, 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 2600, Art Unit 2645 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 22 2004

BRET E FIELD
BOZICEVIC FIELD & FRANCIS LLP
200 MIDDLEFIELD ROAD
SUITE 200
MENLO PARK CA 94025

In re Application of	:
Steven Rosen et al	:
Serial No.: 09/593,828	: PETITION DECISION
Filed: June 13, 2000	:
Attorney Docket No.: UCAL-138	:

This is a response to the petition under 37 CFR 1.59(b), filed June 10, 2004, to expunge information from the above identified application. This application has not yet been allowed.

Petitioner requests that documents submitted June 10, 2004, as a Proprietary Information Disclosure Statement 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 examiner has considered the documents and found them not to have an adverse impact on the patentability of the present claims. In view of the examiner's determination and intention to pass the application to issue, the information is being returned with this decision

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR - 3 2004

BRIAN D. GILDEA
APPLIED BIOSYSTEMS
15 DEANGELO DRIVE
BEDFORD MA 01730

In re application of Jens J. Hyldig-Nielsen et al. :
Serial No. : 09/593,914 : DECISION ON PETITION
Filed : June 14, 2000 :
Attorney Docket No.: BP9901US :

This is in response to applicants' petition, filed August 25, 2003 under 37 CFR 1.144, to withdraw the restriction requirement set forth by the examiner.

BACKGROUND

Review of the file history shows that the application was filed June 14, 2000 under 35 U.S.C. 111(a). The application as filed contained 85 claims. On January 15, 2002 the examiner mailed a first Office action on the merits, which included a restriction requirement requiring applicants to elect a single nucleotide sequence for examination. Applicants had elected (telephonically) SEQ ID No: 1. In response, the examiner withdrew claim 34 from consideration and limited examination of the remaining claims to the elected sequence. On February 19, 2002 applicants filed a response in which the restriction requirement was traversed on essentially the same grounds argued in the petition. On July 17, 2002 the examiner mailed an Office action in which the restriction requirement was made final. A final rejection was mailed February 25, 2003, and Applicants filed an appeal brief on February 18, 2004.

DISCUSSION

Applicants argue that it is improper to restrict a single claim into multiple inventions, citing *In re Weber*. This argument is not persuasive. In the *Weber* case, the Court ruled that it was improper for the examiner to reject claims under 35 U.S.C. 121. The examiner has not set forth any rejection based on 35 U.S.C. 121 in this application. Moreover, applicants have not provided any support for their position that an examiner may not find more than one distinct invention within a claim. MPEP 802.01 states, in part:

> The law has long been established that dependent inventions (frequently termed related inventions)...may be properly divided if they are, in fact, "distinct" inventions, even though dependent....The term "distinct" means that two or more subjects as disclosed are related...but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and

unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art).

There is no requirement that the distinct inventions be claimed in separate claims for restriction practice to be applicable. Indeed, MPEP 803.04 provides examples wherein single claims claiming multiple nucleic acid sequences are subject to restriction.

Applicants argue that it would not be a burden to search all of the claimed sequences because they are all classified in the same class and subclass. This argument is not persuasive. Nucleic acid sequences are searched by comparing a sequence to those found in various public and proprietary databases. Unless there is a disclosed common structure shared by two or more sequences, it is impossible to simultaneously search for more than one sequence.

DECISION

Applicants' petition is **DENIED**.

Since no fee is required for this petition, $130.00 will be refunded to deposit account 02-3240, as directed.

The application will be forwarded to the examiner for consideration of the appeal brief filed February 18, 2004.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll
Director, Technology Center 1600

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AUG 3 2004

BRIAN D. GILDEA
APPLIED BIOSYSTEMS
15 DEANGELO DRIVE
BEDFORD MA 01730

In re Application of :
HYLDIG-NEILSON et al :
Serial No.: 09/593,914 : Decision on Renewed Petition
Filing Date: 14 June 2000 :
Attorney Docket No. BP9901-US :

This decision is in response to a renewed Petition under 37 CFR 1.144 filed on 27 April 2004 and also addresses the Petition under 37 CFR 1.181 filed on 20 May 2004 and a first Petition under 37 CFR 1.144 filed 25 August 2003. The petitions filed in 2004 were only recently brought to the attention of the deciding official. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that on 18 July 2001, among the pending claims 1-34, 46-49, 60-62, 72 and 80-85, the Examiner selected a certain subset of claims (10, 11, 21, 22, 34, 61 and 62) and made a eleven-way Restriction Requirement solely among this subset of claims directed towards SEQ ID Nos 1-11, respectively. All of "Groups" I-XI were classified in Class 435, subclass 6 and Class 536, subclass 24.32.

The Examiner reasoned that the inventions are distinct, each from the other because of the following reasons:

> Inventions I-XI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP 806.04, MPEP 808.01). In the instant case the different inventions are drawn to distinct probes each comprising a unique nucleotide sequence and thereby each having unique functional properties. These sequences are thus deemed to constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to

represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1 .14, (sic, 1.144).

The Examiner supported this restriction because she reasoned that the search was divergent and the inventions were distinct.

Relevant claims are reproduced below:

1 . An enzyme-linked in-situ hybridization probe further characterized in that it comprises a probing nucleobase sequence that specifically hybridizes to a yeast specific target sequence.

10. An enzyme-linked probe for detecting, identifying or quantitating the presence of Dekkera/Brettanomyces yeast in a sample of interest, wherein the probe comprises a probing nucleobase sequence wherein at least a portion of the probing nucleobase sequence is at least ninety percent homologous to the nucleobase sequences selected from the group consisting of: AGC-GGG-TCT-ATT-AGA (Seq. ID No. 1), CCA-GGT-GAG-GGT-CGC (Seq. ID No. 2); CGG-TTG-CCC-GAT-TTC (Seq. ID No. 3), TCG-CCT-TCC-TCC-TCT (Seq. ID No. 4); CGG-TCT-CCA-GCG-ATT (Seq. ID No. 5); CAC-AAG-ATG-TCC-GCG (Seq. ID No. 6); GCG-GGC-ACT-AAT-TGA (Seq. ID No. 7); CAT-CCA-CGA-GGA-ACG (Seq. ID No. 8); GTG-TAA-ACC-AGG-TGC (Seq. ID No. 9); ATG-GCT-CCC-AGA-ACC (Seq. ID No. 10) and GAC-AGA-ATC-GAA-GGG (Seq. ID No. 11) and sequences fully complementary thereto and of the same length.

11. The probe of claim 10, wherein the probing nucleobase sequence is selected to be one hundred percent homologous to a nucleobase sequence identified in the claim.

21. A set of enzyme-linked probes for detecting, identifying or quantitating Dekkera/Brettanomyces yeast in a sample of interest, wherein one or more of the probes comprise a probing nucleobase sequence wherein at least a portion of the probing nucleobase sequence is at least ninety percent homologous to the nucleobase sequences selected from the group consisting of: AGC-GGG-TCT-ATT-AGA (Seq. ID No. 1), CCA-GGT-GAG-GGT-CGC (Seq. ID No. 2)., CGG-TTG-CCC-GAT-TTC (Seq. ID No. 3), TCG-CCT-TCC-TCC-TCT (Seq. ID No. 4), CGG-TCT-CCA-GCG-ATT (Seq. ID No. 5), CAC-AAG-ATG-TCC-GCG (Seq. ID No. 6), GCG-GGC-ACT-AAT-TGA (Seq. ID No. 7); CAT-CCA-CGA-GGA-ACG (Seq. ID No. 8)., GTG-TAA-ACC-AGG-TGC (Seq. ID No. 9); ATG-GCT-CCC-AGA-ACC (Seq. ID No. 10) and GAC-AGA-ATC-GAA-GGG (Seq. ID No. 11) and sequences fully complementary thereto and of the same length.

22. The probe set of claim 21, wherein the probing nucleobase sequences of said one or more probes are selected to be one hundred percent

homologous to a nucleobase sequence identified in the claim.

Applicants elected Group I with traverse.

In the next Office action, the examiner considered the traversal with regard to the search burden and made the restriction requirement final as follows:

> This is not found persuasive because a search of invention I (SEQ ID NO: 1) would not lead one of skill in the art to references teaching inventions II-XI (SEQ ID NO: 2- 11). A search of the distinct inventions would not be co-extensive as evidenced by the requirement for searching different keywords and nucleic acid sequences. Therefore, it is maintained that undue burden would be required to examine each of the claimed inventions. Accordingly, the requirement is still deemed proper and is therefore made FINAL.

A first Petition was filed 25 August 2003 under 37 CFR 1.144. A draft petition decision lacking the deciding official's signature, was inadvertently and prematurely sent to applicants on March 3, 2004. This first petition decision has been vacated. Any confusion caused by the mailing of this erroneous decision is regretted.

Subsequent to the filing of the first petition, a Final Office action was mailed by the Office. Applicants filed their Appeal Brief on 27 April 2004. The Office mailed a letter concerning the Appeal Brief of 30 April 2004.

DISCUSSION

The application, file history and petitions have been considered carefully.

The petitioner requests reconsideration of the restriction imposed on claims 10, 11, 21, 22, 34, 61 and 62. The petition points to *In re Weber*, 580 F.2d, 455, 198 USPQ (CCPA, 1978) and *In re Haas*, 198 USPQ 334. Applicants are correct in their position that the Office may not use restriction as a means to require applicants to limit all claims to the elected invention, SEQ ID No 1.

The petition states that because the groups are all classified in the same class and subclass, the examiner has not established burden of search. Concerning the burden of search, the Examiner has not provided sufficient reasons as to why a concurrent search of more than one sequence would be burdensome.

Moreover, a review of the restriction requirement identifies the following errors:

(1) The Groups do not take into account all of the claims. Claims 1-9, etc, are missing from the groups. Claims 23, 25, etc, which depend upon restricted claims are also missing from the Groups. The action does not indicate how the missing claims would be treated.

(2) The Groups are set forth in such as way as to require applicant to pick one sequence for examination, even though certain claims are directed to sets of sequences (see claim 21) or methods of using a plurality or sets of sequences (see claim 46, 61). The restriction requirement intends to limit the scope of the claims under examination. Applicants have a right to have their sets of sequences examined together.

(3) Claim 1, for example, appears to encompass the scope of all of Groups I-XI. All eleven sequences are enzyme linked in situ hybridization probes which comprise a probing nucleobase sequence that specifically hybridizes to a yeast specific target sequence. Thus all of the groups fall within the scope of apparently unrestricted claim 1. As such, claim 1 is not independent and distinct from Groups I-XI. For this reason, there is overlap between the inventions as grouped. If the Groups I-XI had been properly restricted, Applicants should have been informed of how claim 1, etc, would have been treated under linking claim practice, using Form Paragraph 8.12. This was not done.

(4) Turning now to the reasons, the explanation that the sequences are unrelated is erroneous and unfounded. A review of the claim set shows that the sequences are indeed capable of being used together in a similar mode of operation for a similar function (see method claim 61).

For these reasons, the restriction requirement is improper.

MPEP 802.01 which states that in order for a restriction to be proper, the claimed inventions must be independent and distinct. MPEP 802.01 defines "independent" and "distinct" as follows:

> INDEPENDENT
>
> The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not usable together as disclosed; or (2) process and apparatus incapable of being used in practicing the process.
>
> DISTINCT
>
> The term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art). It will be noted that in this definition the term related is used as an alternative for dependent in referring to subjects other than independent subjects. It is further noted that the terms "independent" and "distinct" are used in decisions with varying meanings. All decisions should be read carefully to determine the meaning intended.

The restriction requirement could only have been proper if the overlap in scope between "Groups" I-XI and Claim 1, for example, had been properly addressed by the guidance of MPEP 809, concerning treatment of linking claims. The restriction requirement among the linked inventions would then have been 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.

Even if the restriction requirement between Groups I-XI had been proper, the Examiner failed to identify, address or properly treat the linking claims.

For these reasons, the restriction requirement between Group I-XI is in error and is withdrawn.

DECISION

The petition under 37 CFR 1.144 filed on 27 April 2004 is **GRANTED** for the reasons set forth above.

The finality of the Office action mailed 25 February 2003 has been vacated in view of the restriction requirement being withdrawn. An action on the merits, consistent with this decision, will follow.

Because prosecution will be reopened, the petition under 37 CFR 1.181 filed on 20 May 2004 concerning the notice of non-compliance of the Appeal Brief is considered moot and is **DISMISSED**.

Applicants may request a refund of their Notice of Appeal and Appeal Brief fees.

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, PO Box 1450, Alexandria VA 22313-1450 or by telephone at (571) 272-1600.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

AUG 30 2005

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United States Patent and Trademark Office
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APPLIED BIOSYSTEMS
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In re Application of
Hyldig-Nielsen et al
Serial No. : 09/593,914
Filed : 14 June 2000
Attorney Dkt No. : BP9901-US

Decision on Petition

This is in response to the petition under 37 CFR 1.144 or 1.181 filed 22 July 2005, to request review of a restriction requirement.

BACKGROUND

Review of the file history shows that the application was filed June 14, 2000 under 35 U.S.C.111(a). The application as filed contained 85 claims.

On January 15, 2002 the examiner mailed a first Office action on the merits, which included a restriction requirement requiring applicants to elect a single nucleotide sequence for examination. Applicants had elected (telephonically) SEQ ID No: 1. In response, the examiner withdrew claim 34 from consideration and limited examination of the remaining claims to the elected sequence.

On February 19, 2002 applicants filed a response in which the restriction requirement was traversed on essentially the same grounds argued in this petition.

On July 17, 2002 the examiner mailed an Office action in which the restriction requirement was made final. A final rejection was mailed February 25, 2003.

On August 25, 2003 applicants filed their first petition under 37 CFR 1. 144, to withdraw the restriction requirement set forth by the examiner which was DENIED.

Applicants filed an appeal brief on February 18, 2004.

On April 27, 2004, applicants filed a new petition under 37 CFR 1. 144, to withdraw the restriction requirement set forth by the examiner and filed a supplemental Appeal Brief on May 20, 2004.

On August 3, 2004 their petition was GRANTED because the restriction requirement between Groups 1-Xl was inadequately set forth, and because the Examiner failed to identify, address or properly treat the linking claims. The restriction requirement between Group 1-Xl was withdrawn.

On October 26, 2004, Examiner reopened the prosecution and again restricted the claims in to eleven groups each based on a single SEQ ID NO. On December 1, 2004, applicants elected with traverse Group I directed to SEQ ID NO: 1.

In response, the examiner withdrew claim 34 from consideration and examined the remaining claims to the elected sequence, there being no allowable linking or generic claim, in the Office action mailed on March 10, 2005.

On 22 July 2005, Applicants petitioned again to review the restriction requirement to restrict the claims to a single set of probes.

DISCUSSION

The application, file history and petition have been considered carefully.

Applicant raised several concerns in the petition.

(a) Applicants correctly point out that the restriction requirement is based upon 35 USC 121.

(b) Applicants are correct in stating the reasons for distinction between the probes having SEQ ID NOs 1-11: they are considered to be unrelated since each of the claimed sequences are structurally and functionally distinct from each other. Applicants suggest that the search would not be a burden because all of the inventions are classified in Class 536, subclass 24.32 and Class 435, subclass 6. MPEP 808.02(C) points to a different field of search as grounds for establishing burden if restriction is to be required. It is noted that the literature and sequence database search is more pertinent than class and subclass searches for inventions claimed by polypeptide or polynucleotide sequences. Furthermore, it is unlikely that applicants would accept prior art obtained by a search for one sequence in a rejection over a second sequence.

(c) Applicants are correct that the Office must follow statute and judicial precedent.

(d) Applicants point to *In re Weber*, 580 F.2d, 455, 459, 198 USPQ 328 (CCPA 1978) to argue that the restriction requirement was improper and point to the following text in MPEP 803.02.

> Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper

for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnisch*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

(e) Applicants argue that it is acceptable for a Markush-type claim to have independent and distinct inventions and that the examiner should have set forth an election of species and not a restriction requirement.

(f) Applicants also point to *In re Harnisch* and MPEP 2173.05(h) to argue that the proper test for whether SEQ ID NOs 1-11 are distinct is whether they share a common utility. Applicants state that the PNA probes are useful for detecting *Dekkera/Brettanomyces* yeast (a group of yeasts associated with the spoilage of wine).

Before addressing the concerns (d), (e) and (f) of the petition, it is noted that no claims are currently pending which are limited to the elected inventions. Claim 10 is set forth below as a representative independent claim under examination.

10. (Previously Amended) An enzyme-linked probe for detecting, identifying or quantitating the presence of *Dekkera/Brettanomyces* yeast in a sample of interest, wherein the probe comprises a probing nucleobase sequence wherein at least a portion of the probing nucleobase sequence is at least ninety percent homologous to the nucleobase sequences selected from the group consisting of: AGC-GGG-TCT-ATT-AGA (Seq. ID No. 1); CCA-GGT-GAG-GGT-CGC (Seq. ID No. 2); CGG-TTG-CCC-GAT-TTC (Seq. ID No. 3); TCG-CCT-TCC-TCC-TCT (Seq. ID No. 4); CGG-TCT-CCA-GCG-ATT (Seq. ID No. 5); CAC-AAG-ATG-TCC-GCG (Seq. ID No. 6); GCG-GGC-ACT-AAT-TGA (Seq. ID No. 7); CAT-CCA-CGA-GGA-ACG (Seq. ID No. 8); GTG-TAA-ACC-AGG-TGC (Seq. ID No. 9); ATG-GCT-CCC-AGA-ACC (Seq. ID No. 10) and GAC-AGA-ATC-GAA-GGC (Seq. ID No. 11) and sequences fully complementary thereto and of the same length.

The claims do not require a PNA probe having SEQ ID NOs 1-11- they only require a probe comprising a portion which is at least 90% homologous to one of SEQ ID NOs 1-11 or sequences fully complementary thereto.

A comparison of SEQ ID NOs 1, 2 and 3 shows no indication of any significant structural similarity.

<400> 1
agcgggtcta ttaga

<400> 2
ccaggtgagg gtcgc

<400> 3
cggttgcccg atttc

MPEP 2175.03(h) states in part that:

> The materials set forth in the Markush group ordinarily must belong to a recognized physical or chemical class or to an art-recognized class. However, when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property.

For process and combination claims, the Markush group may include members which share a common property mainly responsible for their function in the claimed relationship. It is not clear from the alignment of SEQ ID NOs 1, 2 and 3, what property, is any, that they share which is mainly responsible for their function.

Moreover, the elected invention is directed to products, not methods. While sets of probes are being claimed and will be rejoined if they require an allowable probe, the election of an individual probe having SEQ ID NO:1 is in keeping with a single compound. For compounds, unity of invention exists when the members share a common structure essential to their common utility.

MPEP 808 sets forth reasons for insisting upon restriction:

> Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction therebetween as set forth in the following sections.

The arguments appear to be directed to the elected invention, a probe comprising SEQ ID NO 1. These arguments are not commensurate with the invention *as claimed*. MPEP 808 explains that it is the invention, as claimed, which is considered for distinctness or

independence. It is noted that the invention *as claimed* does not require the structure of SEQ ID NO:1. Claim 10 reads upon probes which comprise a portion that is at least 90% homologous to SEQ ID NO:1. Claim 10 also encompasses in the alternative SEQ ID NOs 2-11 and complements thereof. The sets of claims 21 and 34 do not require a probe having SEQ ID NO 1. The method claims do not require a probe having SEQ ID NO 1.

Even if the products set forth in the claims were considered to have unity of invention and be eligible for election of species, any request at this point to alter examination practice is premature in view of MPEP 803.02. For election of species practice, the Office is required to consider second and subsequent species only after the elected species, as claimed, is deemed free of the prior art. As evidenced by the rejection in the latest Office action, the elected invention is still considered obvious in view of De Wachter, Kosse and Stender.

It is noted that the generic linking claim 1 which linked the probes to SEQ ID NOs 1-11 has been cancelled. Should a generic linking claim be present and found allowable, the Office would consider rejoinder of any claims which require all the limitations of an allowable generic linking claim in view of MPEP 809. It is also noted that should applicants wish to have the processes of making or using the elected product eligible for rejoinder in view of an allowable elected product claim, the process claims should be amended throughout prosecution to require all the limitations of the product claims. See MPEP 821.04.

DECISION

For these reasons, the petition to withdraw the restriction requirement is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to consider the response filed on 26 July 2005 and to prepare an action which is consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

#10
DW

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OFFICE OF THE DIRECTOR
TC 3600

JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN, MD 21136

In re application of
Roy Shkedi
Application No. 09/593,993
Filed: June 14, 2000
For: DESCRIPTIVE-PROFILE MERCANTILE METHOD

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 7, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED** as **MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to all attorneys named in the original declaration and a new power of attorney to Customer No. 24271 was submitted to the United States Patent and Trademark Office on October 14, 2003. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed October 2, 2003.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 2/23/04

cc:

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PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6747547	2004-06-08	09594016	2000-06-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

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	/Stephen Porges/	Date (YYYY-MM-DD)	2010-03-16
Name	Stephen Porges		
Enter Reel and Frame Number		Remove	
Reel Number	020753	Frame Number	0093
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.

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In re Patent No. 6747547
Issue Date: June 8,2004
Application No. 09594016
Filed: June 15,2000
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 18,2010 ,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 March 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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APR 2 4 2009

OFFICE OF PETITIONS

In re Application of
Michael Anthony Dean
Application No. 09/594,100
Filed: June 14, 2000
Attorney Docket No.: 99-422

ON PETITION

This is a decision on the petition filed April 7, 2009, to withdraw the holding of abandonment for the above-identified application, which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 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.

This application was held abandoned on February 13, 2009 and a Notice of Abandonment was mailed March 2, 2009, for the appellant's failure to file a proper reply after the Board of Patent Appeals and Interferences (Board) decision rendered December 12, 2008.

Petitioner asserts that no response was required since the Decision on Appeal Affirmed-In-Part.

A review of the record reveals that while while the Board reversed the rejection of claims 1-10 and 21-33, they did not indicate that the reversed claims were allowable—just that the rejections were reversed. The section of the MPEP cited in the petition (MPEP **1204.06(II)**) deals with a situation where claims are indicated as allowable prior to the claims going up to the Board and after the Board decision, the claims that were indicated allowable were issued while the sustained claims were cancelled. This situation does not apply to this application.

In the instant matter, no claims were indicated as allowable prior to the appeal process, thus, after the Board's decision, even though the Board reversed some claims, there are no claims that have been indicated as allowable.

The applicant's option therefore was to either pursue the sustained claims by appealing the Board's decision or replying to the Board's decision. The applicant did not do either thing within the two months deadline, therefore the application was appropriately abandoned.

In view of the above, and since the arguments presented and evidence submitted do not substantiate a finding that the response was timely filed, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides 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 the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of :
Michael Anthony Dean :
Application No. 09/594,100 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No.: 99-422 :

This is a decision on the petition filed May 6, 2009, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on February 13, 2009 and a Notice of Abandonment was mailed March 2, 2009, for the appellant's failure to file a proper reply after the Board of Patent Appeals and Interferences (Board) decision rendered December 12, 2008.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2435 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Fernandez & Associates LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

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OCT 0 1 2004

Technology Center 2100

In re Application of:
Jonathan HUIE, et al.
Application No. 09/594,205
Filed: June 14, 2000
For: HIGH PERFORMANCE NETWORK ADDRESS PROCESSOR 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 July 15, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on September 13, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Martine & Penilla, LLP as the attorney(s) of record of the instant application. The Power of Attorney of September 13, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Martine & Penilla, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-305-9750

cc: Michael L. Gencarella, Esq.
Martine & Penilla, LLP
710 Lakeway Drive, # 170
Sunnyvale, CA 94085

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Paper No. 14

CORPORATE PATENT COUNSEL
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

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OCT 21 2004

OFFICE OF PETITIONS

In re Application of :
Freeman, et al. :
Application No. 09/594,212 : ON PETITION
Filed: June 14, 2000 :
Attorney Docket No. US000065 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before February 26, 2004 as required by the Notice of Allowability mailed November 26, 2003. Accordingly, this application became abandoned on February 27, 2004. A Notice of Abandonment was mailed on April 13, 2004.

This application is being forwarded to Publishing Division for review of the drawings filed August 23, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 5

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK, CA 94025

MAIL

MAY 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Frei

Application No. 09/594,216
Filed: June 14, 2000
For: METHOD AND APPARATUS FOR SUB-NETWORK DEVICES WITHOUT DIRECT LAYER-2 COMMUNICATION AND COUPLED TO A COMMON FORWARDING AGENT INTERFACE TO COMMUNICATED THROUGH LAYER-3

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 30, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 22877 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Gaines P. Carter, Esq.
Arris International Inc.
11450 Technology Circle
Duluth, GA 30097-1504

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OFFICE OF PETITIONS

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In re Application of
Alamouti et al.
Application No. 09/594,467
Filed: June 14, 2000
Attorney Docket No. 1999-0342
Title: Methods and Apparatus for Use in Communicating Voice and High Speed Data in a Wireless Communication System

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed November 30, 2000, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on June 14, 2000, without an executed oath or declaration. Accordingly, on August 14, 2000, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 14, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make timely a two month extension of time was also provided. The petition fee in the amount of $130.00 was not provided. Pursuant to petitioner's request deposit account 01-2745 will be charged the 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. The instant petition does not satisfy requirements (1).

As to item (1), where an inventor cannot be located/reached as in the case of inventor Ryan, rule 47 applicant must demonstrate diligent effort was made to find or reach the non-signing inventors. See MPEP 409.03(d). The statements made in the petition do not illustrate "diligent effort" was made to locate the non-signing inventor. Although rule 47 applicant indicates two mailing were made to non-signing inventor's last known address and contacted his former employer, these actions are not sufficient to establish diligent effort was made to locate inventor Ryan. Beyond inquiring of the assignee of an updated address, petitioner has not demonstrated that they attempted to locate inventor Ryan. Did rule 47 applicant attempt to call inventor Ryan? Rule 47 applicant may wish to conduct an electronic search or inquire the joint inventors whether they are aware of a forwarding address for non-signing inventor. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. It is important that the statement contain facts as opposed to conclusions. If inventor Ryan is located, a copy of the application papers (specification, including claims, drawings, and oath or declaration) should be mailed to the inventor's mailing address.

Further, if the inventor is located and he refuses to execute the application papers, rule 47 applicant will need to provide the mailing address in a newly executed declaration or in an application data sheet pursuant to 37 CFR 1.76.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ZAGORIN OBRIEN GRAHAM LLP
7600B N CAPITAL OF TEXAS HWY
SUITE 3500
AUSTIN TX 78731

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In re Application	:	
Alamouti, et al.	:	
Application No. 09/594,467	:	DECISION ON APPLICATION
Filed: June 14, 2000	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. ATTW01-00047	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)", filed February 16, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred thirty-one (831) days to one thousand, one hundred sixty-seven (1167) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand, one hundred sixty-seven (1167) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 17, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is eight hundred thirty-one (831) days.

On February 16, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand, one hundred sixty-seven (1167) days.

Applicants assert entitlement to a patent term adjustment of one thousand, one hundred sixty-seven (1167) days on the basis that the PTO improperly assessed Applicants a delay of one hundred sixty-nine (169) days for responding to a December 17, 2003 Office action on September 2, 2004. Applicants assert that they filed a complete response on March 18, 2004, and as such should only have been assessed delay of one (1) day.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eight hundred thirty-one (831) days based on an adjustment for PTO delay of eight hundred fifty-five (855) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1) and one hundred fifty (150) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by Applicants' delays of one hundred sixty-nine (169) days and five (5) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustments of one hundred sixty-nine (169) days and one hundred fifty (150) days are at issue.

The adjustment of one hundred sixty-nine (169) days has been found to be incorrect. A review of the application file reveals that the Office mailed a non-final Office action on December 17, 2003. Applicants filed a response on March 18, 2004. As this was not timely pursuant to 37 C.F.R. § 1.704(b), applicant delay of one (1) day should have been assessed, not one hundred sixty-nine (169) days.

In addition, as applicants filed their response on March 18, 2004, the Office should have been assessed additional delay for not mailing a reply until June 1, 2005. The Office should have been assessed delay PTO delay of three hundred eighteen (318) days, not one hundred fifty (150) days.

In view thereof, the correct determination of patent term

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

adjustment at the time of the mailing of the Notice of Allowance is **one thousand, one hundred sixty-seven (1167) days** (1173 (855+318) days of PTO delay, reduced by 6 (5+1) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 4/19/2006
Time: 11:25:32

PTA Calculations for Application: 09/594467			
Application Filing Date:	06/14/2000	PTO Delay (PTO):	1005
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	174
Post-Issue Petitions:	0	Total PTA (days):	1167
PTO Delay Adjustment:	336		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		150	
56	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
55	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	487		
41	11/17/2005	MAIL NOTICE OF ALLOWANCE			
40	11/17/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	11/17/2005	MAIL EXAMINER'S AMENDMENT			
38	11/14/2005	ISSUE REVISION COMPLETED			
37	11/14/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	11/09/2005	EXAMINER'S AMENDMENT COMMUNICATION			
34	11/09/2005	NOTICE OF ALLOWABILITY			
33	11/01/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	09/13/2005	DATE FORWARDED TO EXAMINER			
31	09/06/2005	RESPONSE AFTER NON-FINAL ACTION		5	30
30	06/01/2005	MAIL NON-FINAL REJECTION	150		26
29	05/31/2005	NON-FINAL REJECTION			
28	03/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	03/23/2005	DATE FORWARDED TO EXAMINER			
26	09/02/2004	RESPONSE AFTER NON-FINAL ACTION		169	18
25	03/23/2005	CORRESPONDENCE ADDRESS CHANGE			
24	03/24/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	05/08/2002	REFERENCE CAPTURE ON IDS			

22	03/01/2001	REFERENCE CAPTURE ON IDS			
21	11/27/2000	REFERENCE CAPTURE ON IDS			
20	06/14/2000	REFERENCE CAPTURE ON IDS			
19	09/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	12/17/2003	MAIL NON-FINAL REJECTION	855		-1
17	12/15/2003	NON-FINAL REJECTION			
16	07/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
15	05/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	01/28/2002	CORRESPONDENCE ADDRESS CHANGE			
12	01/28/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	03/01/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/27/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/24/2000	NEW OR ADDITIONAL DRAWING FILED			
8	06/14/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/14/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	12/10/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/10/2000	APPLICATION IS NOW COMPLETE			
4	08/14/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/11/2000	CORRESPONDENCE ADDRESS CHANGE			
2	07/05/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/14/2000	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
Alamouti, Battin, Gibbons, Golden, Hirano, Hoole, Jessee, Maxwell, Mcmeekin, Nix, Ryan, Ventimilla and Zhang
Application No. 09/594,467
Filed: June 14, 2000
Attorney Docket No. 1999-0342
Title: Methods and Apparatus for Use in Communicating Voice and High Speed Data in a Wireless Communication System

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 3, 2006.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventors. The efforts outlined by rule 47 applicant demonstrate diligent effort was used to attempt to locate non-signing inventor David James Ryan.

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 inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

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
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David James Ryan
4096 Piedmont Avenue #353
Oakland, CA 94611

In re Application of
Alamouti, Battin, Gibbons, Golden, Hirano, Hoole, Jessee, Maxwell, Mcmeekin, Nix, Ryan, Ventimilla and Zhang
Application No. 09/594,467
Filed: June 14, 2000
Attorney Docket No. 1999-0342
Title: Methods and Apparatus for Use in Communicating Voice and High Speed Data in a Wireless Communication System

LETTER

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JUN 21 2006

OFFICE OF PETITIONS

Dear Mr. Ryan :

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).

Charlema R. Grant
Petitions Attorney
Office of Petitions

ZAGORIN OBRIEN GRAHAM LLP
7600B N. CAPITAL OF TEXAS HWY
SUITE 350
AUSTIN TX 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,479	06/14/2000	Hayashi Otsuki	192520US2	7957

22850 7590 12/04/2002

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

EXAMINER
PUNNOOSE, ROY M

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

09/594,479

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER NUMBER
	14

DATE MAILED:

Please find below a communication from the SUPERVISORY EXAMINER in charge of this application.

Commissioner of Patents

DECISION ON PETITION UNDER 37 CFR §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed October 30, 2002 under 37 CFR §1.97(d) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 CFR §1.97(d)(2).

[ ] It was filed after the patent grant.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d) and 1.97(e).

[ ]The information disclosure statement has been placed in the file and made of record but will not be considered by the examiner.

[X] IDS CONSIDERED.

The examiner has considered the IDS. See accompanying copy of PTO 1449, or Paper No. 12.

Frank G. Font
Supervisory Patent Examiner
Technology Center 2800

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
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OCT - 9 2002

Paper No. 18

In re Application of :
Tomohiro Hashii : DECISION ON PETITION
Application No. 09/594,502 :
Filed: June 16, 2000 :
Attorney Docket No. 474082000700

This is a decision on the petition filed on August 6, 2002 by which petitioner has requested withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated December 4, 2001. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioner alleges that this application was not in fact abandoned because a timely reply to the Office letter in question was in fact filed. This allegation is supported by a copy of the reply, which has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated April 1, 2002, and a copy of a petition for extension of time with authorization to charge counsel's deposit account for the extension fee. The petition also has affixed thereto a certificate of mailing dated April 1, 2002. In addition, petitioner has supplied a copy of the filing receipt for the reply showing that it was in fact received in the Office on April 1, 2002. Based upon this showing, it is clear that this application was not in fact abandoned. See 37 CFR 1.8(b). Further, Office financial records show that a charge against counsel's deposit account was in fact made in accordance with the petition for extension of time.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on April 1, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Kambayashi et al.	:	
Application No. 09/594,513	:	ON PETITION
Filed: 16 June, 2000	:	
Atty Dckt No. 000760	:	

This is a decision on the petition filed on 8 December, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Petitioners assert that the second named assignee's name was omitted from the PTOL-85(b) at the time of payment of the issue fee, and request that FUJITSU GENERAL LIMITED, Kawaskai, Japan, be added as an assignee.

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.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

HAROLD H. FULLMER
WOODCOCK WASHBURN KURTZ
MACKIEWICZ AND NORRIS LLP
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

MAIL

MAY 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Bader, et al.

Application No. 09/594,524
Filed: June 14 2000
For: AUDIO SYSTEM WITH OPTIONAL AUTO-SWITCHING SECONDARY CONNECTOR, AND METHOD FOR SAME

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on April 22, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 23377 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Mr. Francois De Villiers
Creative Labs, Inc.
1901 McCarthy Boulevard
Milpitas, CA 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 14

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Rajarao Jammy :
Application No. 09/594,638 : ON PETITION
Filed: June 15, 2000 :
Attorney Docket No. 99 P 7722 US 03 (8055-98 DIV) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the final Office action mailed November 6, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 7, 2002.

The application is being forwarded to Technology Center 2812 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: F. Chau & Associates
1900 Hempstead Turnpike, Suite 501
East Meadow, NY 11554

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Suite 3200
Chicago, IL 60606

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Varghese, John et al. :
Application No. 09/594,667 : ON PETITION
Filed: June 15, 2000 :
Attorney Docket No. 01-1723-D :

This is a decision on the petition under 37 CFR 1.137(b), filed January 2, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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 11, 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 October 12, 2000.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 declaration submitted June 15, 2000 is unsigned. Accordingly, a declaration in compliance with 37 CFR 1.63 must be submitted.

The $130 surcharge as required by the Notice to File Missing Parts Notice mailed August 11, 2000 has not been submitted. Accordingly, the $130 surcharge is required.

In order to expedite a decision on the petition, petitioner may wish to consider submitting the response to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Office of Petitions
Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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McDonnell Boehnen
Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

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OFFICE OF PETITIONS

In re application of
John et al.
Application No. 09/594,667
Filing Date: June 15, 2000
Attorney Docket No. 01-1723-D

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2003, to revive the above-identified application.

The petition is **granted**.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision may 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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NOV 2 1 2005

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of:
Kieran P. J. Murphy
Serial No.: 09/594,685
Filed: June 16, 2000
Docket: BHG&L 8627/405
Title: **METHOD AND APPARATUS FOR STRENGTHENING VERTEBRAL BODIES**

DECISION ON PETITION UNDER 37 CFR 1.181 TO REVIEW DENIAL OF ENTRY OF AMENDMENT

This is a decision on the petition filed on May 9, 2005 under 37 CFR 1.181 to review the denial for the entry of the amendment after final filed February 5, 2005.

The petition is **DISMISSED**.

Petitioner believes that Examiner's position in the Advisory Action mailed March 10, 2005 is unjustified because, in fact, the amendment does not change the scope of the claims, the amendment should not require further search or consideration, the amendment does not constitute new matter, and the amendment places the claims in better form for appeal.

The record shows that in the amendment filed February 5, 2005, applicant proposed changing recitations in the preamble of independent claims 1, 20, and 21 from "vertebroplasty components" to "vertebroplasty and surgical components" and changing "vertebroplasty injection components" to "vertebroplasty injection and surgical components" in independent claim 17. In addition, claims 22 and 23 were converted from previous dependent claims to independent claims but newly adding to the body of the claims "surgical" as in claim 17.

Further, it is noted that each of the claims uses the transitional term "comprising". The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See MPEP2111.03

The phrase, "vertebroplasty and surgical components" or "vertebroplasty injection and surgical components" can convey something different than "vertebroplasty components" or "vertebroplasty injection components", respectively. It has several possible meanings. For

example, "vertebroplasty components" or "vertebroplasty injection components" would appear to convey that all components are vertebroplasty components or vertebroplasty injection components. Since the claims are open-ended, components with non-vertebroplasty features are not excluded and thus one could conclude that the claims additionally cover or encompass a tray having such additional components. However, covering or encompassing a limitation implicitly does not mean that the limitation can be explicitly set forth. In this regard, adding "surgical" raises several issues. Does this mean that all the vertebroplasty components are surgical components or can some be non-surgical as well, such as a camera or a book of instructions or a tray compartment or a sequence of numbers for the location of each vertebroplasty component on the tray? Can it mean that only some are vertebroplasty components and others are non-vertebroplasty components with surgical characteristics? Thus, there are many considerations for the examiner to ponder with respect to new matter. As a new consideration, the changes do not place the claims in better form for appeal. Aside from new matter, the changes may affect the application of the prior art but in view of the issues being raised, this need not be elaborated on as it is clear that there are new issues for consideration by the examiner.

Once a proper final rejection has been entered, applicant no longer has any right to further prosecution, MPEP 714.13, unless an amendment places the application in condition for allowance or in better form for appeal. Neither is seen in this case.

The examiner's position is deemed appropriate and proper.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

In re Application of :
Murphy : LETTER REGARDING PTA
Application No. 09/594,685 :
Filed: June 16, 2000 :
Atty. Dkt. No.: 8627/405 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed August 1, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed June 11, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 1,392 days. Applicants indicate that this adjustment may extend the term of this patent by too many or too few days and review calculation and correction of the patent term adjustment.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 1,322 days.

The application was properly accorded an adjustment of 270 days in accordance with 37 CFR 1.702(a)(1).

The application was properly accorded an adjustment of 1,197 in accordance with 37 CFR 1.702(a)(3).

The adjustment was properly reduced 38 days in days in accordance with 37 CFR 1.704(b) in connection with the reply filed December 16, 2002.

The adjustment was properly reduced two days in accordance with 37 CFR 1.704(b) in connection with the request for continued examination filed June 9, 2003.

The adjustment was properly reduced two days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed November 10, 2003.

The adjustment was properly reduced 33 days in accordance with 37 CFR 1.704(b) in connection with the reply to the non-final Office action filed July 27, 2004.

A review of the record reveals that the Office failed to assess a reduction of 61 days in connection with the response to the Notice to File Missing Parts (Notice) mailed August 8, 2000. In accordance with 37 CFR 1.704(b), the reduction commenced November 9, 2000, the day after the date that is three months after the date that the Notice was mailed, and ended January 8, 2001, the date that a response to the Notice was filed.

Further review of the record reveals that the Office neglected to assess a reduction of nine days in connection with the re-mailing of the non-final Office action on May 22, 2002. In accordance with 37 CFR 1.704(c)(6)(i), the reduction commenced May 14, 2002, the day after the date that the initial Office action was mailed, and ended May 22, 2002, the date that the supplemental Office action was mailed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 1,322 days (adjustment totalling 1,467 days less reductions totalling 145 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Saturday
Date: 6/20/2009

PALM INTRANET

Time: 08:21:58

PTA Calculations for Application: 09/594685			
Application Filing Date:	06/16/2000	PTO Delay (PTO):	1467
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	75
Post-Issue Petitions:	0	Total PTA (days):	1322
PTO Delay Adjustment:	-70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
138	06/20/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1197		
137	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
136	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		9	
135	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1197	
125	06/11/2008	MAIL NOTICE OF ALLOWANCE			
124	06/10/2008	ISSUE REVISION COMPLETED			
123	06/10/2008	DOCUMENT VERIFICATION			
122	06/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
121	06/10/2008	NOTICE OF ALLOWABILITY			
117	05/21/2008	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	1197		76
116	05/21/2008	BPAI DECISION - EXAMINER AFFIRMED IN PART			
115	02/15/2008	DOCKETING NOTICE MAILED TO APPELLANT			
114	02/14/2008	ASSIGNMENT OF APPEAL NUMBER			
113	01/24/2008	APPEAL AWAITING BPAI DOCKETING			
112	11/01/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
111	10/29/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
110	10/09/2007	REPLY BRIEF FILED			
109	10/12/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
108	10/10/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
107	09/27/2007	DATE FORWARDED TO EXAMINER			

106	05/25/2007	REPLY BRIEF FILED			
105	09/27/2007	APPEAL READY FOR BPAI DOCKETING			
104	09/12/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
103	09/04/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
102	06/28/2007	APPEAL BRIEF REVIEW COMPLETE			
101	06/28/2007	DATE FORWARDED TO EXAMINER			
100	06/14/2007	RESP. TO POST-EXAMINER ANS			
99	05/25/2007	MISCELLANEOUS INCOMING LETTER			
98	05/24/2007	MAIL POST-EXAMINER ANS. COM			
97	05/23/2007	POST-EXAMINER ANS. COM			
96	05/23/2007	EXAM. ANS. REVIEW COMPLETE			
95	05/23/2007	APPEAL BRIEF REVIEW COMPLETE			
94	04/05/2005	MISCELLANEOUS INCOMING LETTER			
93	03/26/2007	MAIL EXAMINER'S ANSWER			
92	03/19/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
91	11/21/2006	MAIL-PETITION DECISION - DISMISSED			
90	05/09/2005	PETITION ENTERED			
89	08/22/2006	DATE FORWARDED TO EXAMINER			
88	08/22/2005	APPEAL BRIEF FILED			
87	03/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
86	03/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
85	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
84	10/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
81	08/09/2005	NOTICE -- DEFECTIVE APPEAL BRIEF			
80	06/03/2005	DATE FORWARDED TO EXAMINER			
79.1	04/13/2005	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
79	04/13/2005	APPEAL BRIEF FILED			
76	02/10/2005	NOTICE OF APPEAL FILED			
75	04/28/2005	MISCELLANEOUS INCOMING LETTER			
74	05/13/2005	CORRESPONDENCE ADDRESS CHANGE			
73	04/13/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
72	04/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	04/13/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

69	04/11/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	03/10/2005	MAIL ADVISORY ACTION (PTOL - 303)			
67	03/07/2005	ADVISORY ACTION (PTOL-303)			
66	03/02/2005	DATE FORWARDED TO EXAMINER			
65	02/10/2005	AMENDMENT AFTER FINAL REJECTION			
64	02/10/2005	WORKFLOW INCOMING AMENDMENT IFW			
63	11/15/2004	MAIL FINAL REJECTION (PTOL - 326)			
62	11/12/2004	FINAL REJECTION			
61	08/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
60.7	07/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	58
60	07/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	08/18/2004	DATE FORWARDED TO EXAMINER			
58	07/27/2004	RESPONSE AFTER NON-FINAL ACTION		33	52
57	07/27/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	07/27/2004	REFERENCE CAPTURE ON IDS			
55	08/21/2001	REFERENCE CAPTURE ON IDS			
54	08/16/2001	REFERENCE CAPTURE ON IDS			
53	07/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
52	03/24/2004	MAIL NON-FINAL REJECTION			
51	03/22/2004	NON-FINAL REJECTION			
50	01/20/2004	DATE FORWARDED TO EXAMINER			
49	01/15/2004	APPEAL BRIEF FILED			
48	12/22/2003	CORRESPONDENCE ADDRESS CHANGE			
47	12/22/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
46	11/10/2003	NOTICE OF APPEAL FILED		2	45
45	08/08/2003	MAIL FINAL REJECTION (PTOL - 326)			
44	08/08/2003	FINAL REJECTION			
43	06/12/2003	NEW OR ADDITIONAL DRAWING FILED			
42	06/09/2003	INCOMING LETTER PERTAINING TO THE DRAWINGS			
41	06/13/2003	DATE FORWARDED TO EXAMINER			
40	06/09/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		2	30

39	06/13/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	06/09/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	06/09/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	06/12/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	05/14/2003	NEW OR ADDITIONAL DRAWING FILED			
34	05/13/2003	MAIL ADVISORY ACTION (PTOL - 303)			
33	05/12/2003	ADVISORY ACTION (PTOL-303)			
32	05/06/2003	DATE FORWARDED TO EXAMINER			
31	04/30/2003	AMENDMENT AFTER FINAL REJECTION			
30	03/07/2003	MAIL FINAL REJECTION (PTOL - 326)			
29	03/07/2003	FINAL REJECTION			
28	12/16/2002	NEW OR ADDITIONAL DRAWING FILED			
27	12/31/2002	DATE FORWARDED TO EXAMINER			
26	12/16/2002	RESPONSE AFTER NON-FINAL ACTION		38	24
25	12/16/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	08/08/2002	MAIL SUPPLEMENTAL NON-FINAL ACTION			
23	08/06/2002	SUPPLEMENTAL NON-FINAL ACTION			
22	05/13/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
21	05/13/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
20	05/22/2002	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
19	05/22/2002	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
18	05/13/2002	MAIL NON-FINAL REJECTION	270		-1
17	05/10/2002	NON-FINAL REJECTION			
16	03/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
15	03/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	02/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	02/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	10/12/2001	SUPPLEMENTAL PAPERS - OATH OR DECLARATION			
11	10/12/2001	PRELIMINARY AMENDMENT			
10.7	08/21/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

10	08/21/2001	FILED			
9.7	08/16/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/16/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/02/2001	POWER TO MAKE COPIES AND/OR INSPECT			
7	02/01/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	01/11/2001	APPLICATION DISPATCHED FROM OIPE			
5	01/11/2001	APPLICATION IS NOW COMPLETE			
4	08/08/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/07/2000	CORRESPONDENCE ADDRESS CHANGE			
2	07/06/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Floyd B. Chapman
WILEY, REIN & FIELDING, LLP
ATTN: Patent Administration
1776 K. Street N.W.
Washington, DC 20006

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:
Moskowitz et al.
Application No. 09/594,719
Filed: June 16, 2000
For: UTILIZING DATA REDUCTION IN STEGNOGRAPIC AND CRYPTOGRAPHIC SYSTEMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 14, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Scott A. Moskowitz
BLUE SPIKE, INC.
16711 Collins Avenue, #2505
Miami, FL 33160

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Arent Fox Kinter Plotkin & Kahn, PLLC
1050 Connecticut Avenue, N.W.
Suite 600
Washington, D.C. 20036-5339

In re Application of: Gerald Ingram et al.)
Application No. 09/594,786)
Filed: June 16, 2000)
For: ENHANCED HYPERLINK)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed May 18, 2001, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(I) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required .

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

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Paper No. 16

Wenderoth Lind & Ponack, LLP
Suite 800
2033 K Street, NW
Washington, DC 20006

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Mizuta
Application No. 09/594,794
Filed: June 16, 2000
Attorney Docket No. 2000-0757A

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 27, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on September 28, 2002. A Notice of Abandonment was mailed on Jnauary 28, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. The appropriate power of attorney or authorization of agent should be submitted.

The Notice of Appeal filed April 3, 2003, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 fee submitted with the petition on April 3, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to Technology Center 1700.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of :

HOLTKAMP, Reinhold Jr. et al. :
Application No. 09/594,829 : DECISION ON PETITION
Filed: June 16, 2000 : TO WITHDRAW
Attorney Docket No. **050031/0103** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard Peet on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **REINHOLD HOLTKAMP, JR.**
6011 MARTINGALE LANE
BRENTWOOD, TN 37027

cc: **MENDEL & PESLAK, LLC**
80 SCENIC DRIVE
SUITE 5
FREEHOLD, NJ 07728

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Paper No. 8

JAY L CHASKIN
GENERAL ELECTRIC COMPANY
3135 EASTON TURNPIKE
FAIRFIELD, CT 06431-0001

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Fabienne Betting et al :
Application No. 09/594,873 : ON PETITION
Filed: June 15, 2000 :
Attorney Docket No. 14XZ00087 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 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 September 11, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 12, 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).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 2672.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Varghese John et al :
Application No. 09/594,978 : ON PETITION
Filed: June 15, 2000 :
Attorney Docket No. 00270-US-NEW :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 2003.

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

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HORST M KASPER
13 FOREST DRIVE
WARREN, NJ 07059

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OFFICE OF PETITIONS

In re Application of :
Ellenberger et al. :
Application No. 09/595,136 : ON PETITION
Filed: June 16, 2000 :
Attorney Docket No. 01954/000K538-US0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 7, 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 in Response to Non-Final Office Action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

Cc:

WALT THOMAS ZIELINSKI
DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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Paper 5

IBM Corporation
PO Box 218
Yorktown Heights, NY 10598

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Funda et al.
Application No. 09/595,186
Filed: June 16, 2000
Attorney Docket No. Y0992-080D

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed June 19, 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 September 1, 2000. The Notice to File Missing Parts set a two (2) month shortened period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 2, 2000. A Notice of Abandonment was mailed May 6, 2002.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

608.01(b)

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Paper No. 13

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHT FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Janez Funda et al :
Application No. 09/595,186 :
Filed: June 16, 2000 :
Attorney Docket No. Y0992-080D :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 non-final Office action mailed September 16, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 17, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being forwarded to Technology Center AU 3737 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Janez Funda et al :
Application No. 09/595,186 : DECISION ON PETITION
Filed: June 16, 2000 : TO WITHDRAW
Attorney Docket No. Y0992-080D : 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 25, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Richard Chi
MacPherson Kwok Chen and Heid
1762 Technology Drive, Suite 226
San Jose, CA 95110

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Paper No. 9

FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

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JUL 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Sanjay Nigam :
Application No. 09/595,195 : ON PETITION
Filed: June 16, 2000 :
Attorney Docket No. SD9-141-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 Notice to File Missing Parts of Application (Notice) mailed August 28, 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 October 29, 2000.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to 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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Paper No. 12

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Sanjay Nigam :
Application No. 09/595,195 :DECISION DISMISSING AS MOOT
Filed: June 16, 2000 :THE PETITION UNDER 37 CFR
Atty Dkt No. 15670-021001/SD-141-2 :1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2003, to revive the above-identified application.

The petition is dismissed as moot in view of the decision granting a petition to revive under 37 CFR 1.137(b) on July 7, 2003.

The first petition to revive was received on June 26, 2003 and was accompanied by a revocation and power of attorney. The revocation and power of attorney was accepted on June 13, 2003.

It is noted that the petition to revive received by prior attorney William C. Fuess is accompanied by a declaration which now names as an additional inventor Qiao Jizeng. The petition filed on June 26, 2003 was accompanied by an executed declaration naming Sanjay Nigam as the sole inventor. The first executed declaration received by the U.S. Patent and Trademark Office sets the inventive entity. *Note* 37 CFR 1.48(f). Therefore, if Sanjay Nigam is not the sole inventor of this application, then a petition under 37 CFR 1.48(a) must now be submitted to add Qiao Jizeng as a second inventor.

A courtesy copy of this decision is being mailed to Mr. William C. Fuess. However, in view of the acceptance of the revocation and power of attorney from the assignee, all future correspondence will be held with the above address until such time as otherwise instructed.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
William C. Fuess
17258 Amarillo Rd.
Ramona, CA 92065

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

ANTHONY C. MURABITO
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Marc Fleischmann et al :
Application No. 09/595,198 : NOTICE
Filed: June 16, 2000 :
Attorney Docket No. TRANS39

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 2115.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy